City of Issaquah
Shoreline Master Program

Ecology Grant #G0800024
Task 6

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INTRODUCTION

Washington's Shoreline Management Act (SMA) was passed by the State Legislature in 1971 and adopted by the public in a referendum. The SMA was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the SMA was "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values.

The SMA has three broad policies:

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

Shoreline Jurisdiction

Three waterbodies in Issaquah are regulated under the SMA and the City's Shoreline Master Program (SMP): Lake Sammamish, the Mainstem of Issaquah Creek and the East Fork Issaquah Creek. Lake Sammamish is designated as a "shorelines of statewide significance."

Under the SMA, the shoreline jurisdiction includes areas that are 200 feet landward of the ordinary high water mark (OHWM) of waters that have been designated as "shorelines of statewide significance" or "shorelines of the state" and their adjacent shorelands, defined as the upland area within 200 feet of the OHWM, as well as any associated wetlands (RCW 90.58.030).

Background

The City of Issaquah completed an initial shoreline inventory in December, 1972, and established a substantial development permit system. In 1981, the City established the Citizens Advisory Committee for the purpose of developing a shoreline master program. A second shoreline inventory was completed in February, 1988, and the SMP was adopted in October, 1990. The SMP provides both policies and regulations to govern development and other activities in the City's shorelines. The City's municipal code also regulates shoreline development by requiring shoreline substantial development permits. Sections 18.10.940 through 18.10.1050 of the city code provide guidelines for issuance of shoreline permits and implement the state SMA.

In 2003, the state legislature established funding, timelines, and guidelines requiring all cities and counties to update their SMP. The City of Issaquah has conducted a comprehensive SMP update with the assistance of a grant administered by the Washington

State Department of Ecology (SMA Grant No. G0800024). The update has been prepared consistent with the SMA and its implementing guidelines. The City's SMP provides goals, policies, development regulations, and permitting procedures for "shorelines of the state" in the city of Issaquah. The primary responsibility for administering the SMA is assigned to local governments through the mechanism of local shoreline master programs, adopted under guidelines established by Ecology. The guidelines (WAC 173-26) establish goals and policies that provide a framework for development standards and use regulations in the shoreline. The SMP is based on state guidelines but tailored to the specific conditions and needs of individual communities. The SMP is also meant to be a comprehensive vision of how the shoreline area will be managed over time.

Documents Supporting the Shoreline Master Program Update

Consistent with state guidelines (WAC 173-26-201, Comprehensive Process to Prepare or Amend Shoreline Master Programs) a first step in the comprehensive Master Program update process is development of a shoreline inventory and characterization report (ICR). The ICR documents current shoreline conditions and provides a basis for updating the City's Master Program goals, policies, and regulations. The characterization identifies existing conditions, evaluates existing functions and values of shoreline resources, and explores opportunities for conservation and restoration of ecological functions.

Under the Ecology grant to the City, several technical reports have also been prepared to support the findings of the ICR and provide rationale for elements of the SMP. These included the following:

1. Report of Recommended Actions for Translating the ICR Findings into SMP Policies and Regulations;
2. Shoreline Use and Public Access Analysis; and
3. Shoreline Environment Designation Recommendations.

State guidelines also require that local governments develop Master Program policies that promote "restoration" of damaged shoreline ecological functions and develop a "real and meaningful" strategy to implement restoration objectives. A Restoration Plan has been prepared which includes identifying restoration opportunities (both programmatic and site-specific), establishing goals and policies, working cooperatively with other regional entities, and supporting restoration through other regulatory and non-regulatory programs.

CHAPTER 1. PURPOSE AND INTENT

1.1 Purposes of the Shoreline Master Program (SMP):

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

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

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

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

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

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

1.2 Title

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

1.3 Governing Principles

1. The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in Chapter 173-26 of the Washington Administrative Code (WAC). The goals, policies and regulations are informed by the Governing Principles in WAC 173-26-186, and the policy statements of RCW 90.58.020.

2. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.

3. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

4. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program may extend beyond the designated shoreline boundaries.

5. The policies and regulations established by the Program must be integrated and coordinated with those policies and rules of the Issaquah Comprehensive Plan and development regulations adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328 , Significant Legislative Rules.

6. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecology from such impairments in the following ways:

    a. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.

    b. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e)(i), Comprehensive Process to Prepare or Amend Shoreline Master Programs.

    c. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.

d. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such functions have been identified.

1.4 Adoption Authority

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

1.5 Relationship to Other Plans and Regulations

1. The shoreline regulations contained in this Program shall apply as an overlay and in addition to zoning, land use regulations, development standards, and other regulations established by the City. Uses, developments and activities regulated by this Master Program shall also be subject to the provisions of the Issaquah Comprehensive Plan, the Issaquah Municipal Code including Title 18 Land Use Code, the Washington State Environmental Policy Act ("SEPA," Chapter 43.21C RCW and Chapter 197-11 WAC), and various other provisions of local, state and federal law, as may be amended.

2. In the event this Program conflicts with other applicable City policies or regulations, all regulations shall apply and unless otherwise stated, the more restrictive provisions shall prevail.

3. Proponents of shoreline use/development shall comply with all applicable laws prior to commencing any shoreline use, development, or activity.

4. Where this Program makes reference to any RCW, WAC, or other state, or federal law or regulation the most recent amendment or current edition shall apply.

5. The City of Issaquah Land Use Code (Title 18) and Critical Areas Regulations (Chapter 18.10) are herein incorporated into the Program except as noted below:

   a. Critical Areas Regulations

      1. 18.10.400 Exemptions - Activities that are exempt from critical areas regulation per IMC 18.10.400 shall comply with this Program. Such activities may require a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit unless this Program and RCW 90.58.030(3)(e) specifically indicate the activity is exempt from shoreline substantial development permit requirements.

      2. 18.10.430 Variances - Development applications that would be otherwise processed according to the Reasonable Use Variance provisions of IMC 18.10.430 shall require a Shoreline Variance according to the provisions of this Program and WAC 173-27.

b. Land Use Code

1. Chapter 18.08 Nonconforming Situations - Nonconforming uses and nonconforming development within shoreline jurisdiction shall be subject to this Program in addition to requirements in the Critical Areas Regulations and Nonconforming Situations, IMC Chapter 18.08. Administrative Procedures section 8.4 addresses nonconforming uses and development.

1.6 Applicability

1. All proposed uses and development occurring within shoreline jurisdiction must conform to the Shoreline Management Act and this Program. The policies and regulations of this Program apply to all shoreline uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required.

2. This Master Program shall apply to all of the lands and waters within the City limits of Issaquah that fall under the jurisdiction of the Act. This includes the portions of Lake Sammamish, the Mainstem Issaquah Creek and East Fork Issaquah Creek that meet the definition of 'shorelines of the state'.

3. This Master Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act.

4. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or the Department of Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of the project with the Act and the Program.

5. Federal agency actions must comply with this Master Program and the Act.

6. Non-federal agency actions undertaken on private lands must comply with this Master Program and the Act when such lands fall within the external boundaries of federally owned lands (e.g., private in-holdings in the National Forest).

1.7 Liberal Construction

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

1.8 Severability

1. The Act and this Program adopted pursuant thereto comprise the basic state and city law regulating use of shorelines in the City of Issaquah. In the event provisions of this Program conflict with other applicable city policies or regulations, the more restrictive shall prevail.

1.9 Authority for Moratoria under Shoreline Management Act

1. ESHB 1379 amends RCW 90.58 to include express authority and procedures for local government to declare moratoria on development under their Shoreline Master Programs. Local governments can declare moratoria or other SMP official controls in 6-month increments, for a maximum of 18 months. In addition, a 6-month review period is provided for Ecology to act on a locally-adopted SMP amendment intended to resolve a moratorium.

CHAPTER 2. DEFINITIONS

2.1 Interpretation

These proposed SMP definitions are derived from multiple sources. Definitions denoted with (*) are from the existing City of Issaquah municipal code. Definitions denoted with (**) are from WAC 173-26, -22, or -27. Definitions denoted with (***) are from RCW 90.58. Definitions with no asterisk are derived from other sources or represent the best professional judgment of the authors.

2.2 Definitions

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

2. Accessory structure. Accessory structure means any detached structure that is incidental and subordinate to a primary use and located on the same lot as the primary use. Garages, boathouses, barns, storage sheds, gazebos, docks, piers, floats, buoys, and other appurtenances are examples of structures that are typically accessory to a different primary use.

3. Accessory use*. Accessory use means use of land or of a building or portion thereof incidental and subordinate to the principal use and located on the same lot with the principal use. Private moorage and other recreational uses are examples of uses that are accessory to residential development.

4. Act***. Act means the Shoreline Management Act of 1971 (RCW 90.58) as amended.

5. Active Use Area. Active use area means the portion of a shoreline buffer that is not required to be maintained in a naturally vegetated condition but can be used for recreational activities normally associated with single family residential development. The active use area shall remain free of structures and impervious surfaces except for accessory structures expressly allowed by this Program.

6. Agricultural Activities***. "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the

replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. [RCW 90.58.065(2)(a)]

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

8. Amendment. Amendment means a revision, update, addition, deletion, and/or re-enactment to the Issaquah SMP.

9. Applicant. Applicant means a property owner or a public agency or public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

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

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

12. Backfill. Backfill means the placement of earth material behind a retaining wall or structure.

13. Bank. Bank means a steep rise or slope at the edge of a body of water or water course.

14. Best Management Practices. Best Management Practices means conservation practices or systems of practices and management measures that:

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

b. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats; and

c. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.

15. Beach nourishment. Beach nourishment means the artificial replenishing of a beach by delivery of materials dredged or excavated elsewhere.

16. Berm. Berm means a constructed area of compacted earth

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

18. Boat Launch. A Boat launch is an area developed for boating ingress and egress from the water.

19. Boat Lift. Boat Lift means an in-water structure used for the dry berthing of vessels and personal water craft above the water level and lowering of vessels into the water periodically. A boat lift is used to berth and launch a single vessel, suspended over the water's surface. A boat lift is generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a dock or as stand-alone structure.

20. Breakwater. Breakwater means an offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

21. Bulkhead. A Bulkhead is a solid or open pile wall of rock, concrete, steel or timber or other materials or a combination of these materials erected generally parallel to and near the OHWM for the purpose of protecting an existing single family residence and appurtenance structures from loss or damage by erosion.

22. Building setback. Building setback means a line which establishes a definite point as determined by the minimum required distance between a structure and a specified line such as a lot, easement or buffer line, beyond which the foundation of a building shall not extend.

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

24. Channelization. Channelization means the straightening, deepening, or widening of a stream channel for the purpose of increasing the stream's carrying capacity.

25. City. City means the City of Issaquah.

26. Clearing. Clearing means limbing, pruning, trimming, topping, cutting or removal of vegetation or other organic plant matter by physical, mechanical, chemical, or any other means.

27. Commercial use*. Commercial use means an occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

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

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

30. Covered Moorage. Covered moorage means boat moorage, with or without walls, that has a roof to protect the vessel(s).

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

32. Critical Areas*. Critical areas are any of those areas of the City which are subject to natural hazards or those land features which support unique, fragile, or valuable natural resources including fish, wildlife and other organisms and their habitat and such resources which, in their natural state carry, hold or purify water. Critical areas include the following landform features: erosion hazard areas, coal mine hazard areas, landslide hazard areas, seismic hazard areas, steep slope areas, streams, wetlands, and the adjoining protective buffers.

33. Development**. means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level;

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

35. Dock. Dock means a structure that abuts the shoreline and floats upon the water and is used as a landing or moorage place for recreational purposes.

36. Dredging. Dredging is the removal of material from the bottom of a stream, river or other water body.

37. Ecological functions or shoreline functions. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200(2)(c).

38. Excavation. Excavation means the physical, manmade removal of earth material from other than within a waterbody.

39. Exempt Development*. Exempt development means a use or development activity that is not required to obtain a substantial development permit under RCW 90.58.030(3)(e) and WAC 173-27-040, but which must otherwise comply with applicable provisions of the Act and this Master Program and which must obtain an exemption permit from the Planning Director/ Manager per IMC 18.10.950. Conditional Use, Variance, or other permits may also still be required even though the activity does not require a Substantial Development Permit.

40. Feasible. Feasible means that a development proposal:

    a. Can be accomplished with technologies and methods that have been successfully used in the past in similar circumstances; and

    b. Has a reasonable likelihood of achieving its intended purpose.

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

42. Float. Float means a structure comprised of a number of logs, boards, barrels, etc., fastened together into a platform capable of floating on water, used as a landing or moorage structure for swimming purposes. Floats are either attached to a pier or are anchored to the bed lands so as to allow free movement up or down with the rising or falling water levels.

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

44. Flood plain**. Floodplain is synonymous with one hundred-year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be determined by reference to the Flood Insurance Rate maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA) or a reasonable method which meets the objectives of the act.

45. Floodway.***. Floodway means the area, as identified in this master program, that has been established in federal emergency management agency flood insurance rate maps.

46. Geotechnical Report or Geotechnical Analysis. Geotechnical report or geotechnical analysis means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

47. Grading. Grading means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

48. Guidelines. Guidelines means those guidelines adopted pursuant to the Shorelines Management Act of 1971.

49. Habitat Improvement. Habitat improvement means any actions taken to intentionally improve the overall processes, functions and values of critical habitats, including wetland, stream and aquatic habitats. Such actions may or may not be in conjunction with a specific development proposal and include, but are not limited

to, restoration, creation, enhancement, preservation, acquisition, maintenance and monitoring.

50. Hearings Board***. Hearings Board means the shorelines hearings board established by the Shoreline Management Act of 1971.

51. Height**. Height means a measurement 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 master program specifically requires that such appurtenances be included: provided further, that temporary construction equipment is excluded in this calculation.

52. Impervious Surface*. Impervious surface A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which 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 and eaves, walkways, patios, decks (covered or open slat construction are both considered impervious), driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, rockeries and oiled macadam or other surfaces which similarly impede the natural infiltration of surface and storm water runoff. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of this definition.

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

54. Joint Use Pier or Dock. Joint Use Pier or Dock means a pier or dock including a gangway and/or float which is intended for the private, noncommercial use of more than one waterfront building lot.

55. Landward. Landward means to or toward the land.

56. Launching Ramps. Launching Ramps means areas solely developed for boating ingress and egress.

57. Live-aboard. Live-aboards mean vessels which are used as a person's primary residence.

58. Lot. Lot means any tract or parcel of land shown on an officially recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of property and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument first referencing the lot.

59. Master Program. Master Program means the comprehensive shoreline master program for the City of Issaquah, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

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

61. Mooring Buoy. Mooring Buoy means a floating object anchored to the bottom of a water body that provides tie-up capabilities for vessels.

62. Moorage Structure. Moorage structure means an in-water or over-water structure that includes docks, piers, floats, boat launches, and boat lifts.

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

64. New Development. New Development means [City to provide updated definition]

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

66. Nonconforming use or Development. Nonconforming use or development means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or the applicable SMP, or amendments thereto, but which does not conform to present regulations or standards of this SMP

67. Non-water Oriented Use. Non-water oriented use means any use that does not meet the definition of a water-dependent, water-related, or water-enjoyment use.

68. Normal Maintenance or Repair. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not

limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

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

70. Outfall. Outfall means the outlet or place of discharge of a stormwater collection or sanitary sewer system.

71. Permit**. Permit means a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance issued in compliance with the Shoreline Management Act of 1971 and this Program.

72. Pier. Pier means a structure that abuts the shoreline and is built over the water on pilings and is used as a landing or moorage place for recreational purposes.

73. Planning Director/Manager. Planning Director/Manager means the Director of the Planning Department for the City of Issaquah or his/her assigned designee.

74. Preferred Shoreline Use. Preferred Shoreline Use is identified in the Act as a use that is unique to or dependent upon a shoreline location. Water-dependent, water-related, and water-enjoyment uses are preferred shoreline uses. Single-family residential development is also preferred use according to the Act. RCW 90-58-020 provides State policy on preferred shoreline uses.

75. Provisions. Provisions means policies, regulations, standards, guidelines, criteria, or environment designations.

76. Public Access. Public access means the public's ability to view, get to and/or use the State's public waters, the water/land interface and associated public shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access

facilitated by scenic roads and overlooks, viewing towers and other public sites or facilities.

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

78. Recreation. Recreation means the refreshment of body and mind through forms of play, amusement or relaxation.

79. Redevelopment. Redevelopment means [City to provide updated definition].

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

81. Revetment. Revetment means a sloping structure built to increase bank strength and protect a scarp, embankment, or shore against erosion by waves or currents. A revetment is usually built of rock rip-rap, wood, or poured concrete. One or more filter layers of smaller rock or filter cloth and "toe" protection. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead, which is a vertical structure.

82. Riprap. Riprap means broken stone placed on shoulders, banks, slopes, or other such places to protect them from erosion.

83. Road. Road means a linear passageway, usually for motor vehicles. Bridges are roads which cross over water.

84. Sediment. Sediment is material settled from suspension in a liquid medium.

85. Setback*. Setback means the required minimum horizontal distance between the building line and the related front, side or rear property line. Chimneys, flues, belt courses, sills, pilasters, ornamental features, cornices, eaves, gutters, dormer extensions, greenhouse or bay windows and the like may project into a required setback only as permitted through the provisions of this Code.

86. Shall**. Shall means a mandate; the action must be done.

87. Shoreline Armoring. Shoreline armoring refers to bulkheads, riprap and similar hard structures installed along the shore to stabilize the bank and prevent erosion. See shoreline stabilization.

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

89. Shoreline Modifications**. means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dock, pier, weir, bulkhead, or other shoreline structure. Shoreline modifications can include other actions, such as clearing, grading, or application of chemicals.

90. Shorelines of Statewide Significance***. Shorelines of Statewide Significance means those shorelines described in RCW 90.58.030. The Lake Sammamish shoreline is a shoreline of statewide significance.

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

92. Shorelines of the State. Shorelines of the state are the total of all 'shorelines' and 'shorelines of statewide significance' within the City of Issaquah.

93. Shoreline Buffer. Shoreline buffer means the area adjacent to a shoreline that separates and protects the area from adverse impacts associated with adjacent land uses.

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

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

96. Sign. Sign means any device, structure, fixture or placard that is visible from any public right-of-way or surrounding properties and uses graphics, symbols or written

copy for the purpose of advertising or identifying any establishment, product, goods, or service.

97. Soft-shore bank stabilization. See bioengineering.

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

99. Transportation Use. Transportation use means a use whose primary purpose is the movement and circulation of people, goods, and services. This includes, but is not limited to public roads, rails, parking areas, non-motorized travel corridors, trails, and similar features.

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

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

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

103. Vessel. Vessel includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

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

105. Water-enjoyment Use**. Water-enjoyment use means those uses which provide for recreation involving the water or facilitates public access to the shoreline as the primary characteristic of the use, or a use which provides for aesthetic enjoyment

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

106. Water-oriented Use**. Water-oriented use means any water dependent, water-related, or water enjoyment use.

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

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

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

108. Water Quality. Water quality means the physical chemical, aesthetic, and biological characteristics of water.

109. Weep Holes. Weep holes are holes near the bottom of a retaining wall, backfilled with gravel or other free-draining material, to permit water to drain to the outside of the wall, so as to prevent the buildup of pressure behind the wall.

110. Weir. Weir means a structure in a stream or river for measuring or regulating stream flow.

111. Wetlands**. Wetland means, for the purposes of this SMP, areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, 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.

2.3 Unlisted Words and Phrases

The definition of any word or phrase not listed in this SMP which is in question when administering this regulation shall be defined from one of the following sources which are incorporated herein by reference. Said sources shall be utilized by finding the desired definition from source number one, but if it is not available there, then source number two may be used and so on. The sources are as follows:

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

CHAPTER 3. SHORELINE MASTER PROGRAM GOALS

3.1 Economic Development Element

The Economic Development Element deals with the location and design of commercial and industrial projects and other developments that are particularly dependant on shoreline locations and/or access.

3.1.1 Goal

Encourage the optimum use of existing commercial and industrial areas for water-oriented uses while protecting the shoreline environment.

3.2 Public Access Element

The Public Access Element addresses the need to provide providing public access to public waters.

3.2.1 Goal

Provide opportunities for physical and visual public access to public waters when such access can be reasonable accommodated without human health, safety, and/or security risks, and without adverse effects on shoreline functions and processes or private property rights.

3.3 Recreational Element

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

3.3.1 Goal

Foster and support the stewardship of historical, cultural and natural resources throughout the community in the form of a parks, open space and recreational system that serves the needs of the residents of the City of Issaquah and surrounding areas.

3.4 Shoreline Use Element

The Shoreline Use Element addresses the patterns of land use in the shoreline.

3.4.1 Goal

Promote a mix and balance of reasonable and appropriate shoreline uses that will be an asset to the community, and will preserve and protect natural systems. Recognize that land use and water management activities on adjacent uplands affect the quality of the City's shorelines.

3.5 Conservation Element

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

3.5.1 Goal

Re-establish, rehabilitate and/or otherwise improve impaired shoreline ecological functions and /or processes through voluntary and incentive-based public and private programs, consistent with the Shoreline Management Program Restoration Plan.

Protect and restore native shoreline vegetation to provide ecological functions and maintain ecosystem-wide processes.

3.6 Archaeological, Historical and Cultural Resources Element

The Archaeological, Historical and Cultural Resources Element addresses the protection of buildings and sites that have historic, cultural or archaeological significance.

3.6.1 Goal

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

CHAPTER 4. SHORELINE MASTER PROGRAM JURISDICTION AND SHORELINE ENVIRONMENT DESIGNATIONS

4.1 Shoreline Jurisdiction

4.1.1 Shoreline Jurisdiction Determined

1. The policies and regulations of this program shall apply to the waters of Lake Sammamish, Mainstem Issaquah Creek, and East Fork Issaquah Creek and their adjacent "shorelands" within Issaquah City Limits.

2. Jurisdictional shorelines are shown on the Official Shoreline Map appended to this document (Figures 1 and 2). The Official Shoreline Map does not necessarily identify or depict the lateral extent of shoreline jurisdiction or all associated wetlands. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM), floodway and/or the presence of associated wetlands. For Issaquah Creek and the East Fork Issaquah Creek, the City has adopted the floodway, plus 200 feet of floodplain as mapped by the Federal Emergency Management Agency (FEMA) in the FEMA approved FIRM maps. SMP jurisdiction for these creeks includes any associated wetlands.

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

4. On Lake Sammamish, the landward extent of shoreline jurisdiction shall be measured from the ordinary high water mark (OHWM) standard elevation of 31.76 NAVD88 or 28.18 NGVD29 or it may be determined on a site-specific basis in the field by a qualified biologist, subject to approval by the Issaquah Planning Department. Identification of the OHWM for any proposed development must be based on a professional survey performed by a licensed surveyor.

4.2 Shorelines of Statewide Significance

4.2.1 Designation of Shorelines of Statewide Significance

In accordance with the criteria of RCW 90.58.030(2)(e), Definitions and Concepts, the legislature designated specific shorelines of the state, including the shorelands and associated wetlands as therein defined, as having statewide significance. This includes all portions of the Lake Sammamish and associated shorelands within the City of Issaquah and PAA. Issaquah Creek and the East Fork Issaquah Creek do not meet the criteria of RCW 90.58.030(2)(e) for designation as a shoreline of statewide significance.

4.2.2 Management Policy

The following policies are hereby adopted for shorelines of statewide significance in Issaquah, consistent with RCW 90.58.020. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines, including uses that:

1. Recognize and protect the statewide interest over local interest.
2. Preserve the natural character of the shoreline.
3. Result in long term over short term benefit.
4. Protect the resources and ecology of the shoreline.
5. Increase public access to publicly owned areas of the shoreline.
6. Increase recreational opportunities for the public in the shoreline.
7. Provide for any other element as defined in RCW 90.58.100, Programs as Constituting Use Regulations, deemed appropriate or necessary.

Uses that are not consistent with these policies should not be permitted on shorelines of statewide significance.

4.3 Shoreline Environment Designations System

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

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

   a. The existing land use pattern;

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

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

3. Shoreline Environment Designations are delineated on a map, hereby incorporated as a part of this Program (Figure X) that shall be known as the Shoreline Environment Designations Map. This map is for planning purposes only and shall be used to depict Shoreline Environment Designations.

4. To accomplish the purpose of this Program the following shoreline environment designations have been established in the City of Issaquah:

   a. Shoreline Commercial / Mixed Use (SCMU)

   b. Transportation High Intensity (THI)

   c. Lake Sammamish Shoreline Residential (LS-SR)

d. Lake Sammamish Urban Conservancy (LS-UC)

e. Issaquah Creek Shoreline Residential (IC-SR)

f. Issaquah Creek Urban Conservancy (UC)

g. Natural (N)

5. Undesignated and/or unmapped shorelines shall be designated 'Urban Conservancy" in accordance with WAC 173-26-211 (2) (e).

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

4.4 Environment Designations Purpose, Criteria, and Policies

4.4.1 Shoreline Commercial / Mixed Use

1. Purpose

   The purpose of the "Shoreline Commercial / Mixed Use " environment is to provide for high-intensity commercial, multifamily, and mixed use development while protecting existing ecological functions, restoring ecological functions in areas that have been previously degraded, and enhancing public access to Issaquah Creek.

2. Designation Criteria

   The Shoreline Commercial / Mixed Use environment designation is applied to those areas planned for high intensity commercial use and multifamily or mixed use development. This designation occurs along Issaquah Creek, primarily within the City's Downtown area, in areas with high levels of existing development, high levels of shoreline armoring, impaired riparian functions, and/or low quality in-stream habitat.

3. Management Policies

   a. Within the "downtown" environment, the City shall give first priority to water-oriented uses or uses with a water-oriented component. Nonwater-oriented uses may also be allowed provided they contribute to improvement of shoreline ecological functions or provide public access and they are located where they do not conflict with or limit opportunities for water-oriented uses, such as on sites where there is no direct access to the shoreline.

   b. The City shall apply standards for new development/redevelopment in this environment to assure no net loss of shoreline ecological functions. Where

applicable, new development and redevelopment should include restoration of riparian processes to improve streamside vegetation, in-stream habitat complexity, water quality, bank stability, and/or other desirable shoreline attributes.

c. Where feasible, new development/redevelopments should provide visual and physical public access as provided for in WAC 173-26-221 (4)(d).

d. Aesthetic objectives should be achieved by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

4.4.2 Transportation High-Intensity

1. Purpose

   The purpose of the "Transportation High-Intensity" environment is to provide for high-intensity transportation uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

2. Designation Criteria

   The Transportation High-Intensity environment applies only to shorelines along the East Fork of Issaquah Creek and includes those areas within the City boundary and PAA that are currently within the WSDOT Intersate-90 right-of-way.

3. Management Policies

   a. The City shall assure no net loss of shoreline ecological functions as a result of new transportation development within this designation by requiring that all impacts are avoided, minimized and/or fully mitigated through compensatory mitigation actions.

   b. New transportation infrastructure should provide the highest level of stormwater treatment and detention, environmental cleanup and restoration of the shoreline in accordance with all relevant state and federal law.

   c. To the extent feasible given safety and engineering considerations, development of new transportation infrastructure in this designation should maintain visual access to the shorelines as provided for in WAC 173-26-221 (4)(d).

4.4.3 Lake Sammamish Shoreline Residential

1. Purpose

   The purpose of the "Lake Sammamish Shoreline Residential" environment is to accommodate residential development on Lake Sammamish including development of appurtenant structures that are consistent with WAC 173-26 and this Program.

2. Designation Criteria

   The Lake Sammamish Shoreline Residential environment designation is appropriate for those areas of the City's Lake Sammamish shoreline that are characterized predominantly by single-family or multifamily residential development, and have a moderate to high degree of shoreline armoring and overwater structures.

3. Management Policies

   a. The City shall maintain shoreline functions by applying dimensional standards such as setbacks, limiting new shoreline stabilization, regulating dock/pier design and requiring vegetation conservation and/or enhancement. The City shall review proposed projects for consistency with the no net loss policy, taking into account 1) the environmental limitations and sensitivity of the shoreline area, 2) proposed mitigation for anticipated impacts, 3) the level of infrastructure and services available, and 4) other comprehensive planning considerations.

   b. Multifamily and multi-lot residential and recreational developments should provide public access and joint use docks/piers where appropriate.

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

   d. Commercial development is prohibited.

4.4.4 Issaquah Creek Shoreline Residential

1. Purpose

   The purpose of the "Issaquah Creek Shoreline Residential" environment is to accommodate residential development on Issaquah Creek that is consistent with WAC 173-26 and this Program.

2. Designation Criteria

   The Issaquah Creek Shoreline Residential environment designation is applied to those areas of the City's Issaquah Creek shoreline that are characterized predominantly by single-family or multifamily residential development, impaired ecological functions, and have a moderate to high degree of shoreline armoring.

3. Management Policies

   a. The City shall maintain shoreline functions by applying dimensional standards such as setbacks, limiting new shoreline stabilization, and requiring vegetation conservation and/or enhancement. The City shall review proposed projects for consistency with the no net loss policy, taking into account 1) the environmental limitations and sensitivity of the shoreline area, 2) proposed mitigation for

anticipated impacts, 3) the level of infrastructure and services available, and 4) other comprehensive planning considerations.

b. Multifamily developments should provide public access and joint use for community recreational facilities where appropriate.

c. For commercial development, the City shall give first priority to water-oriented uses or uses with a water-oriented component. Nonwater-oriented uses may also be allowed provided they contribute to improvement of shoreline ecological functions or provide public access and they are located where they do not conflict with or limit opportunities for water-oriented uses, such as on sites where there is no direct access to the shoreline.

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

4.4.5 Urban Conservancy

1. Purpose

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

2. Designation Criteria

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

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

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

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

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

3. Management Policies

a. The City shall maintain shoreline functions by limiting density, applying dimensional standards such as setbacks, limiting new shoreline stabilization, and requiring vegetation conservation and/or enhancement within the "urban conservancy" designation. These standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

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

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

4.4.6 Natural

1. Purpose

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

2. Designation Criteria

   The “Natural” environment designation is assigned to publically owned areas within the Tradition Lake Natural Area that are set aside for conservation and recreation purposes.

3. Management Policies

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

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

      - Single-family Residential
      - Commercial uses.
      - Industrial uses.
      - Non-water-oriented recreation.
      - New roads, utility corridors, and parking areas that can be reasonably located outside of "Natural" designated shorelines.

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

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

4.5 Use and Standards Tables

All uses and developments in the Issaquah shoreline jurisdiction shall comply with the use regulations and development standards contained in Tables 1 and 2. Refer to the text sections of this Program for all applicable provisions related to specific uses and development standards.

Table 1
Permitted Shoreline Uses

Land uses must be allowed in the underlying zoning district in addition to the Shoreline Environment Designation. See the Table of Permitted Land Uses (IMC 18.06.130) for specific land uses allowed in zoning districts. All uses are subject to limitations, standards, conditions and/or exceptions as provided in this program and the Issaquah Land Use Code, Title 18.

Table 1 – Permitted Shoreline Uses identifies uses and activities that are either prohibited (X), permitted by application for a Shoreline Exemption or Shoreline Substantial Development Permit (P), permitted by a Shoreline Conditional Use Permit (C), or Not Applicable (NA).

If a use is not specifically listed, it may be considered through a Shoreline Conditional Use Permit, unless the use or activity is specifically prohibited.

Shoreline Variances are intended only to grant relief from specific bulk, dimensional or development standards, and NOT to authorize shoreline uses and activities.

		Proposed Shoreline Environment Designations					
Shoreline Use	**Shoreline Commercial/ Mixed Use**	**High Intensity Transportation**	**Lake Sammamish Shoreline Residential**	**Issaquah Creek Shoreline Residential**	**Lake Sammamish Urban Conservancy**	**Issaquah Creek Urban Conservancy**	**Natural**
Residential Use and Development							
Single-family Residential (w/ water-oriented accessory uses)	P	X	P	P	P	P	X
Multifamily Residential or Mixed-use (w/ water-oriented accessory uses)	P	X	P	P	X	P	X
Commercial Use and Development							
Water –Oriented	P	X	X	P	X	P	X
Nonwater-Oriented	P	X	X	P	X	P	X
Public Recreational Use and Development							
Water –Oriented	P	C	P	P	P	P	P
Lake Sammamish Nonwater-Oriented	N/A	N/A	C	N/A	C	N/A	N/A
Issaquah Creek Nonwater-Oriented	P	X	N/A	P	N/A	P	X

Shoreline Use		Proposed Shoreline Environment Designations					
	Shoreline Commercial/ Mixed Use	High Intensity Transportation	Lake Sammamish Shoreline Residential	Issaquah Creek Shoreline Residential	Lake Sammamish Urban Conservancy	Issaquah Creek Urban Conservancy	Natural
Resource Land Uses							
Aquaculture	P[3]	C	C	C	C	C	C
Agriculture	P	P	P	P	P	P	P
Forest Practices	P	P	P	P	P	P	P
Mining	X	X	X	X	X	X	X
Transportation Use and Development (non trails)	P	P	P	P	P	P	X
Utility Use and Development	P	P	P	P	P	P	P
Parking (primary use)	X	X	X	X	X	X	X
Signs	P	P	P	P	P	P	P[2]
Boating Facilities and Moorage Structures							
Docks, Piers, Floats, Boat Lifts, Buoys	X	X	P	X	P	X	X
Rails, Launch Ramps, and Wet and Dry Boat Storage	X	X	X	X	C	X	X
Boat Launches	X	X	X	X	C	X	X
Shoreline Modifications							
Dredging[1]	C	C	C	C	C	C	C
Filling and Excavation							
Landward of OHWM	P	P	P	P	P	P	P
Filling Waterward of OHWM[4]	C	C	C	C	C	C	C
In-stream Structures	P	P	N/A	P	N/A	P	P
Shoreline Stabilization	P	P	P	P	P	P	P

[1]Dredging for ecological restoration projects where less than 25 cubic yards are removed is a permitted use.
[2]Signs limited to interpretive or transportation signage.
[3]Allows Issaquah Salmon Hatchery to continue operations and future expansion or modification of operations.
[4]Shoreline restoration projects only require a substantial development permit. (see Section 5.16.2)

Table 2
Development Standards for Shoreline Environments

Shoreline Use		Shoreline Environment Designations					
	Shoreline Commercial/ Mixed Use	**High Intensity Transportation**	**Lake Sammamish Shoreline Residential**	**Issaquah Creek Shoreline Residential**	**Lake Sammamish Urban Conservancy**	**Issaquah Creek Urban Conservancy**	**Natural**
Commercial							
Shore Setback (buffer/setback)	100'/15'	100'/15'	N/A	100'/15'	N/A	100'/15'	N/A
Side Setback	R – 5' CBD – 0' MUR – 7'	N/A	N/A	R - 5' CBD – 0'	N/A	CBD – 0' R - 5' PO – 20' MUR – 7'	N/A
Height Limit	*35'*	N/A	N/A	*35'*	N/A	*35'*	N/A
Max. Impervious Surface Coverage[1]	R – 65% CBD – 85% MUR – 50%	N/A	N/A	R - 65% CBD – 85%	N/A	CBD – 85% R - 65% PO – 65% MUR – 50%	N/A
Public Recreation							
Shore Setback – Issaquah Creek (buffer/setback)	100'/15'	100'/15'	N/A	100'/15'	N/A	100'/15'	100'/15'
Shore Setback – Lake Sammamish (buffer/setback)	N/A	N/A	35'/15'	N/A	35'/15	N/A	N/A
Side Setback		Side setbacks for community facilities are determined by the most restrictive contiguous zoning (IMC 18.07.360)					
Height Limit	*35'*	N/A	35'	35'	35'	35'	35'
Max. impervious Surface Coverage[1]	10%	N/A	10%	10%	10%	10%	10%

Shoreline Use	Shoreline Commercial/ Mixed Use	Shoreline Environment Designations					
		High Intensity Transportation	Lake Sammamish Shoreline Residential	Issaquah Creek Shoreline Residential	Lake Sammamish Urban Conservancy	Issaquah Creek Urban Conservancy	Natural
Residential – Single-family and Duplex							
Shore Setback – Issaquah Creek (buffer/setback)	100'/15'	N/A	N/A	100'/15'	N/A	100'/15'	100'/15'
Shore Setback – Lake Sammamish (buffer/setback)	N/A	N/A	35'/15'	N/A	35'/15'	N/A	N/A
Maximum Density (du/acre)	R[2] CBD[2] MUR – 14.52	N/A	SF-SL - 7.26	SF-SL - 7.26 SF-D – 14.52 MUR – 14.52	7.26	7.26	N/A
Side Setback	N/A	N/A	SF-SL – 6' SF-S – 8'	SF-SL – 6' SF-D – 6' MUR – 7'	SF-SL – 6'	SF-S – 8' SF-SL – 6' SF-E – 15'	N/A
Height Limit	*35'*	N/A	35'	35'	35'	35'	N/A
Max. Impervious Surface Coverage[1]	R – 65% CBD – 85%	N/A	SF-SL – 50% SF-S – 40%	SF-SL – 50% SF-S – 40% SF-D – 50%	SF-SL – 50%	SF-S – 40% SF-SL – 50% SF-E – 30%	N/A
Residential – Multifamily							
Shore Setback – Issaquah Creek (buffer/setback)	100'/15'	N/A	N/A	100'/15'	N/A	200'/15'	N/A
Shore Setback – Lake Sammamish (buffer/setback)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Density (du/acre)	R[2] CBD[2] MUR – 14.52 MF-H – 29	N/A	N/A	MUR - 14.52	N/A	29	N/A

Shoreline Use	Shoreline Commercial/ Mixed Use	Shoreline Environment Designations					
		High Intensity Transportation	Lake Sammamish Shoreline Residential	Issaquah Creek Shoreline Residential	Lake Sammamish Urban Conservancy	Issaquah Creek Urban Conservancy	Natural
Side Setback	R – 5' CBD - 0 MUR – 7' MF-H – 5'	N/A	N/A	7'	N/A	7'	N/A
Height Limit	*35'*	N/A	N/A	*35'*	N/A	*35'*	N/A
Max. Impervious Surface Coverage[1]	R – 65% CBD – 85% MUR - 50% MF-H – 50%	N/A	N/A	50%	N/A	R – 65% PO – 65% MF-H – 50%	N/A
Residential – Decks and Accessory Structures							
Shore Setback – Issaquah Creek (buffer/setback)	100'/15'	N/A	N/A	100'/15'	N/A	100'/15'	N/A
Shore Setback – Lake Sammamish (buffer/setback)	N/A	N/A	35'/15'	N/A	35'/15'	N/A	N/A
Side Setback		Accessory structures must comply with setbacks required for the principal building (Per IMC 18.07.110)					
Height Limit[3]	N/A	N/A	15'	15'	15'	15'	N/A
Transportation Facilities							
Shore Setback – Issaquah Creek (buffer/setback)	100'/15'	N/A	N/A	100'/15'	N/A	100'/15'	N/A
Shore Setback – Lake Sammamish (buffer/setback)	N/A	N/A	35'/15'	N/A	35'/15'	N/A	N/A

Shoreline Use		Shoreline Environment Designations					
	Shoreline Commercial/ Mixed Use	High Intensity Transportation	Lake Sammamish Shoreline Residential	Issaquah Creek Shoreline Residential	Lake Sammamish Urban Conservancy	Issaquah Creek Urban Conservancy	Natural
Signs							
Max. sign area[4]		Per WSDOT standards		Signs permitted per IMC 18.11			
Utilities[5]							
Shore Setback – Issaquah Creek (buffer/setback)	100'/15'	N/A	N/A	100'/15'	N/A	100'/15'	100'/15'
Shore Setback – Lake Sammamish (buffer/setback)	N/A	N/A	35'/15'	N/A	35'/15'	N/A	N/A

[1] Maximum impervious surface coverage is determined as a percentage of the total site area. No impervious surfaces may be constructed within required stream and wetland buffer areas. Critical area buffers are counted toward the total pervious area required.

[2] Residential density in the PO, CBD, R and IC zoning designations is limited by development standards including impervious surface ratio, setbacks, height, etc.

[3] Per standards for accessory structures in IMC 18.07.110

[4] Per standards for directional and information signs in IMC 18.11.170.

[5]Buffers/Setbacks do not apply to water-dependent utilities, such as stormwater discharge/outfalls.

4.6 Shoreline Environment Designations Map

The official Shoreline Environment Designations Map is included as Figures 1 and 2.

Figure 1
Shoreline Environment Designations – North

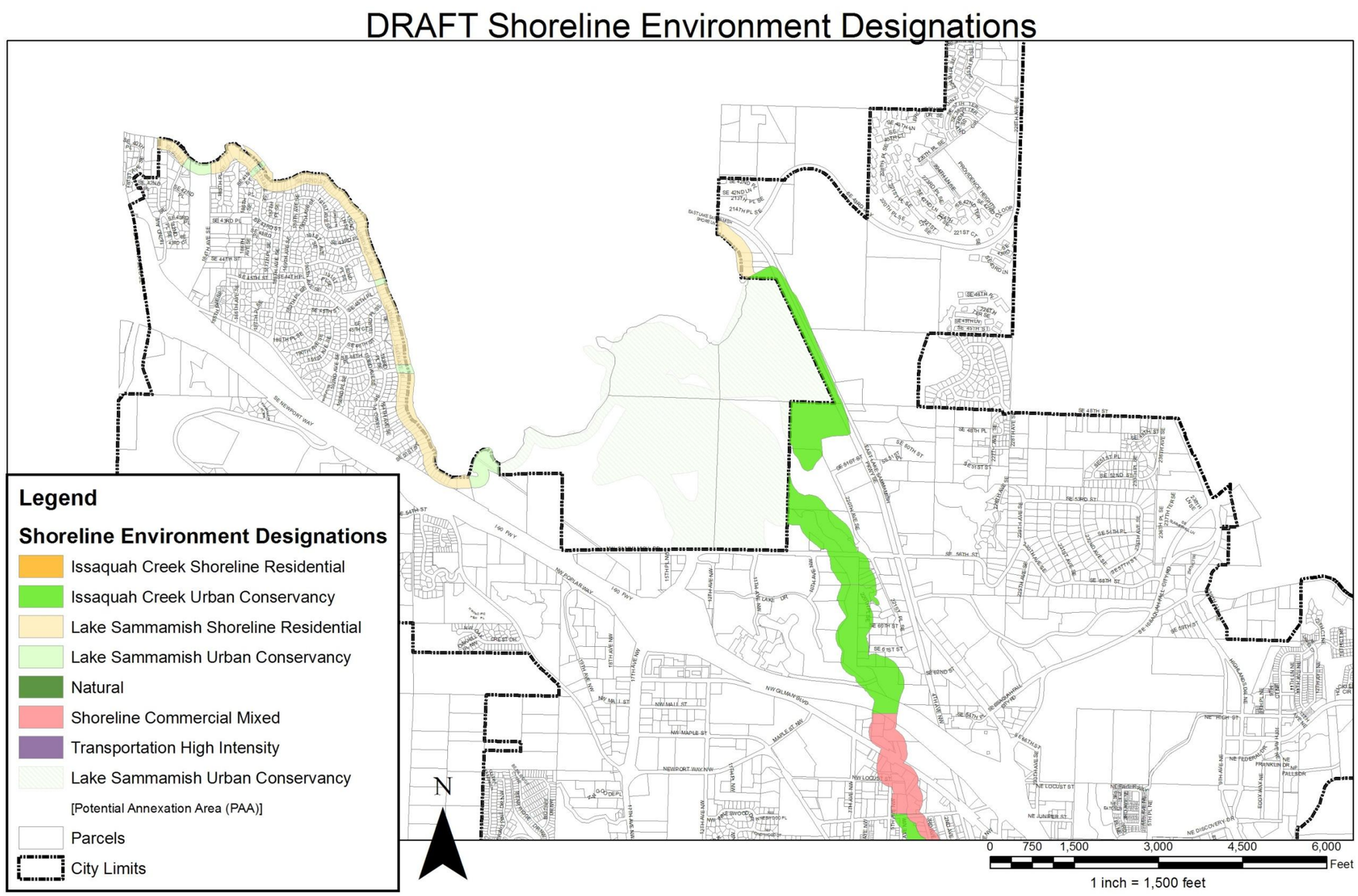
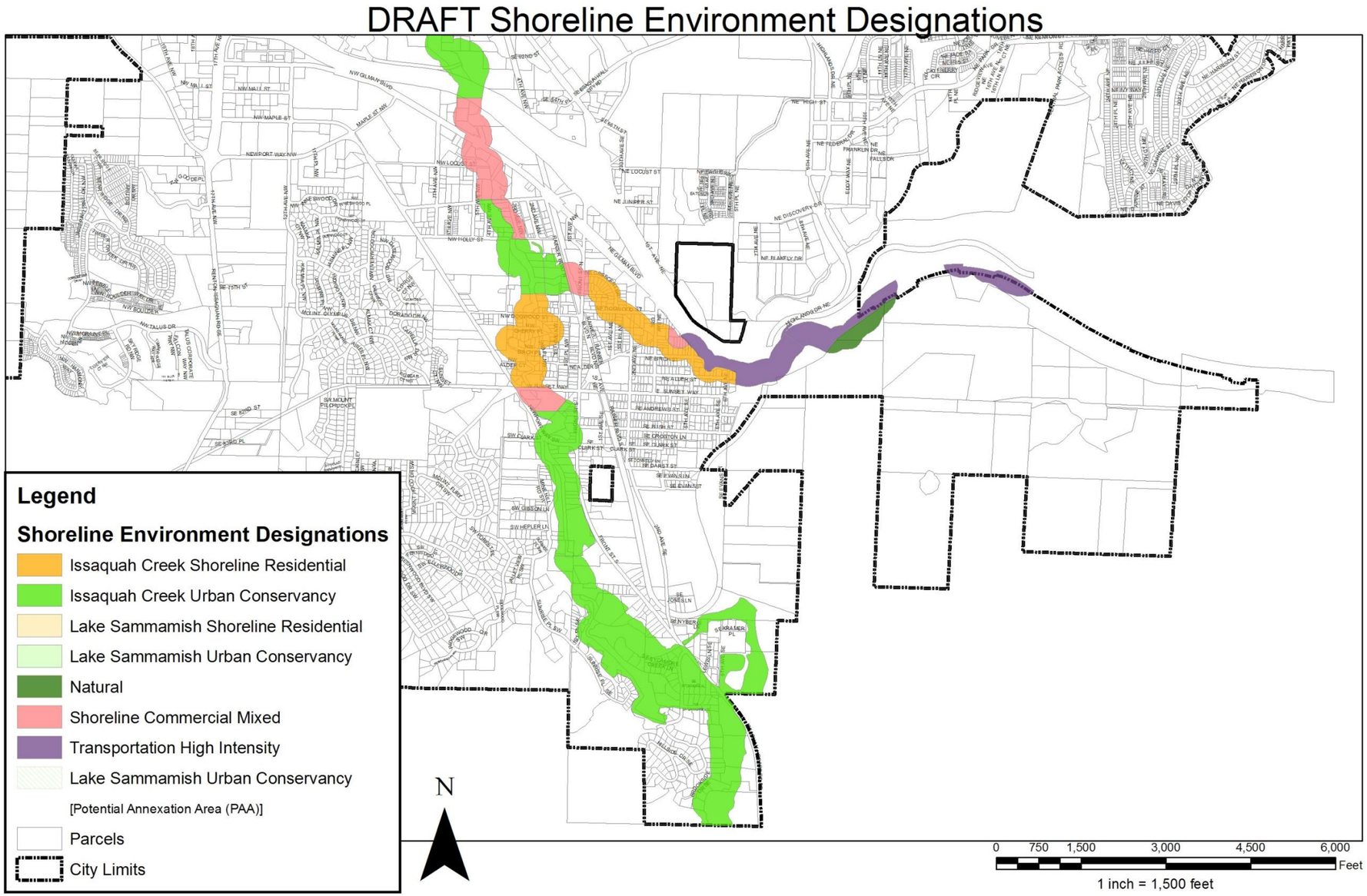


Figure 2
Shoreline Environment Designations – South



CHAPTER 5. GENERAL SHORELINE POLICIES AND REGULATIONS

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

5.1 Shoreline Use

5.1.1 Policies

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

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

3. The City should identify and designate appropriate areas for protecting and restoring shoreline ecological functions and processes. Uses and development which include restoration of shoreline areas that have been degraded as a result of past activities should be encouraged.

4. The City should encourage uses which provide public access to the shoreline.

5. Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource.

6. Non-conforming uses – Many properties have legal non-conforming situations, where buildings and/or improvements were constructed prior to the adoption of current regulations. In these cases, the existing buildings and/or improvements may not meet or conform to dimensional standards such as buffers or setbacks, or use regulations. Proposals for re-development or additions to legal non-conforming situations should include measures that decrease the level of non-conformity and/or improve existing ecological conditions.

7. Creek as an amenity – To take advantage of the scenic, recreational and cultural values of Issaquah Creek, the City should allow limited improvements within shoreline setback and buffer areas for water-oriented features, provided impacts to shoreline ecological resources are minimized. Water-oriented features are usually accessory to a principle use and may include viewing platforms, trails, and

outdoor seating areas. Water-oriented features should be accessible to the public.

5.1.2 Regulations

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

2. The shoreline use table (Table 1 in Chapter 4) defines those uses that are permitted outright and those uses that are only permitted as a conditional use. All unclassified uses, such as agriculture, forestry, mining and non-hatchery-related aquaculture, shall be considered conditional uses and shall be governed by the policies in WAC 173-26.

3. Specific shoreline use regulations are located in Chapters 6 and 7 of this Program.

5.2 Archeological, Historical and Cultural Resources

5.2.1 Policies

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

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

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

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

5.2.2 Regulations

1. An application for a shoreline permit or request for a shoreline exemption permit for a development proposal located on or adjacent to a historic or cultural resource shall be reviewed pursuant to the requirements of IMC 18.20.100 (Historic Resources – Review Process) and this Program.

2. An application for a shoreline permit or request for a shoreline exemption permit for a development proposal located on or adjacent to an area documented to contain archeological resources shall be reviewed pursuant to this Program and shall require a site inspection or evaluation by a professional archeologist in coordination with affected Indian tribes.

3. Whenever historic, cultural or archaeological sites or artifacts are inadvertently discovered during shoreline development, work on that portion of the development site shall be stopped immediately, the site secured and the discovery reported as soon as possible to the Director. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation, and the Director shall notify the historic preservation officer and shall require a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the historic preservation officer and the Washington State Department of Archaeology and Historic Preservation, the Director may require that an immediate site assessment be conducted or may allow stopped work to resume.

5.3 Public Access

5.3.1 Policies

1. Public shoreline access points and shoreline recreational facilities should be connected by trails, pathways, waterways and other access links where appropriate and feasible. The City should endeavor to integrate public access to shorelines as part of the City public trail system consistent with the adopted Growth Management Act Plan.

2. New development should not substantially interfere with visual and/or physical access to the water from roads and other public spaces.

3. The City should require commercial, industrial, and large-scale residential developments to provide physical or visual access to the shoreline as a condition of approval for shoreline development, commensurate with the impacts of such development and the corresponding benefit to the public, and consistent with constitutional limitations.

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

5.3.2 Regulations

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

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

3. Public access shall be located and designed to respect private property rights, be compatible with the natural shoreline character, avoid adverse impacts to shoreline ecological functions and processes, and ensure public safety.

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

    a. Where land is subdivided into more than four parcels or dwelling units; or

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

    c. Where use/development will create increased demand for public access to the shoreline; or

    d. Where land is developed for commercial or industrial use provided that the public access is compatible with the proposed use and consistent with this Program; or

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

5. The City shall not require public access for any single-family residential development or any new use/development that meets one or more of the following conditions:

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

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

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

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

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

f. The City has provided more effective public access through a public access planning process and plan as described in WAC 173-26-221(4)(c).

6. When physical public access is deemed to be infeasible based on considerations listed in subsection 5 above, the City may require the project proponent to provide visual access to the shoreline or provide physical access at an available off-site location geographically separated from the proposed use/developmental (e.g., a street end, vista, or trail system).

7. Public access trails and structures shall be allowed within shoreline buffers subject to the requirements of this Program and the Critical Area Regulations (IMC 18.10), provided that such trails and structures are necessary to provide physical and/or visual access to the shoreline and mitigate for impacts to the shorelines and shoreline buffers.

8. Development of public access facilities in, on or over the water shall be constructed using materials that allow light penetration and do not contaminate water. Facilities in, on or over the water shall be of non-reflective materials that are compatible in terms of color and texture with the surrounding area.

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

10. Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

11. Signs which indicate the public's right of access shall be installed and maintained in conspicuous locations at required public access sites.

5.4 Restoration

5.4.1 Policies

1. The City should integrate shoreline restoration and enhancement with other parallel efforts such as the WRIA 8 Salmonid Recovery Plan, King County Basin Plans, and the Comprehensive Plan.

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

3. The City should implement approved restoration plans to facilitate the restoration of impaired ecological functions.

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

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

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

7. Restoration planning should include incentives and other means to protect and restore hydrologic connections between water bodies, water courses, and associated wetlands.

5.4.2 Regulations

1. Restoration of ecological functions and processes shall be allowed on all shorelines and shall be located, designed and used in a manner that observes the critical area regulations of IMC 18.10 and assures compatibility with other shoreline uses.

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

5.5 Water Quality

5.5.1 Policies

1. Stormwater should be managed consistent with the City's Stormwater Management Policy (IMC 13.28), Basin Plan, and the Comprehensive Plan.

2. Low impact development should be implemented and incentives provided to increase on-site infiltration of stormwater where site soil, geology and groundwater conditions are appropriate.

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

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

5. The City should provide educational materials and incentives to address the proper use of fertilizers and herbicides by residential uses adjacent to shorelines.

6. Stormwater runoff from Interstate-90 presently flows untreated into Issaquah's creeks. Future development projects within the WSDOT right-of-way should retrofit stormwater facilities to comply with current stormwater standards.

5.5.2 Regulations

1. Shoreline use and development shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality in accordance with the City's Stormwater Management Policy (IMC 13.28), Basin Plan, Comprehensive Plan and other applicable laws.

2. Best management practices (BMPs) for controlling erosion and sedimentation and preventing pollutants from entering shoreline waterbodies shall be implemented for all new uses/development in accordance with IMC 16.30 (Erosion and Sediment Control).

3. All structures that may come in contact with water shall be constructed of concrete, steel, or other approved materials. Materials used for pilings, dock decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies. ACZA treated wood must meet Post-Treatment Procedures.

5.6 Critical Areas, Environmental Protection and Shoreline Buffers

5.6.1 Policies

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

2. This Program should provide a level of protection to critical areas within the shoreline that is at least equal to the standards provided in the City's critical area regulations, adopted pursuant to the Growth Management Act.

3. All shoreline use and development should avoid and minimize adverse impacts to ensure no net loss of ecological functions and processes from current conditions. Shoreline ecological functions that should be protected include hydrology, water quality, riparian habitat, and in-stream habitat functions. Shoreline processes that should be protected include surface and groundwater flow, channel migration, sediment delivery, water quality and organic inputs.

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

5. The City should require mitigation proportionate and related to the expected impacts of the proposed development.

5.6.2 Regulations

General

1. Mitigation Sequence - A proponent of any new shoreline use or development shall mitigate adverse environmental impacts whether or not the use/development requires a shoreline substantial development permit or is exempt from a shoreline permit. The mitigation sequence prescribed in WAC 173-26-201(2)(e) and IMC 18.10.490 shall be used in mitigating impacts from shoreline uses and development.
2. The City of Issaquah Critical Areas Regulations as codified in IMC 18.10 (Ordinance Number 2455, adopted on May 15, 2006) are herein incorporated into this Program except as noted. Any conflict between the incorporated ordinances and the SMP are resolved in favor of the regulation that is most protective of the shoreline ecological functions. The following Critical Areas Regulations shall not apply in this Program:

   a. 18.10.400 – Exemptions.

b. 18.10.430 – Variances. Item E. Reasonable Use Variance Criteria Established. 3. 18.08 Nonconforming Situations - Nonconforming uses and nonconforming development within shoreline jurisdiction shall be subject to this Program in addition to requirements in the Critical Areas Regulations and Nonconforming Situations, IMC Chapter 18.08. Administrative Procedures section 8.4 addresses nonconforming uses and development.

Shoreline Buffers and Building Setbacks Required

2. Unless otherwise specified in this Program, a buffer zone shall be maintained on all shorelines of the state to protect and maintain ecological functions and processes and to minimize risks to human health and safety. The buffer zone shall hereafter be referred to as a "shoreline buffer."

3. No new use or development, including preferred uses and uses exempt from shoreline permit requirements, shall extend waterward of the standard shoreline buffer, unless this Program specifically allows the use or development in the buffer.

4. Water-oriented uses and developments that are specifically allowed to locate waterward of the shoreline buffer and building setback may be approved without a shoreline variance provided they conform to the specific standards of this Program.

5. Shoreline buffers shall be measured landward in all horizontal directions from the ordinary high water mark (OHWM) of the shoreline water body.

6. In the event that buffers and setbacks for any shorelines and/or critical areas are contiguous or overlapping, the landward-most extent of all such buffers and setbacks shall apply.

7. A fifteen (15)-foot-wide building setback shall be established landward of the required shoreline buffer, per IMC 18.10.515(D)

8. Shoreline buffers shall be as follows:

    a. **Lake Sammamish Buffer Width**. A standard buffer of thirty five (35) feet shall be maintained in all shoreline environment designations. The buffer shall be measured from the ordinary high water mark (OHWM). A standard elevation of 31.76 NAVD88 or 28.18 NGVD29 may be used for the OHWM, or it may be determined on a site-specific basis in the field by a qualified biologist using methods approved by the State Department of Ecology, subject to approval by the Issaquah Planning Department.

    b. **Mainstem Issaquah Creek Buffer Width**. A standard buffer of 100 feet shall be established in all shoreline environment designations in accordance with IMC 18.10.785, except where a different standard is specified in the Shoreline Standards Table in Chapter 4 (Table 2). Buffers can be modified without a shoreline variance if the buffer reduction criteria of IMC 8.10.790(D) are met. Other buffer modifications require a shoreline variance unless otherwise stated in the Program.

    c. **East Fork Buffer Width**. A standard buffer of 100 feet shall be established in all shoreline environment designations in accordance with IMC 18.10.785, except where a different standard is specified in the Shoreline Standards Table in Chapter 4 (Table 2). Buffers can be modified without a shoreline variance if the buffer reduction criteria of IMC 8.10.790(D) are met. Other buffer modifications require a shoreline variance unless otherwise stated in the Program.

9. Critical Area Buffer Flexible Standards shall be allowed as described in Chapters 5 through 7 of this Program and the Critical Area Regulations.

Buffer Condition

10. Shoreline buffers shall be maintained in a predominantly natural, undisturbed, undeveloped, and well-vegetated condition except as specifically provided for in this Section and Chapters 6 and 7 of this Program. Buffers shall consist of native woody trees and shrubs that contribute to habitat quality and ecological functions and comply with the Shoreline Vegetation regulations and other provisions of this Program. Buffers may be modified only as specified in this Program.

    Routine maintenance of existing, established landscaping within shoreline buffers is allowed. Routine maintenance includes mowing grass, normal pruning and trimming of landscape plants, and weeding and removal of invasive plant species. The removal of significant trees from shoreline buffers or within shoreline jurisdiction is not routine maintenance and must follow standards and regulations of this Program, the Critical Areas Regulations (IMC 18.10) and Landscaping and Tree Preservation (IMC 18.12).

Buffers and Restored Shorelines

11. To avoid penalizing property owners or development proponents wishing to restore shoreline conditions by removing riprap, bulkheads, or other shoreline modifications, and promoting development of natural vegetation, the City may approve a site-specific alternative to the standard buffer on restored shorelines so that an adequate building envelope is maintained. The City shall require the project proponent to prepare a restoration plan showing the pre- and post restoration conditions, the proposed building envelope, and shoreline setback and buffer. In accordance with RCW 90.58.580 (Shoreline Restoration Projects – Relief from Shoreline Master Program Development Standards and Use Regulations), where a shoreline restoration project shifts the Ordinary High Water Mark, regulatory relief may be provided where this shift leads to hardship in making use of the property.

12. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 5 years of the proposed development/redevelopment activity provided that:

    a. The applicant/property owner can provide conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence; and

b. The City can confirm via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions; and

c. The applicant/property owner provides assurances that the restoration area will be maintained in perpetuity. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism.

5.7 Shoreline Vegetation Conservation

5.7.1 Policies

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

2. Well-vegetated buffers shall be established and maintained on all shorelines to assist in stabilizing shorelines and help prevent the need for bulkheads, and to improve nearshore habitat for juvenile fish by supplying cover and food resources.

3. The City should provide public outreach programs and educational materials to inform shoreline landowners of the importance of maintaining native vegetation buffers along shorelines.

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

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

6. Native shoreline vegetation should be integrated with bioengineering to stabilize stream banks and lakeshores and minimize erosion.

7. Proposals to expand, modify, or alter existing structures within shoreline jurisdiction should include measures to enhance shoreline buffer vegetation to improve degraded conditions. The amount of planting required should be proportional to the proposed addition or modification.

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

9. Aquatic vegetation control should only occur when native plant communities and associated habitat are threatened or where an existing water-dependent use is restricted by non-native invasive plant species.

10. The City should include requirements, incentives and education for property owners to maintain buffer vegetation in perpetuity. When vegetation enhancement or planting is required as a condition of approval consistent with the Program, the City should require 5 years of maintenance and monitoring to ensure successful establishment of native plantings.

5.7.2 Regulations

1. To conserve and maintain shoreline vegetation, shoreline use and development shall comply with the buffer standards established in Chapters 6 (6.1.3.) and 7 (7.1.3) of this Program and IMC 18.10.340 – 18.10.930; the setback standards established in IMC 18.07.360; the tree preservation regulations in IMC 18.12.1370-1390; and the clearing and grading regulations in IMC 16.26.

2. Vegetation clearing should be limited to the minimum necessary to accommodate approved shoreline uses and developments and shall comply with the standards established in Tables 1 and 2 in Chapter 4 as well as the use-specific regulations contained in this Program.

3. Following permitted surface disturbances, disturbed areas shall be revegetated using plant species approved by the City that are of a similar diversity and type to that occurring in the general vicinity of the site.

4. Vegetation conservation standards shall not limit or restrict the removal of hazard trees, provided the hazard tree removal is consistent with IMC 18.12 Landscaping and Tree Preservation.

5. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where excessive weed growth creates a flood hazard by restricting stream flow. All aquatic weed control activities shall conform to the requirements of applicable state rules and regulations.

6. Herbicides shall not be used to control aquatic weeds, except in situations where no feasible alternative exists, weed abatement is demonstrated to be in the public's interest, and all other regulatory requirements and standards are met.

7. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section. A shoreline permit or written statement of exemption shall not mandate, nor guarantee removal of vegetation for the purpose of providing unobstructed visibility of the water or any specific feature near or far.

8. Proponents of shoreline use or development shall use innovative techniques to maintain existing native shoreline vegetation and accommodate views. Techniques shall include selective pruning, windowing and other measures that preserve native plant composition and structure. No more than 25% [twenty-five percent] of the limbs on any single tree may be removed and no more than 25% [twenty-five] percent of the canopy cover in any single stand of trees may be removed for view preservation.

9. Existing Landscape Maintenance - Routine maintenance of existing, established landscaping is allowed. For purposes of this section, routine maintenance includes mowing grass, normal pruning and trimming of landscape plants, planting of annuals, perennials fruits and vegetables, and weeding and removal of invasive plant species. The removal of significant trees from shoreline buffers or within shoreline jurisdiction is not routine maintenance and must follow standards and regulations of this Program, the Critical Areas Regulations (IMC 18.10) and Landscaping and Tree Preservation (IMC 18.12).

5.8 Flood Hazard Reduction

5.8.1 Policies

1. Flood protection should be managed in accordance with the City's Areas of Special Flood Hazard ordinance, stormwater management regulations, critical area regulations, and the National Flood Insurance Program.

2. The City should participate in a regional approach to flood protection issues, coordinating with the Federal Emergency Management Agency (FEMA), the State of Washington, King County, and other entities involved in reducing flood hazards.

3. Flood hazard planning should consider off-site erosion and accretion or flood damage that might occur as a result of stabilization or protection structures or activities.

4. The City should discourage development in floodplains and channel migration zones associated with the City's shorelines that would individually or cumulatively result in an increase to risk of flood damage, channel erosion hazards, or further limit channel migration.

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

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

7. To minimize flood damages and maintain natural resources associated with streams; side channels, overflow corridors and other alternatives to traditional bank armoring, levees and/or dams should be considered.

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

5.8.2 Regulations

1. All development in the shoreline shall comply with the City's Areas of Special Flood Hazard ordinance (IMC 16.36), Stormwater Management Policy (IMC 13.28), Critical Area Regulations (IMC 18.10), and the National Flood Insurance Program.

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

3. The City shall not allow creation of new lots or approve new developments that are likely to require structural flood protection measures in the near future.

4. The City of Issaquah Areas of Special Flood Hazard Regulations, as codified in IMC 16.36 (Ordinance Number 2420, adopted on April 4, 2005, Appendix B), are herein incorporated into this Program. Any conflict between the incorporated ordinances and the SMP are resolved in favor of the regulation that is most protective of the shoreline ecological functions.

5.9 Views and Aesthetics

5.9.1 Policies

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

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

3. Residential subdivisions, multi-family residential and commercial/industrial developments should provide shoreline view points such as viewing decks, terrace gardens, or similar viewpoints for public use.

5.9.2 Regulations

1. The City shall require new uses and developments to conform to the dimensional standards of this Program to maintain shoreline views.

2. Visual access to shorelines shall be required of new development, consistent with Section 5.3.2 of this Program.

5.10 Moorage Structures

5.10.1 Policies

1. Moorage structures including docks, piers, floats, boat launches, boat lifts, and mooring buoys should not be permitted on either Mainstem or East Fork Issaquah Creek. They should be allowed on Lake Sammamish provided they meet the all of the requirements of this Program.

2. Over-water moorage structures can impact aquatic ecosystems and fish habitat by creating overhead cover and blocking sunlight. The use of shared or joint-use docks and piers is encouraged to minimize the number of over-water structures along the shoreline.

3. Moorage structures on Lake Sammamish should not be located in known critical habitats including the mouths of Issaquah, Tibbetts, Lewis and Laughing Jacobs Creeks and wetlands.

4. Moorage structures on Lake Sammamish should be appropriate for site-specific conditions including wind and wave action, water depth, shoreline characteristics, and adjacent land and water uses.

5. New private residential boat launch ramps and rails on Lake Sammamish should be prohibited.

6. Overwater structures and mooring buoys should be located and designed to cause minimum interference with navigable waters and the public's safe use of the lake and shoreline.

7. Public and private moorage structures should be designed and constructed with appropriate mitigation to ensure no net loss of ecological processes and functions.

8. Dock/pier repair and replacement activities provide important opportunities to improve conditions along the lakeshore. The City should expedite approval of dock repair and replacement actions provided they do not increase the total area of the

existing dock/pier and provided they minimize impacts by: using materials approved by the U.S. Army Corps of Engineers and the Washington State Department of Fish and Wildlife that will not adversely affect water quality or aquatic plant and wildlife; increasing light transmission through over-water structures (e.g., use of grated decking); maximizing the height of piers above the water surface; reducing the overall number and size of pier piles; enhancing the shoreline with native vegetation; and improving shallow-water habitat

9. The type, design, and location of docks, piers, floats and lifts should be consistent with state and federal regulations.

5.10.2 Regulations

Specific regulations pertaining to moorage structures are located in Chapter 6 (6.1.5) of this Program.

5.11 Parking

5.11.1 Policies

1. Parking facilities in shorelines are not a preferred uses and should be allowed only as necessary to directly serve a permitted use in shoreline jurisdiction.

2. Parking facilities should be located landward of the principal building being served, except where the parking facility is located within or beneath a structure or where an alternate location would have less adverse impact on the shoreline.

3. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and wildlife habitat.

4. The City should encourage the use of Low Impact Development (LID) techniques and/or pervious materials in parking facilities, where site conditions are appropriate. Landscaping adjacent to parking should be designed to provide biofiltration functions for runoff from the parking area.

5.11.2 Regulations

1. Parking as a primary use is prohibited in the shoreline jurisdiction. Parking in shoreline areas shall be limited to that which directly serves a permitted shoreline use.

2. Parking in shoreline areas shall be located outside (landward of) the shoreline buffer.

3. Parking is prohibited in, on, or over water.

4. Parking facilities shall be located and designed to minimize adverse environmental impacts, including, but not limited to:

    a. Stormwater runoff;

    b. Water quality;

    c. Visual qualities;

    d. Light and glare; and

    e. Public access

5. Parking areas within the shoreline jurisdiction shall be designed and landscaped to minimize adverse impacts upon adjacent shorelines and abutting properties. The landscaping shall preferably consist of native vegetation and comply with the landscaping provisions of IMC 18.12

6. The requirement for screening may be waived by the Director where screening would obstruct a significant view from public property or public roadway.

7. Alternatives to conventional storm water facilities, such as use of pervious materials and biofiltration landscape features, shall be considered in order to minimize impacts due to runoff and the need for storm water treatment.

5.12 Shoreline Stabilization

5.12.1 Policies

1. The use of hard structural shoreline stabilization measures such as concrete bulkheads should be minimized to reduce ecological impacts. Soft shore stabilization measures, appropriate building setbacks, drainage improvements, and/or beach enhancement are the preferred means of accomplishing stabilization objectives, unless these alternatives are demonstrated to be infeasible and hard structural stabilization is necessary to protect existing structures.

2. Proposals for shoreline stabilization should assure no net loss of ecological functions and should minimize impacts on adjacent properties, including impacts to off-site erosion, accretion, and flood damage.

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

4. The City should expedite approval of development projects that remove or soften bulkheads or bank armoring and revegetate the shoreline.

5. All shoreline uses and developments should be located and designed to prevent or minimize the need for shoreline protection structures (bulkheads, riprap, etc.) and

stabilization, landfills, groins, jetties or substantial site grading. The City should not allow new uses, the creation of new lots or the construction of new development where it would be reasonably foreseeable that the development or use would further limit channel migration or require structural bank stabilization.

5.12.2 Regulations

Specific regulations pertaining to shoreline stabilization and shoreline modification are located in Chapters 6 (6.1.4) and 7 (7.1.3) of this Program.

5.13 In-stream Structures

5.13.1 Policies

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

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

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

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

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

5.13.2 Regulations

Specific regulations pertaining to in-stream structures are located in Chapter 7 (7.1.3) of this Program.

5.14 Signs

5.14.1 Policies

1. Signs should be designed and located so they are compatible with the natural aesthetics of the shoreline environment and adjacent land and water uses.

2. Signs should not substantially block or otherwise materially interfere with the public's visual access to the water or shorelands.

5.14.2 Regulations

1. Signs are allowed in shoreline areas where consistent with the City's signs regulations (IMC 18.11).

5.15 Dredging

5.15.1 Policies

1. Dredging should be prohibited except when associated with a City-approved ecological restoration project or City-adopted flood hazard reduction plan.

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

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

4. Dredge material disposal is not allowed in water bodies, on shorelands, or in wetlands, except as part of a City-permitted shoreline restoration or habitat improvement project.

5.15.2 Regulations

1. Dredging waterward of the OHWM shall only be allowed when necessary to support the following:

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

    b. A City-approved restoration and mitigation project that involves bulkhead removal and/or shoreline vegetation enhancement; or

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

    d. Projects associated with MTCA or CERCLA habitat restoration.

2. Dredging may be permitted in Issaquah Creek for removal of gravel, sediment, or buried wood debris for flood management purposes consistent with a City-adopted flood hazard reduction plan and only after a biological and geomorphological study demonstrates that extraction has a long term benefit to flood hazard reduction,

does not result in a long-term degradation of fish habitat, and is part of a comprehensive flood management solution.

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

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

5.16 Fill and Excavation

5.16.1 Policies

1. Fill and excavation should be allowed only in association with a permitted use and where allowed should be the minimum necessary to accommodate the proposed use.

2. Filling and excavation should not be allowed where structural shoreline stabilization would be required to prevent the fill from eroding.

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

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

5.16.2 Regulations

1. All filling and excavation activities in the shoreline shall comply with the provisions of IMC 16.26 (Clearing and Grading), 16.30 (Erosion and Sediment Control) and this Program.

2. Fill and excavation is allowed landward of the ordinary high water mark of Issaquah Creek only in association with a permitted use. Where allowed, fill and excavation shall be the minimum necessary to accommodate the development.

3. Development that involves fill or excavation within the shoreline jurisdiction shall obtain a Shoreline Substantial Development permit or Shoreline Conditional Use Permit (as specified in Table 1 Chapter 4), unless exempt by RCW 90.58.030.

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

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

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

5. Before the City can permit any filling and/or excavation activities, the applicant must demonstrate all of the following:

    a. Alternatives to filling and excavation are infeasible;

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

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

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

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

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

6. Filling waterward of the OHWM may be allowed when necessary to support the following:

    a. Publically sponsored ecological restoration or enhancement projects;

    b. City-approved restoration and mitigation projects that involve bulkhead removal, shoreline vegetation enhancement and/or beach creation or nourishment;

    c. City-approved beach nourishment or in-stream habitat improvement projects may import a maximum quantity of three (3) cubic yards per year. All fill material placed waterward of the OHWM shall consist of approved materials and shall improve habitat conditions.

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

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

f. Construction of public docks/piers for public water-dependent recreational use, provided that the filling and/or excavation are limited to the minimum needed to accommodate the public dock/pier; or

g. Expansion or alteration of public transportation facilities currently located in the shoreline where there is no feasible alternative;

h. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.

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

8. Fill activities shall be designed to blend physically and visually with existing topography whenever possible.

9. A temporary erosion and sediment control (TESC) plan shall be provided for all proposed fill and excavation activities.

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

11. Mining and/or mineral extraction activities are prohibited with the City's shoreline jurisdiction except as part of a City approved ecological restoration plan.

5.17 Transportation Facilities

5.17.1 Policies

1. Transportation facilities, including new facilities and repair and improvement of existing facilities should be located, designed, constructed and maintained to have minimum impacts on shoreline resources.

2. New roads should be allowed only when related to and necessary for the support of permitted shoreline activities.

3. New transportation facilities should be located and designed to minimize the need for shoreline protection measures, modifications to natural drainage systems, and crossing waterways.

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

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

6. New stream crossings should be minimized to the extent feasible and mitigate for their impacts. New culverts or bridges should be designed to allow fish passage, movement of organic material, and to accommodate a 100-year flood event. All Stream crossings should fully mitigate for their impacts.

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

5.17.2 Regulations

1. Transportation regulations shall apply to any use or development where transportation infrastructure is or is proposed to be a primary land use, including new or expanded roadways and parking facilities.

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

3. New transportation facilities and improvements to existing transportation facilities, not including public trails, shall be located outside of the shoreline buffer, unless there is no feasible alternative. Any required impacts within the shoreline buffer shall meet standards of mitigation, as specified by this Program.

4. Bridges are the preferred method for crossing streams and shall be designed to span the Ordinary High Water Mark (OHWM). New roads shall be located to minimize the need for routing surface waters into and through culverts.

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

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

5.18 Utilities

5.18.1 Policies

1. New public or private utilities including utility production and processing facilities and transmission facilities, should be located outside of the shoreline area unless they are required for an authorized shoreline use, or they have a water-dependent component such as a water intake or outfall, or water crossings that are unavoidable.

2. Utilities should be located in existing improved rights-of-way and corridors wherever possible. Joint use of rights-of-way and corridors should be encouraged.

3. New utility facilities should be located and designed to preserve natural shoreline features and to avoid public recreation and public access areas and significant historic, archaeological or cultural resources.

4. Utility facilities and corridors should be located to protect scenic views. Wherever possible, utility facilities should be placed underground or alongside or under bridges.

5. New utility facilities should be located so they do not require extensive shoreline protection.

6. Maintenance or improvements to existing utilities should minimize additional impacts on the shoreline environment and, if possible, correct past impacts caused by a utility.

5.18.2 Regulations

1. New utility uses or developments shall not be allowed in the shoreline unless they are required for an authorized shoreline use, or they have a water-dependent component such as a water intake or outfall, or water crossings that are unavoidable. Water-dependent components shall not require buffer setbacks.

2. Utility production and processing facilities and transmission facilities shall locate outside of the shoreline jurisdiction, unless no other feasible alternative exists.

3. Utility developments shall be located and designed so as to avoid or minimize the use of structural shoreline stabilization.

4. Utility facilities shall provide for multiple use of sites and rights-of-way, except in instances where multiple use would unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.

5. Improvements or expansions of existing utility uses and development in the shoreline shall be allowed provided they do not result in loss of ecological functions, all impacts are mitigated, and that they comply with all other provisions of this Program.

6. When feasible, utility lines shall use existing rights-of-way, corridors and/or bridge crossings and shall avoid duplication and construction of new or parallel corridors in all shoreline areas.

7. Conveyance utilities shall be placed underground or alongside or under bridges except where the presence of bedrock or other obstructions make such placement infeasible or where such placement would cause substantial environmental impact.

8. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

9. New underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, except in situations where no other feasible alternative exists. In those limited instances when permitted, automatic shut-off valves shall be provided on both sides of the water body.

10. Clearing of vegetation for the installation or maintenance of utilities shall be minimized and disturbed areas shall be restored following project completion consistent with the requirements of City stormwater management regulations and all other provisions of this Program.

CHAPTER 6. LAKE SAMMAMISH SHORELINE POLICIES AND REGULATIONS

6.1 Residential Use and Development

6.1.1 Policies

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

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

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

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

5. Property owners wishing to expand or modify existing residences within shoreline jurisdictions should enhance shoreline vegetation and/or improve shoreline conditions in a manner that offsets the impacts of the proposed expansion or modification.

6. The City should provide incentives to encourage voluntary enhancement and restoration of high-functioning vegetated buffers and natural or semi-natural shorelines.

7. Development should at a minimum achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

6.1.2 Use Regulations

1. All residential uses and developments shall comply with the standards included in Table 2 in Chapter 4.

2. Single-family residential use is a preferred shoreline use and shall be permitted on Lake Sammamish when allowed by the underlying zoning (IMC 18.06) and consistent with this Program and the Act.

3. Multi-family Residential development shall be permitted on Lake Sammamish when allowed by the underlying zoning (IMC 18.06) and consistent with this Program and the Act.

4. New residential development, including normal appurtenances and accessory structures shall be prohibited in, on, or over water or within floodways. This shall not apply to docks, piers, lifts and floats allowed pursuant to IMC 6.1.3(6).

5. Floating homes and live-aboards shall be prohibited.

6. As mandated by the RCW 90.58.320, no shoreline permit may be issued for any new or expanded building or structure of more than thirty five (35) feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where overriding considerations of the public interest will be served. A variance shall be required for exceptions to the height standard.

7. Residential development and normal appurtenances, such as garages, decks, driveways, and fences shall be located sufficiently landward of the ordinary high water mark to preclude the need for new structural shoreline stabilization and/or flood protection during the useful life of the structure.

8. Subdivision shall be permitted only when all created lots have a minimum upland lot area of at least six thousand square feet per IMC 18.13.400 and IMC 18.07.360.

9. The City shall not allow the creation of any new lots that are likely to require structural shoreline stabilization or flood protection in the foreseeable future. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and ecological functions will be maintained or improved.

6.1.3 Shoreline Buffers and Setbacks

Lake Sammamish Buffer –A 35-foot wide vegetated shoreline buffer and 15-foot building setback shall be required to protect the lake from adverse effects of development. The buffer may be reduced to a minimum of 10 feet with removal of an existing bulkhead, per Section 6.1.3.3. Development must locate a minimum of 25 feet landward of the OHWM.

Exceptions to the Standard Shoreline Buffer

a. Common Line Setback Based on Adjacent Development - The City may allow the standard shoreline buffer to be adjusted without a shoreline variance in the following situations:

i. Where there are existing legally established residences that are located waterward or partially waterward of the established shoreline buffer and building setback, within fifty (50) feet of either side of the proposed residence. In such cases, the City may reduce the required shoreline buffer and building setback for new development/redevelopment so that the proposed residence has a view of the shoreline that is adequate and similar to adjacent residences. The proposed residential structure shall be set back from the OHWM to a common line drawn between the nearest corners of each adjacent residence.

ii. In those instances where only one existing single-family residence is within fifty (50) feet of the proposed residence, the City may reduce the shoreline buffer and building setback for new development/redevelopment of the proposed residence to a line drawn between the nearest corner of the existing adjacent residence and the nearest applicable setback for the adjacent vacant parcel.

iii. Where the existing legally established residences on either side of the proposed residence are located more than fifty (50) feet from the proposed residence, the City may require more than the standard shoreline buffer and building setback so the proposed residence does not block the view of the adjoining properties. In such cases, the proposed residential structure shall be set back from the OHWM to a common line drawn between the nearest corners of each adjacent residence.

Buffer Reduction with Bulkhead Removal

a. The standard shoreline buffer may be reduced from 35 feet to a minimum of 10 feet if a property owner removes an existing bulkhead and replaces it with natural softshore stabilization in accordance with Army Corps of Engineers (ACOE) and National Marine Fisheries Service (NMFS) standards for shoreline restoration. A 15-foot building setback is required landward of the buffer; therefore development may locate a minimum of 25 feet landward of the OHWM with removal of a bulkhead.

b. Approval of this shoreline buffer reduction shall be contingent on a City approval of a bulkhead removal and shoreline restoration plan. The Planning Director / Manager shall make final decisions on approval of buffer reduction requests based on the information provided and compliance with the provisions of this Program.

c. An approved buffer reduction granted by the City as the result of a bulkhead removal may be held as a credit for up to five (5) years and used to reduce

the standard shoreline buffer for future onsite construction projects in accordance with Chapter 5 of this Program (5.6.2).

New Residential Development and Redevelopment

a. New residential development, including principal structures and all associated impervious surfaces, shall be located landward of the shoreline buffer plus the 15-foot building setback except as specified in this Program or with the approval of a shoreline variance.

b. Proponents of new residential development shall enhance eighty percent (80%) of shoreline buffer area by planting native woody species. The remaining twenty percent (20%) may be retained as an 'active use' area (See Figure 3). The City shall require the development proponent to prepare a buffer enhancement plan subject to City approval. The following measures shall guide the development of the enhancement plan:

   i. Assuming one gallon sized plant material, trees should be planted with 20 foot spacing and shrubs should be planted with 4 foot spacing.

   ii. All invasive, nonnative vegetation shall be removed.

   iii. All existing impervious area shall be removed from the shoreline buffer, except for shoreline access trails and water-oriented accessory structures as specified in this Program.

   iv. Existing native vegetation may count toward the desired plant density.

Expansion and Modification of Existing Residential Development

a. An existing legally established residential structure (including principal structures and all associated impervious surfaces) located wholly or partially within shoreline jurisdiction may be modified or expanded without a shoreline variance provided that the expansion/modification is located landward of the shoreline buffer (see Figure 3). In such cases, the following shall apply:

   i. If the residence is located wholly landward of the shoreline buffer and building setback, the expansion/modification may occur on the waterside of the structure provided it does not extend into the buffer or building setback.

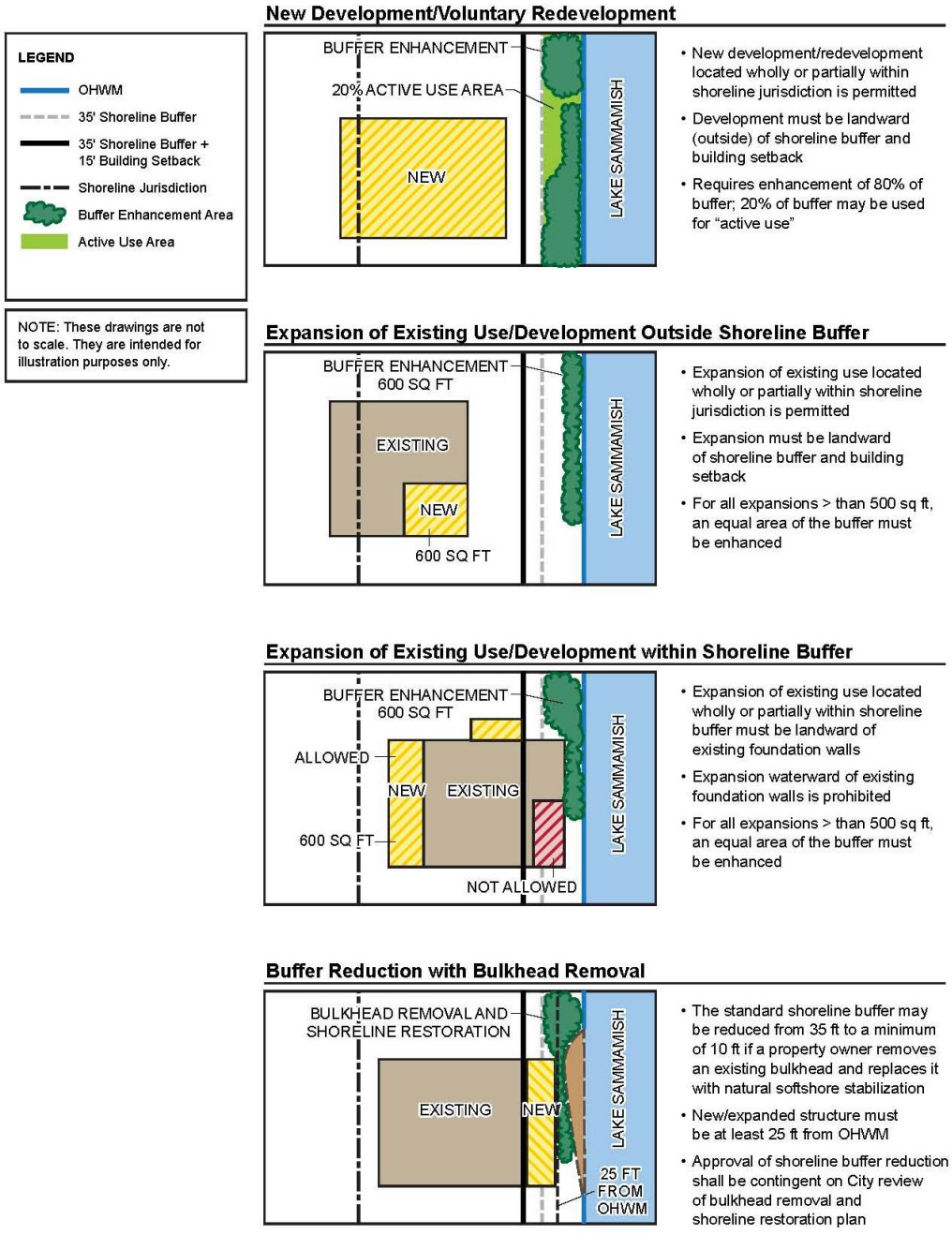
   ii. If any portion of the residence is located waterward of the shoreline buffer and building setback, the expansion must occur landward of the shoreline buffer and building setback.

   iii. If the expansion/modification adds more than 500 square feet of impervious surface, including the primary structure and all accessory structures and

appurtenances, the proponent shall be required to enhance an equal area of the shoreline buffer with native vegetation. This standard shall apply to the total of all new impervious surface area added in any 5 year period. Expansions/modifications of 500 square feet or less shall not require vegetation enhancement.

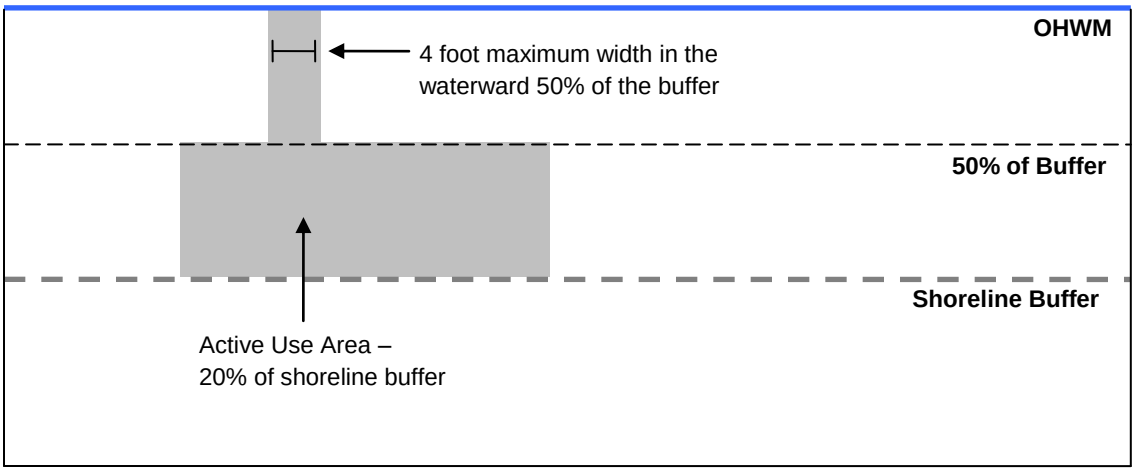
iv. If the proponent removes impervious surface waterward of the shoreline buffer and building setback, the area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area. If the reduction decreases the total amount of new impervious surface below 500 square feet, no buffer enhancement shall be required.

Figure 3
Development and Expansion on Lake Sammamish



Allowed Uses Within Shoreline Buffers

a. Active Use Area - Twenty percent (20%) of the total shoreline buffer area may be used for lawns, water access, or any other 'active use'. The active use area is not required to be maintained in a naturally vegetated condition. The active use area shall remain free of structures and impervious surfaces except for accessory structures expressly allowed by this Program. The active use area shall not exceed four hundred (400) square feet. The maximum width of the active use area in the waterward 50 percent of the shoreline buffer shall not exceed 4 feet as illustrated below:



b. Shoreline Access Trail - A 4-foot wide trail constructed of pervious or impervious materials may be located in the active use area of the buffer to provide access to the shoreline or to a dock.

c. Water-dependent and water-related accessory structures - Water-dependent and water-related accessory structures may be allowed waterward of the shoreline buffer and building setback without a shoreline variance as follows:

i. Residential moorage structures such as docks, piers, floats and/or lifts allowed pursuant to this Program; and

ii. Water-dependent and water-related accessory structures, excluding accessory dwelling units, provided that the total footprint is one hundred fifty (150) square feet or less and the structure height is fifteen (15) feet or less above existing average grade level. Accessory structures shall not be located within wetlands or their buffers and shall minimize impacts on existing vegetation.

d. Existing Landscape Maintenance - Routine maintenance of existing, established landscaping is allowed. For purposes of this section, routine maintenance

includes mowing grass, normal pruning and trimming of landscape plants, planting of annuals, perennials fruits and vegetables, and weeding and removal of invasive plant species. The removal of significant trees from shoreline buffers or within shoreline jurisdiction is not routine maintenance and must follow standards and regulations of this Program, the Critical Areas Regulations (IMC 18.10) and Landscaping and Tree Preservation (IMC 18.12).

6.1.4 Shoreline Stabilization Regulations

Shoreline Stabilization

1. Bioengineered shoreline stabilization (also known as bio-stabilization) is the preferred method for stabilizing shorelines and must be considered prior to hard structural stabilization measures.

New Bulkheads or Expansion of Existing Bulkheads

2. For purposes of this section, expansion includes additions and increases in size, height, width, length or depth to an existing bulkhead or shoreline stabilization measure.

3. New bulkheads and expansions of existing bulkheads shall incorporate features that minimize adverse effects on nearshore habitat, salmon spawning and migration, and water quality. Such features shall include native vegetation, beach coves, incline gravel fill, large wood, rocks and other techniques that have been shown to mitigate the effects of bulkheads on shoreline ecology. The City will approve so-called 'Green Shoreline' approaches consistent with Army Corps of Engineers (ACOE) shoreline protection alternatives guidance (SPAG) or National Marine Fisheries Service (NMFS) standards.

4. The City shall not approve new bulkheads, concrete walls, and similar hard structures unless there is conclusive evidence that such structures are deemed necessary to protect:

    a. Existing single-family residences are in danger of shoreline erosion caused by currents or waves and not caused by normal sloughing, vegetation removal, or poor drainage, such that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions; or

    b. Public structures on public lands that provide public access for substantial numbers of people; or

c. Projects whose primary purpose is remediating hazardous substances pursuant to RCW 70.105 when non-structural approaches such as vegetation planting and/or onsite drainage improvements are not feasible or do not provide sufficient protection.

Information Required for New Bulkheads or Expansion of Existing Bulkheads

5. To assess compliance with the provisions of this section, the Planning Director/Manager shall require the applicant or project sponsor to provide technical reports as follows:

   a. Site information - Describe existing topography, existing on-site and adjacent development, and location of abutting bulkheads;

   b. A geotechnical analysis prepared by a Washington State licensed engineer and/or licensed geologist or engineering geologist shall include:

      i. An assessment of the cause of erosion looking at upland conditions such as drainage problems and lack of vegetation, and waterward processes such as erosion resulting from wave action; and

      ii. An assessment of the necessity for hard structural stabilization by estimating time frames and rates of erosion; and

      iii. Documentation of the urgency of the specific situation.

   c. An assessment prepared by a qualified professional evaluating the feasibility of using alternatives to hard structural shoreline stabilization measures including increasing building setbacks, planting vegetation, installing on-site drainage improvements, use of nonstructural measures and/or bioengineered shoreline stabilization measures.

   d. Design recommendations to minimize impacts to sediment transport and to ensure no net loss of ecological functions. Recommendations shall address planting native vegetation, incorporating large wood, importing beach gravel or other techniques to mitigate the effect of bulkheads on shoreline ecology.

Replacement or Major Repair of Existing Shoreline Stabilization Structures

6. For purposes of this section, replacement or major repair of an existing shoreline stabilization structure includes: a repair need to an existing stabilization structure which has eroded away, collapsed, or demonstrates a loss of structural integrity; where a repair requires modification of the toe rocks or footings of 50% or more of the linear length of the shoreline stabilization structure; repair or replacement

of more than 75% of the linear length of the top or middle course rocks of an existing hard structural shoreline stabilization structure.

7. An existing shoreline stabilization structure may be replaced with a structure in the same location with similar dimensions and materials provided the following criteria are met:

   a. There is a demonstrated need to protect primary uses or structures from erosion caused by currents or waves;

   b. An assessment of the necessity for hard structural shoreline stabilization shall include consideration of site-specific conditions such as orientation of the shoreline, location of nearest structures, water depth, wave fetch, etc. The assessment shall be prepared by a qualified professional, but not necessarily a licensed engineer;

   c. Alternatives to structural shoreline stabilization shall be evaluated including nonstructural measures, native plant vegetative stabilization, and other forms of bioengineering and bio-stabilization;

   d. Design recommendations to minimize impacts and to ensure no net loss of ecological functions. Recommendations shall address planting native vegetation, incorporating large wood, importing beach gravel or other techniques to mitigate the effect of bulkheads on shoreline ecology.

8. Replacement shoreline stabilization shall not encroach waterward of the ordinary high water mark or the existing stabilization structure unless the primary use being protected is a residence that was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the landward side of the existing shoreline stabilization structure.

9. Existing shoreline stabilization structures that are being replaced shall be removed unless removing the structure will cause more environmental harm than leaving it in place.

Minor Repairs of Hard Shoreline Stabilization Structures

10. Minor repairs of hard shoreline stabilization structures include maintenance and repair activities not otherwise addressed in the sections above. Minor repair and maintenance of existing shoreline stabilization structures shall be allowed.

Construction Standards for Shoreline Stabilization Structures

11. When allowed pursuant to the provisions of this Program, structural shoreline stabilization must meet all of the following requirements:

a. The length of hard structural shoreline stabilization structures shall be minimized to the extent feasible. It shall be limited to the portion of a site where necessary to protect the primary structure/use and/or to connect to existing hard structural shoreline stabilization structures on adjacent properties.

b. For replacement, expansion or repair of hard structural shoreline stabilization structures, excavation and fill activities shall be conducted landward of the existing OHWM, except when not feasible due to site conditions, or for the enhancement of shallow water habitat with gravel, logs or rock.

c. Short-term construction activities shall minimize and mitigate adverse impacts to ecological functions use of best management practices to prevent water quality impacts related to upland or in-water work, following seasonal timing restrictions, and stabilizing soils following construction.

12. Bulkheads and other similar hard stabilization structures shall be located so as to tie in flush with existing bulkheads on adjoining properties, except in instances where the adjoining bulkheads do not comply with the design or location requirements set forth in this Program.

13. Shoreline stabilization shall be designed and constructed with gravel backfill and weep holes so that natural downward movement of surface or ground water may continue without ponding or saturation.

14. Stairs or other permitted pedestrian access structures may be built into a bulkhead but shall not extend waterward of it.

15. Gabions shall not be used to stabilize shorelines because of their limited durability and the potential hazard to shoreline users and the shoreline environment.

16. No motor vehicles, appliances, similar structures nor parts thereof, nor structure demolition debris, nor any other solid waste shall be used for shoreline stabilization.

Prohibited Shoreline Stabilization

17. Breakwaters, jetties, groins and similar structural modifications shall be prohibited.

18. Subdivisions shall be designed to assure that future development of the established lots will not require structural shoreline stabilization. Use of a bulkhead or similar structure to protect a platted lot where no structure presently exists shall be prohibited.

6.1.5 Moorage Regulations – Docks, Piers, Floats, Moorage Buoys, Boatlifts and Canopies

General

1. Moorage structures such as docks, piers, floats, boat/water craft lifts may only be developed and used accessory to dwelling units on waterfront lots or upland lots with waterfront access rights. Use of moorage structures is limited to residents and guests of the waterfront lots to which the moorage is accessory.

2. No dwelling unit may be constructed on a pier, dock, float or other moorage structure. No pier, dock, float or other moorage structure may be used as a residence.

3. Moorage structures require permits or approvals from one or more of the following state and federal agencies: the Washington Department of Fish and Wildlife (WDFW), Washington Department of Ecology (DOE), Washington Department of Natural Resources (DNR), or U.S. Army Corps of Engineers (ACOE). All new, replaced, expanded or repaired moorage structures shall comply with applicable state and federal laws and regulations, in addition to the provisions of this program. Documentation verifying state and federal agency approvals may be required by the City prior to issuance of building permits.

New Residential Moorage Structures

4. Each residential lot shall be allowed to have a maximum of one of each of the following: one dock/pier, one boat lift, one float, and one jet ski/personal watercraft lift. For two or more adjoining residential lots utilizing a joint-use dock/pier, the limits shall be no more than: one joint-use dock/pier, two boat lifts, one float, and two jet ski/personal watercraft lifts.

Development and Construction Standards for Moorage Structures

5. Moorage structures shall be located the maximum distance feasible from the outlet or mouth of any regulated stream entering Lake Sammamish.

6. Setbacks for Moorage Structures - Piers, docks, floats, boat lifts, and personal watercraft lifts shall be located a minimum of fifteen (15) feet from the waterward extension of side property lines. Joint-use piers, docks, lifts and floats may abut property lines for the common use of adjacent property owners when mutually agreed to by the property owners in a contract recorded with the King County division of records and elections. Swimming float lines are allowed in the setback to demarcate swimming areas safe from boating activity.

7. Dock and Pier Length – The maximum waterward extent of any new, replaced or reconstructed dock or pier shall be no longer seventy (70) feet or the length

needed to reach a depth of eight (8) feet (as measured from the ordinary high water mark).

8. Dock and Pier Area - The total dock area shall not exceed four hundred and eighty (480) square feet for residential docks serving one lot. Residential docks serving two (2) or more property owners shall have a maximum total dock area of seven hundred (700) square feet where there is a shared use agreement.

9. Dock and Pier Width – The maximum width for pier and dock walkways shall be four feet for the first 30 feet from the OHWM. No dock or pier walkway may exceed six (6) feet in width.

10. Dock Height – The top surface of docks and piers shall have a minimum height of 1.5 feet and a maximum height of 4 feet, as measured from the ordinary high water mark (OHWM).

11. Location of ells, fingers and deck platforms – No closer than thirty (30) feet waterward of the ordinary high water mark (OHWM). Only docks/piers and ramps shall be allowed within 30 feet of the OHWM. Ells, fingers and deck platforms shall not extend further waterward than the primary dock or pier.

12. Ells - Maximum 6 feet wide and 20 feet long.

13. Decking – The decking of all docks, piers, and ells shall be grated to allow a minimum of forty percent (40%) light transmittance.

14. Skirting – No skirting shall be allowed on any moorage structure.

15. Boatlift Canopy or Covers – One boatlift canopy per residential lot is allowed provided that the canopy is made of translucent material. The bottom of a boatlift canopy shall be elevated above the boatlift to the maximum extent feasible. The lowest edge of the canopy shall be a minimum of four (4) feet above the OHWM and a maximum of seven (7) feet above the associated dock or pier. No new covered pier, dock, or float shall be permitted. Existing canopies or covers on existing moorage structures may be repaired and maintained provided that the size of the cover does not increase and provided that any replacement cover is made of translucent material.

16. Materials - All structures that may come in contact with water shall be constructed of concrete, steel, or other approved materials. Materials used for pilings, dock decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies. ACZA treated wood must meet Post-Treatment Procedures.

17. Vegetation Enhancement Required - Construction of a new dock, or replacement or major repair of an existing dock shall meet the following measures:

    a. Emergent vegetation shall be planted waterward of the OHWM, unless the City determines it is not appropriate or feasible.

    b. Native riparian vegetation consisting of a mix of trees, shrubs and groundcover shall be planted in the nearshore area along the water's edge. The vegetated nearshore riparian area shall include a minimum of eighty percent (80%) of the entire lot width and shall average ten (10) feet in depth from the OHWM. The width of the planting area may be averaged to allow for variation in the landscape bed shape and plant placement; provided the planting area maintains a minimum five (5) foot width and the total square footage of the required vegetated nearshore riparian area is provided. The City shall accept existing native trees or shrubs in the nearshore riparian area to meet requirements of this section.

18. The use of fill to construct docks and piers shall only be allowed pursuant to the requirements of the Dredging, and Fill and Excavation regulations of this Program.

19. Any utility lines serving a pier or dock shall be located below the pier deck or underground.

20. Administrative Approval of Alternative Construction Standards for Docks and Piers The City may approve modifications to the development and construction standards for replacement of existing docks and piers in this section, consistent with the following limits (a, b, c), and provided an applicant demonstrates an alternative project design is approved by the U.S. Army Corps of Engineers and/or the Washington State Department of Fish and Wildlife. An applicant must also demonstrate that an alternative project design would not result in negative impacts on ecological functions.

    a. Maximum square footage: no larger than existing pier or dock.

    b. Decking materials, including requirements for minimum of 40% light transmittance, for all docks, piers and ells, consistent with this Chapter.

    c. Dock and pier walkway width shall not exceed 4 feet for the first 30 feet from the OHWM, consistent with this Chapter.

Replacement or Major Repair of Existing Residential Moorage Structures

21. For purposes of this section, the replacement or major repair of an existing residential moorage structure includes: the replacement of entire existing dock or pier including pier-support piles, OR more than fifty percent (50%) of the existing

pier-support piles with more than 50% of the existing decking and decking support structure.

22. Replacement or major repair of existing docks or piers shall meet the development and construction standards in section 6.1.5.5.

Additions or Enlargement of Existing Residential Moorage Structures

23. Additions or enlargements of existing residential moorage structures shall comply with the dimensional standards for docks and piers in section 6.1.5, including setbacks for moorage structures, dock length, dock area, dock width, dock height, dock materials, and standards for the location of ells, fingers and deck platforms.

24. The decking for additions and enlargements of piers, docks, walkways, ells and fingers shall be grated to allow a minimum of forty percent (40%) light transmittance.

25. Existing skirting shall be removed and may not be replaced.

26. Existing floats, ells, fingers and deck platforms located within thirty (30) feet of the OHWM shall be removed at a 1:1 ratio to the area of the addition.

Minor Repairs of Existing Residential Moorage Structures

27. Repairs limited to replacing less than fifty percent (50%) of existing decking, decking substructure, and the existing pier-support piles shall comply with the following requirements:

    a. Repairs to decking – Where more than fifty percent (50%) of existing decking is replaced, the new deck materials shall be grated to allow a minimum of forty percent (40%) light transmittance. All solid decking located within thirty (30) feet of the OHWM shall be replaced with a grated deck material allowing a minimum of forty percent (40%) light transmittance.

    b. Repairs to piles - Repairs to existing piles shall use materials approved for in-water use, as described in section 6.1.5.5. Applicants replacing piles shall minimize the diameter of the piles and maximize the spacing between piles to the extent feasible per site-specific engineering and design considerations.

28. Floats – Residential floats or over-water platforms shall not exceed sixty (60) square feet in area and must be in water depths of at least eight (8) feet.

29. Boat Launches - New launch ramps and rails associated with private residential development shall be prohibited on the Lake Sammamish shoreline. Existing launch ramps or rails shall be removed with installation of new piers or docks, unless the applicant can demonstrate hardship.

Moorage Buoys

30. Moorage buoys needed for vessels used for construction of shoreline facilities are only permitted on a temporary basis. Upon termination of the project, aquatic habitat shall be restored to the original (pre-construction) within one (1) year.

31. Moorage buoys installed for recreational purposes may be permitted provided they are consistent with this Program and can meet the following criteria:

    a. Moorage buoys require permits or approvals from the following state and federal agencies: Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (DNR), and the U.S. Army Corps of Engineers. The installation and use of moorage buoys shall comply with all applicable state and federal laws and regulations.

    b. Mooring buoys shall be located, spaced and oriented to not pose a hazard or obstruction to navigation, fishing, pleasure boating, or swimming activity.

    c. Mooring buoys and the swing path of attached boats shall not encroach onto adjacent properties, or into the water-ward extension of lot lines of adjacent properties, and shall not impede the ability of other property owners to access their property.

    d. The number and location of moorage buoys shall consider the ability of the abutting upland area to accommodate the necessary support facilities such as parking, boat access, etc.

    e. Mooring buoys shall be located to avoid sensitive aquatic and nearshore habitat areas and shall not result in the degradation of water quality or habitat areas.

    f. Mooring buoys shall not be used for residential purposes (living on the boat).

6.2 Public Recreational Use and Development

6.2.1 Policies

1. The City should provide diverse water-dependent and water-related recreation opportunities that are convenient and adequate for the community and that preserve shoreline resources.

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

3. Recreational uses in shoreline areas should be located where the uses would not result in a net loss of shoreline functions and processes or impact neighboring uses.

4. The City should integrate recreational elements into other regional parks and trail systems.

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

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

7. Public boat launches on Lake Sammamish should be located at publicly accessible sites with suitable environmental conditions and should avoid impacts to critical habitat areas.

8. Regional needs for public boat launches for motorized boats or large watercraft should be coordinated with other jurisdictions and recreation providers, including the Washington State Parks Department, adjacent cities and King County to avoid unnecessary duplication and to efficiently provide recreational opportunities.

6.2.2 Use Regulations

1. All Public Recreational Use and Development shall comply with the standards included in Table 2 in Chapter 4.

2. Public water-oriented recreational development is a preferred shoreline use and shall be allowed on Lake Sammamish when consistent with underlying zoning pursuant to IMC 18.10, this Program, and the Act.

3. Public recreational activities and facilities located within shoreline jurisdiction shall be water-oriented, and shall provide physical or visual access to the shoreline.

4. The following water-oriented public recreational structures may be allowed waterward of the shoreline buffer and building setback as indicated in section 5.6.2 of this Program without a shoreline variance:

    a. Public docks, piers, and/or floats allowed pursuant to section 6.2.4 of this Program.

    b. Public picnic shelters and similar facilities for water enjoyment uses provided that such structures are prohibited in wetlands and streams, or in, on or over water. Structures for water enjoyment uses are permitted in the outer fifty

percent (50%) of a stream buffer, provided that the maximum total footprint of all structures shall not exceed 10% of the total buffer area and that no structure exceeds fifteen (15) feet above existing average grade level.

c. Public swimming beaches when consistent with the provisions of this Program

d. Public boat launches when consistent with the regulations for boat launches and pursuit to all other the provisions of this Program.

5. Non-water-oriented public recreational development shall be located outside of the shoreline buffer and building setback, as specified in this Program.

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

7. Proposals for public recreational developments shall comply with the vegetation conservation provisions of this Program.

6.2.3 Shoreline Stabilization Regulations

The shoreline stabilization regulation listed under 6.1.3 shall also apply to Public Recreational Uses in the Lake Sammamish Shoreline.

6.2.4 Public Moorage and Boating Facility Regulations

General

1. Public docks, piers, lifts, floats, buoys accessory to public recreational use/development must be constructed of state and federally approved materials and meet all of the requirements of this Program.

2. All new public docks, piers and floats on Lake Sammamish shall be allowed provided they receive a permit from and comply with the standards of the U.S. Army Corps of Engineers and the Washington State Department of Fish and Wildlife and comply with all other provisions of this Program.

3. The use of fill to construct docks and piers shall only be allowed pursuant to the requirements of the Dredging, and Fill and Excavation regulations of this Program.

4. Any utility lines serving a public pier or dock shall be located below the pier deck or underground.

5. No public pier, dock, float, or in-water/overwater moorage structure shall not be located closer than fifteen (15) feet from the side property line extended. Swimming float lines are allowed in the setback to demarcate swimming areas safe from boating activity.

6. Launch ramps and rails associated with public recreational uses on public lands shall be allowed as a conditional use.

CHAPTER 7. ISSAQUAH CREEK AND EAST FORK ISSAQUAH CREEK SHORELINE POLICIES AND REGULATIONS

7.1 Commercial and Industrial Use and Development

7.1.1 Policies

1. The City should give first preference to water-dependent commercial and industrial uses over non-water-dependent commercial and industrial uses; and give second preference to water-related and water-enjoyment commercial and industrial uses over non-water-oriented commercial and industrial uses.

2. Commercial and industrial development should be designed and located to prevent net loss of shoreline ecological functions and should not have adverse impacts on other shoreline uses, public access or recreation.

3. Commercial and industrial development should be required to provide physical or visual access to the shoreline wherever possible, unless such access creates a risk to public safety, interferes with permitted uses or would result in adverse ecological impacts.

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

5. Commercial and industrial development should be visually compatible with adjacent noncommercial properties.

6. Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

7.1.2 Use Regulations

1. All Commercial and Industrial Use and Development shall comply with the standards included in Table 2 in Chapter 4.

2. Water-oriented (including water-enjoyment) commercial and industrial uses and developments shall be allowed in shoreline jurisdiction when allowed by the underlying zoning (IMC 18.06) and when consistent with this Program.

3. New or redeveloped non-water-oriented commercial and industrial uses shall be allowed in shoreline jurisdiction when allowed by the underlying zoning (IMC 18.06) and when:

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

    b. The use is part of a mixed-use project that includes an associated water-dependent or water-related commercial/industrial use; or

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

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

Shoreline Buffers and Setbacks

5. Issaquah Creek/ East Fork Issaquah Creek Buffer – In accordance with Section 5.6.2 of this Program, a 100-foot wide vegetated shoreline buffer and 15-foot building setback shall be required to protect the creeks from adverse effects of development.

New Commercial/Industrial Development

6. All new and redeveloped structures, accessory facilities, and any impervious surfaces shall be located outside (landward of) the shoreline buffer unless otherwise stated in this Program or approved with a shoreline variance. For the purposes of this subsection, accessory development may include, but is not necessarily limited to the following: parking; open air storage; waste storage; utilities; and stormwater detention or treatment facilities.

Expansion and Modification of Existing Commercial/Industrial Development

7. Existing commercial and industrial structures may be expanded, repaired, remodeled, or renovated. Expansion of existing structures, accessory facilities, or new impervious surface area shall comply with the following provisions:

    a. Expansion of existing structures, accessory facilities, or new impervious surface area shall be located landward of the standard shoreline buffer and building setback as specified in section 5.6.2 of this Program.

b. Expansion of a legally established commercial or industrial use or development located wholly or partially within the standard buffer shall not extend waterward of the existing foundation walls or existing impervious surface area. If the expansion involves greater than 500 square feet of new impervious surface area, the proponent shall enhance an equivalent area of shoreline buffer (1:1 ratio).

Allowed Uses within Shoreline Buffers

9. Water-enjoyment features, including outdoor walkways, patios, view platforms, trails and similar public spaces, associated with commercial or industrial uses that provide physical or visual public access to the creeks and promote the shoreline as an amenity shall be allowed in the shoreline buffer as follows:

   a. Water-enjoyment features shall be accessory to a permitted commercial or industrial use;

   b. Water-enjoyment features shall be allowed in the outer fifty percent (50%) of the shoreline buffer and limited to ten percent (10%) of the total buffer area;

   c. The walkway, patio, or similar feature is located and designed to avoid substantial clearing of mature trees and woody vegetation within the buffer;

   d. The property owner prepares and the City approves a buffer management plan for the site that is designed to mitigate adverse effects of the development and accommodate shoreline views (visual public access) without a net loss of ecological functions.

7.1.3 Shoreline Modification Regulations

New Shoreline Stabilization and Flood Control Structures

1. Bioengineered shoreline stabilization (also known as bio-stabilization) is the preferred method for stabilizing shorelines and shall be permitted.

2. New, expanded, or replaced bank stabilization or flood control structures may be allowed when:

   a. Part of an approved project whose primary purpose is remediating hazardous substances pursuant to RCW 70.105, or

   b. There is conclusive evidence, documented by a geotechnical analysis that a primary structure is in danger of shoreline erosion caused by currents or waves and not caused by normal sloughing, vegetation removal, or poor drainage.

3. New stream bank stabilization structures shall incorporate features that minimize adverse effects on riparian habitat, salmon spawning and migration, and water

quality. Such features shall include native vegetation, large wood, rocks, and other techniques that have been shown mitigate the effects of bank armoring on stream ecology. The City shall approve approaches consistent with Washington Department of Fish and Wildlife bank stabilization guidelines.

Information Required for New Shoreline Stabilization and Flood Control Structures

4. In assessing compliance with the provisions of this section, the Planning Director/Manager shall require the applicant or project sponsor to provide a geotechnical analysis that:

    a. Describe existing topography, existing development; and location of abutting bulkheads; and

    b. Evaluate the need for structural shoreline stabilization and potential impacts to habitat and other ecological functions, and;

    c. Describe alternatives to structural approaches including increasing building setbacks and shoreline buffers and vegetative stabilization.

5. Technical reports shall be prepared by a Washington State licensed engineer and/or licensed geologist or engineering geologist and may include a qualified biologist as appropriate. The reports shall meet the application requirements of IMC 18.04 and all other procedures for land use permit applications and public notice. Geotechnical analysis required pursuant to this section shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. Hard armoring shall not be authorized unless the report confirms that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions.

Maintenance and Repair of Existing Shoreline Stabilization or Flood Control Structures

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

7. Repair or rehabilitation of existing shoreline stabilization or flood control structures, where the primary purpose of the structure is to contain the 1-percent

annual chance flood event, shall be allowed where it is demonstrated by an engineering analysis that the existing structure:

a. Does not provide an appropriate level of protection for surrounding lands;

b. Does not meet appropriate engineering design standards for stability (e.g., over-steepened side slopes for existing soil and/or flow conditions); and

c. Does not interfere with fluvial hydrologic and geomorphologic processes normally acting in natural conditions.

8. Replacement of more than seventy-five (75) percent of the lineal feet of an existing shoreline stabilization or flood control structure within any five (5) year period shall be regulated as "new, expanded, or replaced" structures.

9. Allowed shoreline stabilization or flood control structures shall meet the following criteria:

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

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

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

d. Appropriate vegetation restoration and conservation actions are undertaken consistent with WAC 173-26-221(5), and the provisions of this Program including the vegetation conservation regulations in Chapter 5 of this Program.

Construction Standards for New Shoreline Stabilization and Flood Control Structures

10. New shoreline stabilization or flood control structures shall be placed landward of the floodway as established in Federal Emergency Management Agency (FEMA) flood insurance rate maps or floodway maps.

11. New shoreline stabilization or flood control structures shall be placed landward of associated wetlands, and designated vegetation conservation areas, except when

the project includes increasing ecological functions as part of the design or as mitigation for impacts.

12. New, expanded, replaced, or repaired shoreline stabilization or flood control structures shall be planted with vegetation suitable for wildlife habitat.

13. No motor vehicles, appliances, similar structures nor parts thereof, nor structure demolition debris, nor any other solid waste shall be used for shoreline stabilization.

Prohibited New Shoreline Stabilization and Flood Control Structures

14. Subdivisions shall be designed to assure that future development of the established lots will not require structural shoreline stabilization or further limit channel migration. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.

15. Use of a bulkhead, revetment or similar structure to protect a platted lot where no structure presently exists shall be prohibited.

In-Stream Structures

16. In-stream structures shall only be allowed when associated with a watershed restoration project or a water dependent use, including but not limited to the fish hatchery.

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

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

19. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion, safety hazards, or higher flood stages. Removal shall be done in coordination with Washington Department of Fish and Wildlife.

20. In-stream structures shall provide for adequate upstream or downstream migration of anadromous fish, where applicable.

7.2 Residential Use and Development

7.2.1 Policies

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

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

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

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

5. For additions to existing residential residences enhancement of ecologic conditions (ex: buffer vegetation, water quality) should be required commensurate to the proposed improvement or development.

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

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

7.2.2 Use Regulations

1. All residential use and development shall comply with the standards included in Table 2 in Chapter 4.

2. Single-family residential use is a preferred shoreline use and shall be permitted on Issaquah Creek and the East Fork Issaquah Creek when consistent with this Program and the Act.

3. Multi-family residential development and mixed-use development with a residential component shall be allowed in the Shoreline Commercial / Mixed Use environment, as a permitted use where the underlying zoning designation (IMC 18.10) allows such use and the development is consistent with this Program.

4. All residential development is prohibited in the Natural Environment.

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

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

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

8. Structures accessory to residential development, other than fences, shall be sited outside (landward of) the shoreline buffer and building setback established in IMC 18.07.360 and section 5.6.2 of this Program. Fences located within shoreline buffers shall require approval to minimize and mitigate for clearing of vegetation.

9. All residential development proposals shall be accompanied by a plan indicating methods for erosion control during and following construction in accordance with the City's Erosion and Sedimentation Control Ordinance.

Special Regulations for Multi-family Development

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

Shoreline Buffers and Setbacks

11. Issaquah Creek/ East Fork Issaquah Creek Buffer – In accordance with Section 5.6.2 of this Program, a 100-foot wide vegetated shoreline buffer and 15-foot building setback shall be required to protect the creeks from adverse effects of development.

Creek Buffer Modification

12. For single family residential developments on Issaquah Creek and the East Fork Issaquah Creek, a four-foot wide creek access trail (pervious or impervious) through the buffer may be allowed. Access trails shall be located and designed to avoid substantial clearing of mature trees and woody vegetation within the buffer.

7.2.3 Shoreline Modification Regulations

The shoreline modification regulations listed under 7.1.3 shall also apply to residential uses in the Issaquah Creek and the East Fork Issaquah Creek Shoreline.

7.3 Public Recreational Use and Development

7.3.1 Policies

1. The City should provide diverse water-dependent and water-related recreation opportunities that are convenient and adequate for the community and that preserve shoreline resources.

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

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

4. The City should integrate recreational elements into other regional parks and trail systems.

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

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

7.3.2 Use Regulations

1. Public water-oriented recreational development is a preferred shoreline use and shall be allowed when consistent with underlying zoning pursuant to IMC 18.10, this Program, and the Act.

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

3. Power operated vehicles and power operated boats shall be prohibited on or in Issaquah Creek and the East Fork Issaquah Creek.

4. Public recreational facilities with playing fields or with impervious surfaces shall incorporate appropriate means to prevent erosion, control runoff, and prevent

chemicals and sediment from entering water bodies per the standards of IMC 13.28 (Surface Water Management).

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

6. Proposals for public recreational developments shall comply with the provision of this Program and shall include a landscape plan that uses plant species to be approved by the City. Landscape plans shall incorporate the use of native, self-sustaining vegetation.

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

8. All temporary and/or permanent impacts to the shoreline buffer required for development of recreational facilities shall meet standards of mitigation, as specified by this Program.

9. All new recreational development proposals will be reviewed by the City for ecological restoration and public access opportunities. When restoration and/or public access plans indicate opportunities exist, the City may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

10. Nonwater-oriented recreational development shall include public access and ecological restoration including removing shoreline armoring and enhancing shoreline vegetation. The City shall determine the appropriate type and extent of public access and ecological restoration required based on the type of development and the existing site conditions.

Shoreline Buffers and Setbacks

11. Issaquah Creek/ East Fork Issaquah Creek Buffer – In accordance with Section 5.6.2 of this Program, a 100-foot wide vegetated shoreline buffer and 15-foot building setback shall be required to protect the creeks from adverse effects of development.

7.3.3 Shoreline Modification Regulations

The shoreline modification regulations listed under 7.1.3 shall also apply to Public Recreational Uses in the Issaquah Creek and East Fork Issaquah Creek Shoreline.

CHAPTER 8. ADMINISTRATIVE PROCEDURES

8.1 Administration

8.1.1 General Standards

1. Unless otherwise stated, this Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.

8.2 Shoreline Permits

8.2.1 General Regulations

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

2. Shoreline exemptions, shoreline substantial development permits, shoreline variances and shoreline conditional use permits shall be subject to all of the applicable procedural requirements of IMC 18.04.

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

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

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

8.2.2 Substantial Development

1. Substantial development as defined by RCW 90.58.030 shall not be undertaken without first obtaining a substantial development permit from the Planning Director/Manager, unless the use or development is specifically identified as exempt from a substantial development permit.

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

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

4. The Planning Director/Manager may grant a substantial development permit only when the development is consistent with the timelines outlined in WAC 173-27-090 and permit application requirements listed in WAC 173-27-180.

8.2.3 Exemptions from a Substantial Development Permit

1. Uses or developments that meet the criteria listed in WAC 173-27-040(2) may qualify for an exemption from a Substantial Development Permit.

2. Uses and developments that are exempt from the requirements of a substantial development permit pursuant to RCW 90.58.030(3)(e) and WAC 173-27-040 shall conform to the policies and regulations of this Program.

3. Proposed uses or developments that meet the requirements for an exemption shall submit a request for exemption to the Planning Director/Manager for review and approval. Shoreline exemptions will require a Level 0 or Level 1 Review pursuant IMC 18.04.100. Shoreline exemptions for projects that are likely to result in minor impacts, as determined by the Planning Director/Manager, may be processed by a Level 0 review.

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

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

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

7. The holder of a certification from the governor pursuant to RCW 80.50 shall not be required to obtain a permit under this Program.

8.2.4 Shoreline Exemption Permit

1. For uses and developments within the shoreline jurisdiction, specifically listed in RCW 90.58.030 and WAC 173-27-040, that are determined to be exempt from the

requirements of a substantial development permit, the Planning Director/Manager shall prepare a statement of exemption, or a shoreline exemption permit. Statements of exemption and shoreline exemption permits shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Planning Director/Manager's analysis of the consistency of the project with this Program and the Act.

2. No written statement of exemption is required for emergency construction pursuant to WAC 173-27-040(2)(d). An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full permitting. In such cases, a brief description of the emergency work shall be provided to the Administrator before work is undertaken. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the local master program.

3. In accordance with WAC 173-27-040, statements of exemptions may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

4. Pursuant to IMC 18.04.360(F), the City Building Official, through consultation and coordination with the Planning Director/Manager, shall attach shoreline management terms and conditions to the Building Permit.

5. Whenever the exempt activity also requires a U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899 or a Section 404 permit under the Federal Water Pollution Control Act of 1972, a copy of the written statement of exemption shall be sent to the applicant/proponent and Ecology pursuant to WAC 173-27-050.

8.2.5 Shoreline Variance

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

2. A Shoreline Variance shall follow the provisions in this section and other applicable sections of the Shoreline Master Program. A Reasonable Use Variance under the Critical Areas Regulations IMC 18.10.430, shall not apply within shoreline jurisdiction. A variance shall require review, pursuant to IMC 18.04 Procedures. The Department of Ecology shall be the final approval authority under WAC 173-27-200.

3. The purpose of a shoreline variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict

implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in RCW 90.58.020.

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

5. The burden of proving that a proposed shoreline variance meets the criteria in WAC 173-27-170 shall be on the applicant. Absence of such proof shall be grounds for denial of the application

6. A variance from the standards of the master program may be granted only when the applicant can demonstrate that all the following conditions will apply:

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

    b. That the hardship described in (1) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

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

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

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

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

    g. That the public rights of navigation and use of the shorelines will not be adversely affected

    h. That consideration has been given to the cumulative effect of like actions in an area where similar circumstances exist, and whether this cumulative effect would be consistent with shoreline policies or would have substantial adverse effects on the shoreline.

7. Before making a determination to grant a shoreline variance, the City shall consider issues related to the conservation of valuable natural resources, and the

protection of views from nearby public roads, surrounding properties and public areas.

8. A variance from City development code requirements shall not be construed to mean a variance from shoreline master program use regulations and vice versa. Shoreline variances may not be used to permit a use that is specifically prohibited in an environmental designation, or to vary uses permitted within an environmental designation.

9. The City shall not issue a permit for any new or expanded building or structure that exceeds a height of thirty five (35) feet above average grade level that will obstruct the view of a substantial number of residences except with a shoreline variance, provided an applicant can demonstrate overriding considerations of the public interest will be served.

8.2.6 Conditional Uses

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

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

3. When a conditional use is requested, the substantial development permit, if required, and the conditional use shall require a Level 2 Review, pursuant to IMC 18.04.370 through 18.04.400. The Planning Director/Manager shall be the final approval authority for the City. The Department of Ecology shall be the final approval authority under WAC 173-27-200.

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

    a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and the policies of the master program;

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

    c. The use will cause no unreasonable adverse effects on the shoreline or surrounding properties or uses, and is compatible with other permitted uses in the area;

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

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

5. Other uses not set forth in the shoreline master program may be authorized through a conditional use permit if the applicant can demonstrate that other uses are consistent with the purpose of the shoreline environmental designation and compatible with existing shoreline improvements or that extraordinary circumstances preclude reasonable use of the property; however, uses specifically prohibited by the master program may not be authorized.

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

7. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

8.3 Permit Revisions

1. A permit revision is required whenever the applicant/proponent proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this Program or the Act. Changes that are not substantive in effect do not require a permit revision.

2. An application for a revision to a shoreline permit shall be submitted to the director. The application shall include detailed plans and text describing the proposed changes. The City shall review and process the request in accordance with the requirements of WAC 173-27-100.

8.4 Final approval of shoreline permits.

1. The Planning Director/Manager shall notify the following agencies or persons of the final approval of a shoreline permit and any variances or conditional uses granted:

   a. The applicant;

   b. The State Department of Ecology; and

   c. Any person who has submitted written comments on the application or requested notification in writing prior to final approval of the permit.

2. No work may commence on a site requiring a shoreline permit until twenty-one (21) days following the date of filing of the shoreline permit by the State

Department of Ecology, and written notification has been received from the Department of Ecology that the appeal period has been initiated.

8.5 Appeals

1. Appeals of the final decision of the City with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.

2. Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180.

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

8.6 Non-conforming Uses and Structures

8.6.1 Non-conforming uses

1. Uses that were legally established [as of December 31, 1971] and are non-conforming with regard to the use regulations of this Program may continue as legal non-conforming uses.

2. An existing use designated as a conditional use that lawfully existed prior to the adoption of this Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit shall be considered a legal non-conforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.

3. If a non-conforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of this section.

8.6.2 Non-conforming structures

1. Existing structures that were legally established but which are non-conforming to the development standards of this Program, including but not limited to standards for setbacks, area, bulk, height, and density may be maintained, repaired, expanded or reconstructed in accordance with specific provisions of this Program, the Non-Conforming Use and Development Standards of WAC 173-27-080, and Non-Conforming Situations (IMC 18.08).

2. Non-conforming structures may be maintained, repaired, remodeled, or altered provided that the non-conforming structure is not enlarged, intensified, increased, or altered in any way that increases the extent of the nonconformity, except as specifically permitted in this Program, WAC 173-27-080, the Critical Areas Regulations (IMC 18.10), or Non-Conforming Situations (IMC 18.08).

3. Replacement or reconstruction of an existing non-conforming structure to a different non-conforming location may be allowed if a determination is made by the City that the new location would result in less impact to shoreline functions.

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

5. Reconstruction Following Accidents or Acts of Nature – If a legally established, non-conforming structure is damaged or destroyed due to fire, accident, act of nature, or similar involuntary occurrence, the structure may be repaired or reconstructed to match the footprint of the structure that existed prior to the time the damage occurred. The reconstruction shall not extend further waterward than the original structure. The owner shall submit a complete application for reconstruction within twenty-four (24) months of the date the damage occurred.

8.7 Cumulative Effects of Shoreline Developments

1. The City will periodically evaluate the effectiveness of the Shoreline Master Program update at achieving no net loss of shoreline ecological functions with respect to shoreline permitting and exemptions in order to comply with WAC 173-26-191(2)(a)(iii)(D). An existing database shall be used to track shoreline development.

2. The Shoreline Administrator, will, to the extent feasible, coordinate with other City departments or restoration partners, as well as adjacent jurisdictions, to assess cumulative effects of shoreline development.

3. The City shall use shoreline development tracking information to prepare a SMP effectiveness evaluation report every eight years to comply with RCW 90.58.080(4)(a).

8.8 Rules of Director

1. The Planning Director/Manager is authorized to adopt such rules as are necessary and appropriate to implement this Program. The Planning Director/Manager may prepare and require the use of such forms as are necessary to its administration.

8.9 Enforcement, Violations and Penalties

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

2. This Program will be enforced by the means and procedures set forth in IMC 1.36.

APPENDICES

A. Critical Area Regulations (IMC 18.10)

B. Special Flood Hazard Regulations (IMC 16.36)

APPENDIX A

Chapter 18.10
ENVIRONMENTAL PROTECTION*

Sections:

Critical Areas Regulations

18.10.340 Purpose.

The purpose of this chapter is to identify environmentally critical areas and to supplement the development requirements contained in the various use classifications in the Issaquah Municipal Code by providing for additional controls without violating any citizen's constitutional rights. (Ord. 2108 § 10.2.1, 1996).

18.10.350 Intent.

It is the intent of the City to balance the community vision which includes:

A. Environmental protection and preservation;

B. Diversified economic growth which has been planned and which is compatible with the vision of the community; and

C. Overall improvement of the quality of life for the residents of Issaquah.

The City shall implement this vision through directing appropriate development to areas of the City in which the development will have the least adverse impact to the environment. High impact land use shall be located in areas that will have the least detrimental adverse effect to environmentally critical areas. In areas that development may have a substantial risk to potentially, adversely impact environmentally critical areas, only low impact land use shall be permitted. (Ord. 2301 § 3, 2001; Ord. 2233 § 17, 1999; Ord. 2108 § 10.2.2, 1996).

18.10.360 Environmentally critical areas.

Coal mines, streams, wetlands, lakes, steep slopes, protective buffers, watersheds, aquifer recharge areas, as well as areas subject to erosion, flooding, landslides, and seismic hazards, constitute environmentally critical areas that are of special concern to the City. The standards and mechanisms established in this chapter are intended to protect these environmentally critical areas in Issaquah. By regulating development and alterations to critical areas, this chapter seeks to:

A. Protect members of the public and public resources and facilities from injury, loss of life, property damage or financial losses due to flooding, erosion, landslides and seismic events, soil subsidence and steep slope failures;

B. Protect unique, fragile and valuable elements of the environment including wildlife and its habitat;

C. Mitigate unavoidable impacts to environmentally critical areas by regulating alterations in and adjacent to critical areas;

D. Prevent cumulative adverse environmental impacts to water availability, water quality, wetlands and streams;

E. Minimize erosion potential;

F. Avoid alteration to wetland hydrology that causes either short- or long-term changes in native vegetational composition, soils characteristics, nutrient cycling or water chemistry;

G. Protect the public trust as to navigable waters and aquatic resources;

H. Meet the requirements of the National Flood Insurance Program and maintain Issaquah as an eligible community for federal flood insurance benefits;

I. Alert members of the public including, but not limited to, appraisers, owners, potential buyers or lessees to the development limitations of critical areas;

J. Provide City officials with sufficient information to protect critical areas;

K. Implement the policies of the State Environmental Policy Act, Chapter 43.21C RCW, the Issaquah Municipal Code, the City of Issaquah Comprehensive Plan and the Shoreline Master Program; and

L. Educate the public about the long-term care of critical areas. (Ord. 2500 § 5, 2007; Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.3, 1996).

18.10.370 Applicability.

A. The regulations and standards of the Issaquah Municipal Code and the Land Use Code pertaining to the several use classifications shall be subject to the general provisions, requirements, and conditions contained in this chapter. When any provision of any chapter of the Issaquah Municipal Code, Shoreline Master Program or the Land Use Code conflicts with this chapter, that provision which provides more protection to the critical areas shall apply unless specifically provided otherwise in this chapter. The provisions of this Code shall prevail over any inconsistent ordinance that has not been reviewed for compliance with the City's GMA Comprehensive Plan. Streams and wetlands classified under the City of Issaquah Shoreline Master Program shall be governed by the rules and regulations pertaining to setbacks and buffer requirements under that ordinance only when a critical area study documents that the smaller buffer required through the Shoreline Master Program would not cause significant impacts to the stream or wetlands. Development for which the City of Issaquah Shoreline Master Program is applicable will still be governed by and need to conform to regulations, other than buffer and setback requirements, as set forth in this Code, including: flood storage capacity; flood-proofing measures, etc.

B. The provisions of this Code shall be held to be the minimum requirements in their interpretation in order to serve the purposes of this chapter.

C. The City, prior to fulfilling the requirements of this chapter, shall not grant any approval or permission to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement including, but not limited to, the following: Commercial or Residential Building Permits or other land use actions; Right-of-Way Construction Permits; Grading and Clearing permits; Right-of-Way Permits; Shoreline Conditional Use Permits; shoreline environmental redesignations; Shoreline Substantial Development Permits; shoreline

variances; short subdivisions; subdivisions; utility and other use permits; variances; zone reclassifications; or any subsequently adopted permits or required approvals not expressly exempted by this chapter.

D. The City shall perform a critical areas review for any permit or approval requested for a development proposal on a site which includes or is adjacent to one (1) or more critical areas, unless otherwise provided in this chapter. The critical area review requires, at a minimum, that the following review process occur, as part of all development applications:

1. The City shall review the information submitted by the applicant to:

   a. Confirm the nature and type of the critical areas and evaluate the critical areas study;

   b. Determine whether the development proposal is consistent with this chapter;

   c. Determine whether any proposed alterations to critical areas are necessary;

   d. Determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes, objectives and requirements of this chapter;

   e. Determine if the proposed action warrants a biological assessment based on the requirements of the Endangered Species Act.

2. The applicant shall submit an affidavit which:

   a. Declares that the applicant has no knowledge that critical areas on the proposed development site have been illegally altered; or

   b. Shall list all known alterations to the critical area.

3. The applicant shall demonstrate that any development proposal submitted conforms to the purposes, standards and protection mechanisms of this chapter.

4. The development proposal shall, if required, contain a critical areas study in accordance with IMC 18.10.400.

E. The City may approve, approve with conditions, or deny any development proposal in order to comply with the requirements and carry out the goals, purposes, objectives and requirements of this chapter.

F. It shall be the responsibility of the Director to implement the policies and objectives of this Code.

G. All decisions in regards to this chapter shall be made through the appropriate land use permitting process or as noted in this chapter. In the event that the proposal, as it relates to this chapter, does not require any other related or unrelated permits or approvals and this chapter does not specify a review process, it shall be reviewed by the City through the Level 1 Review process.

H. The Director is authorized to adopt written procedures and establish administrative rules for the purpose of carrying out the provisions of this Code.

I. The Director shall maintain and make available to the public all available information applicable to any critical area and its buffer.

J. The Director shall on an annual basis establish a list of qualified professional scientists and technical experts to assist in the implementation of the provisions of this Code.

K. Approval of a development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.

L. The provisions of this chapter shall apply to all forest practices over which the City has jurisdiction pursuant to Chapter 76.09 RCW, WAC Title 222, and any Memorandum of Understanding between the Washington Department of Natural Resources and the City. In addition, this chapter shall apply to all property which has been cleared and/or graded without an approved forest practice application and which is subsequently proposed for development. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.4, 1996).

18.10.380 Agency resource maps.

A. The approximate location and estimated extent of critical areas in the City are displayed on the Issaquah Natural Resources and Critical Areas Map Folios, the National Wetlands Inventory, the Issaquah Shoreline Environment Designation Maps and any other pertinent maps the City utilizes as resource material. These maps are to be used as a guide to the general location and extent of critical areas.

B. It is presumed that critical areas not shown on these maps may exist in the City. These critical areas not currently mapped are protected under all the provisions of this Code.

C. In the event that any of the critical area designations shown on the maps conflict with the criteria set forth in this chapter, the criteria shall control.

D. Any areas which are requesting to be annexed to the City shall be required to perform a critical areas inventory as a requirement of annexation. (Ord. 2108 § 10.2.5, 1996).

18.10.390 Definitions.

If any definition in this Chapter conflicts with definitions in the Shoreline Master Program (SMP), the definitions in the SMP shall take precedent where applied to areas inside shoreline jurisdiction.

Adjacent: For the purpose of critical areas, within one hundred (100) feet of a critical area, or more, as decided by the Director, if development of the property may impact the critical area.

Alteration: Any human-induced action which adversely impacts the existing condition of a critical area. Alterations include, but are not limited to, grading; filling; dredging; draining; channeling; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any

hazardous or toxic substance; discharging pollutants (excluding treated storm water); grazing domestic animals; paving (including construction and application of gravel); modifying for surface water management purposes; or any other human activity that adversely impacts the existing vegetation, hydrology, wildlife or wildlife habitat. Alteration does not include walking, passive recreation, fishing or other similar activities.

Applicant: Any person or business entity which applies for a development proposal, permit or approval subject to review under this chapter.

Appropriate land use permitting process: The permitting process (Level 1, Level 2, Level 3, Level 4, Building Permit, Grading Permit, etc.) in which the proposed project is proceeding through for approval. For instance, if a proposed project requires a Level 3 Review for approval, prior to the Building Permit stage, then the Level 3 process would be considered the "appropriate land use permitting process."

Aquifer: A body of soil or rock that contains sufficient saturated material to conduct groundwater and yield usable quantities of groundwater to springs and/or wells.

Aquifer recharge area: Areas that are determined to have a recharging effect on aquifers used as a source for potable water, and are vulnerable to contamination from recharge.

Base flood: A flood having a one (1) percent chance of being equaled or exceeded in any given year. It is also referred to as the "one hundred (100) year flood." The base flood is determined as defined by the latest FEMA FIRM maps. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the City.

Base flood elevation: The water surface elevation of the base flood. It shall be referenced to the National Geodetic Vertical Datum of 1929.

Best management practices: The physical, structural, and/or managerial practices that use the best available technologies or techniques, either separately or in combination, to prevent or reduce the degradation of any critical area or natural resources. For example, these conservation practices or systems of practices and management measures would:

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

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

Biofiltration swale: A shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one (1) foot which are designed to reduce pollutant concentrations in water by filtering the polluted water through biological materials.

Biological assessment (Endangered Species Act): An analysis of a proposed action by a qualified professional in order to determine if the action will result in a “take” of a threatened or endangered species, as listed under the Endangered Species Act.

Biologist: A person who has earned a degree in biological sciences from an accredited college or university, or a person who has equivalent educational training and has experience as a practicing biologist.

Building setback area: The area between the critical area buffer and the building setback line. This area is provided to ensure that the building and associated construction activities do not result in significant adverse impacts to the adjacent critical area, and to provide physical and/or visual separation between the development and the critical area.

Building setback line: A line which establishes a definite point beyond which the foundation of a structure shall not extend.

Canopy: The highest layer of vegetation within a forest community.

Clearing: The destruction or removal of vegetation from a site by physical, mechanical, chemical, or other means. This does not mean landscape maintenance or pruning consistent with accepted horticultural practices which does not impair the health or survival of the trees.

Coal mine hazard areas: Those areas of the City directly underlain by or affected by abandoned coal mine working such as adits, tunnels, drifts or air shafts.

Compensatory mitigation: Replacing project-induced losses or impacts.

Compensatory storage: New, excavated storage volume equivalent to any flood storage capacity which has been or would be eliminated by filling or grading within the floodplain. Equivalent shall mean that the storage removed shall be replaced by equal volume between corresponding one (1) foot contour intervals that are hydraulically connected to the floodway through their entire depth.

Conservation easement: An easement dedicated to the City to restrict the use of environmentally sensitive property in order to protect, preserve, maintain, improve, restore, and otherwise conserve the property in perpetuity.

Critical aquifer recharge areas (CARAs): Areas that are determined to have a critical recharging effect on aquifers used as a source for potable water, and are vulnerable to contamination from recharge.

Critical area buffer: A designated area adjoining to and a part of a steep slope or landslide hazard area which protects slope stability, attenuation of surface water flows and landslide hazards reasonably necessary to minimize risk, or a designated area adjacent to and a part of a stream or wetland that is an integral part of the stream or wetland ecosystem. Critical area buffers are essential to maintenance and protection of the critical area. Buffer areas protect critical areas from degradation in various ways, including the following: stabilizing slopes and preventing erosion; filtering suspended solids, nutrients and harmful toxic substances; moderating

the impacts of storm water runoff; moderating microclimate; supporting and protecting plant and animal species and biotic communities associated with the critical area; and reducing disturbances to the resources to the critical area typically caused by the activities of humans and domestic animals.

Critical areas: Any of those areas which are subject to natural hazards or those land features which support unique, fragile, or valuable natural resources including fish, wildlife and other organisms and their habitat and such resources which, in their natural state, carry, hold or purify water. Critical areas include the following landform features: erosion hazard areas, flood hazard areas, coal mine hazard areas, landslide hazard areas, seismic hazard areas, steep slope areas, streams, wetlands, and aquifer recharge areas. Critical area buffers are integral to the health of the critical area and therefore for functional purposes are considered a part of the critical area. However, unless indicated otherwise, measurements from critical areas are made from the outside edge of the protected landform feature (e.g., wetland, stream, etc.) and not from the outside edge of the buffer.

Critical Areas Mitigation Fund: The special fund created for the purpose of creating, restoring or purchasing critical areas, including wetlands and/or wetland buffers. All funds received from civil penalties resulting from violations of this Code are deposited into the fund, and administered by the City Director of Finance.

Critical areas review: The evaluation performed by the City as part of its review of an application for a permit or approval to ensure that impacts to critical areas have been addressed where appropriate.

Critical areas study: A study prepared by a qualified professional on any of the following elements of a critical area: existing conditions, potential impacts and mitigation measures. The study is typically prepared in conjunction with a development proposal.

Critical areas tract: A separate tract that is created to protect the critical area and its buffer, whose ownership is assured, as provided in IMC 18.10.515.

Critical drainage area: An area which has been formally determined by the Public Works Department to require more restrictive regulation than City-wide standards afford, in order to mitigate severe flooding, drainage, erosion or sedimentation problems, which have resulted or will result from the cumulative impacts of development and urbanization.

Critical facilities: Those facilities necessary to protect the public health, safety or welfare which are defined under the occupancy categories of Essential Facilities, Hazardous Facilities and Special Occupancy Structures in the Uniform Building Code as adopted. These facilities include but are not limited to schools, hospitals, police stations, fire departments and other emergency response facilities, and nursing homes. Critical facilities also include hazardous material storage or production-sites.

Deleterious substances: Include, but are not limited to, chemical and microbial substances that are not classified as hazardous materials per this chapter, whether the substances are in usable or waste condition, that have the potential to pose a significant groundwater hazard, or for which monitoring requirements or treatment-based standards are enforced under Chapter 246-290 WAC.

Density credits: A system/formula used to transfer a portion of the allowed development density for critical areas onto another area of the proposal site/property.

Developable site area: Developable site area is the gross site area minus deductions for critical areas and associated buffers as required by this chapter.

Development activity: Any activity which would require a Land Use Permit or approval from the City or any other local, state or federal jurisdiction. Development activity includes, but is not limited to: clearing or grading activity, building or constructing activity, dredging or filling, etc.

Development Commission: Refers to the City Development Commission.

Development, high impact: See High impact land use.

Development, low impact: See Low impact land use.

Development proposal site: The legal boundaries of the parcel or parcels of land for which an applicant has applied for authority from the City to carry out a development proposal.

Director: The Director of the Planning Department of the City or his/her designees unless otherwise noted. In the absence of a Director, the Planning Manager shall assume the responsibilities of the Director as set forth in this Code.

Ditch: A long, narrow human-built excavation that conveys storm water, agricultural runoff or irrigation water that is not identified as a classified or unclassified stream in the Issaquah Creek Final Basin and Nonpoint Action Plan (1996). Also see definition of “streams.”

Economic Growth: Residential, commercial and industrial development which provides housing, jobs, services and other community needs. It also includes community facilities and utilities such as parks, trails, and sewer, water and transportation systems.

Emergent wetland: A regulated wetland with at least thirty (30) percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

Enhancement: Actions performed to increase the functions and values of a stream, wetland or other areas.

Erosion: The process in which soil particles are mobilized and transported by natural agents such as wind, rain splash, frost action or stream flow.

Erosion hazard areas: Those areas of King County and the City containing soils which, according to the USDA Soil Conservation Service, the 1973 King County Soils Survey and any subsequent revisions or additions thereto, may experience severe to very severe erosion hazard. This group of soils includes, but are not limited to, the following when they occur on slopes of fifteen (15) percent or greater: Alderwood gravelly sandy loam (AgD), Alderwood-Kitsap (Akf), Beausite gravelly sandy loam (BeD and BeF), Kitsap silt loam (Kpd), Oval

gravelly sand loam (OvD and OvF), Ragnar fine sandy loam (RaD), Ragnar-Indianola Association (RdE), and any occurrence of River Wash (Rh).

Essential habitat: Habitat necessary for the survival of federally listed threatened, endangered and sensitive species and state-listed priority species.

Excavation: The mechanical removal of earth.

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 a nonagricultural 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 two (2) 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.

Exotic: Any plant or animal that is not native to the Puget Sound region.

FEMA: Federal Emergency Management Agency.

Fill/Fill material: A deposit of material placed by human or mechanical means.

Flood hazard areas: Those areas of the City subject to inundation by the base flood. These include, but are not limited to, streams, lakes, wetlands, closed depressions, floodways and floodplains. A flood hazard area consists of the following components which shall be determined by the City after obtaining, reviewing and utilizing base flood elevation and available floodway data:

A. Floodplain means the total area subject to inundation by the base flood. The floodplain includes both rapidly flowing water and standing water.

B. Floodway means the channel of the stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow without increasing the base flood elevation more than one (1) foot. The floodway is determined by the latest FEMA FIRM map.

Flood insurance rate map (FIRM): The official map on which the Federal Insurance Administration has delineated flood hazard areas.

Flood protection elevation: An elevation that is one (1) foot above the highest base flood elevation, as defined by FEMA Flood Insurance Rate Map (FIRM) and the Issaquah Creek Basin and Nonpoint Action Plan, whichever is greater.

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate the potential of flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents (from IMC 16.36.030, Flood Hazard Ordinance).

Forested wetland: A wetland with at least thirty (30) percent of the surface area covered by woody vegetation greater than twenty (20) feet in height.

Geologist: A practicing, geologist licensed as a professional geologist with the State of Washington.

Geotechnical engineer: A practicing, geotechnical/civil engineer licensed as a professional civil engineer with the State of Washington who has at least four (4) years of professional employment as a geotechnical engineer.

Grading: An act which changes or alters the predevelopment conditions of the site surface.

Grazed wet meadows: Emergent wetlands, typically having up to six (6) inches of standing water during the wet season and dominated under normal conditions by meadow emergents such as reed canary grass, spike rushes, bulrushes, sedges, and rushes. During the growing season, the soil is often saturated but not covered with water. Grazed wet meadows frequently have been or are being used for livestock activities.

Hazardous materials: Any material, either singularly or in combination, that is a physical or health hazard, whether the materials are in usable or waste condition; and any material that may degrade surface water or groundwater quality when improperly stored, handled, treated, used, produced, recycled, disposed of, or otherwise mismanaged. Hazardous materials shall also include: all materials defined as or designated by rule as a dangerous waste or extremely hazardous waste under Chapter 70.105 RCW and Chapter 173-303 WAC; hazardous materials shall also include petroleum or petroleum products that are in liquid phase at ambient temperatures, including any waste oils or sludges.

Heron rookery: A nesting area for a colony of heron or egrets which is generally located in a grove of tall trees.

High impact land use: A land use which would require substantial environmental mitigation in order to alleviate adverse impacts to the environment or the community's health, safety or welfare. Substantial mitigation would be determined through the SEPA process.

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 following the methods described in the currently followed 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."

In-kind compensation: To replace wetlands with substitute wetlands whose characteristics (vegetative class, function and value) and wetland rating or category closely approximate those destroyed or degraded by a

regulated activity. Landslide: The movement of a mass of loosened rocks or earth down a hillside or slope, and includes snow avalanches.

Landslide hazard areas: Those areas of the City subject to a severe risk of landslide. A geotechnical report is required for all relevant projects to determine steepness of slope, permeability of soils, occurrence of springs, and groundwater level. The study shall be performed by a licensed geotechnical engineer. Landslide hazard areas include the following areas:

A. Slopes greater than forty (40) percent.

B. Any area with a combination of:

1. Slopes of greater than fifteen (15) percent;

2. Impermeable soils (typically silt and clay) frequently interbedded with granular soils (predominantly sand and gravel); and

3. Springs or ground water seepage.

C. Any area which has shown movement during the Holocene epoch (from ten thousand (10,000) years ago to present) or which is underlain by mass wastage debris of that epoch.

D. Any area potentially unstable as a result of rapid stream incision, stream bank erosion, or undercutting by wave action.

E. Any area which shows evidence of, or is at risk from, snow avalanches.

F. Any area located on an alluvial fan, presently subject to or potentially subject to, inundation by debris flows or deposition of stream-transported sediments.

Light equipment: Construction equipment including, but not limited to, chain saws, wheelbarrows, post-hole diggers and all hand-held tools.

Low impact land use: Land use which would not require substantial environmental mitigation in order to alleviate adverse impacts to the environment or the community's health, safety or welfare. Substantial mitigation would be determined through the SEPA process.

Lowest floor: The lowest enclosed area, including the basement, of a structure. An area used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that any such enclosed area meets all of the structural requirements of the flood hazard protection and alteration standards.

Maintenance: A procedure intended to assist with the long-term health of critical areas. Aside from the maintenance period relating to a restoration or creation project, activities may include removal of weeds, litter

control, etc., not the performance of complex restoration efforts. Maintenance allows for the critical areas to evolve as a natural part of the environment.

Master planned developments: A comprehensive site plan intended to guide the development of a specific parcel of land, including necessary utilities, locations of land uses, and density provisions.

Mitigation banking: A system for providing compensatory mitigation in advance of authorized impacts of development in which credits are generated through restoration, creation, and/or enhancement of the critical area, for example, the restoration, creation, and/or enhancement of wetlands, and in exceptional circumstances, preservation of adjacent wetlands, wetland buffers, and/or other aquatic resources; provided, that no net loss of wetlands occurs.

Mitigation plan: A plan conducted by a qualified professional describing the design and/or implementation of any or all of the actions listed in the definition of “mitigation” in this section.

Mitigation project: Actions necessary to replace project-induced critical areas and buffer losses, including land acquisition, planning, construction plans, monitoring and contingency action.

Monitoring: Evaluating the impacts of development on the biological, hydrological and geological elements of such systems and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

Native Growth Protection Easement (NGPE): An easement granted to the City or other nonprofit entity for the protection of native vegetation within a critical area or critical area buffer.

Native vegetation: Vegetation comprised of plant species which are indigenous to the Puget Sound region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

Nonnative invasive vegetation: Vegetation, plant species and cultivars that are not indigenous to the Puget Sound region in the vicinity of the City of Issaquah and which establish and propagate with such vigor as to outcompete native vegetation and result in the degradation of the natural environment. Nonnative invasive vegetation includes noxious weeds (defined below) such as but not limited to Himalayan blackberry (Rubus discolor, R. procerus), Evergreen blackberry (R. lacinatus), Ivy (Hedera spp.), Holly (Ilex spp.), and Japanese knotweed (Polygonum cuspidatum).

Normal rainfall: That rainfall which is at or near the mean of the accumulated annual rainfall record, based upon the water year for the City as recorded at an official rain gauge in the Issaquah area designated in an administrative rule by the Public Works Director, or if no such designation is made, the official annual rainfall as obtained from information in the Draft Issaquah Valley Groundwater Management Plan.

Noxious weed: Any plant which when established is highly destructive, competitive, or difficult to control by cultural or chemical practices (see Chapter 5.10 RCW). The state noxious weed list in Chapter 16-750 WAC is

the officially adopted list of noxious weeds as compiled by the State Noxious Weed Control Board. Also included as noxious weeds are those listed with the King County Noxious Weed List, WAC 16-750-0005.

Off-site compensation: To replace wetlands away from the site on which a wetland has been impacted by a regulated activity.

On-site compensation: To replace wetlands at the site on which a wetland has been impacted by a regulated activity.

Ordinary high water mark: On all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department; 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 freshwater shall be the line of mean high water.

Out-of-kind compensation: To replace wetlands with substitute wetlands whose characteristics (vegetative class, functions and values) do not closely approximate those destroyed or degraded by a regulated activity.
Plant associations of infrequent occurrence: One (1) or more plant species on a landform type which because of the rarity of the habitat or the species involved or both, or for other botanical or environmental reasons, do not often occur in the City or King County.

Practicable alternative: An alternative that is available and capable of being carried out after taking into consideration existing technology, cost and logistics in light of overall project purposes, and having fewer impacts to critical areas. It may include an area not owned by the applicant, which could reasonably have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

Public agency: Any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, special purpose districts, local service districts, any agency of the State of Washington, the United States or any state thereof, or any federally recognized Indian tribe.

Qualified professional: A person or persons who perform studies, field investigations, plans, etc., on critical areas and have an educational background and/or relevant experience in the field in which they are performing the study. (Example: a qualified professional to perform a critical area report on wetlands must have an undergraduate or higher degree, from an accredited university or college, in biology, botany, environmental science or similar field and five (5) years work experience performing wetland studies (and/or professional certification), including field delineations, written reports, mitigation plans, etc.)

Raptor: A bird of prey which is a member of either the Falconiformes or Strigiformes orders.

Reasonable use: A legal concept that has been articulated by federal and state courts in regulatory takings cases. In a takings case, the decision-maker must balance the public's interests against the owner's interests by considering the nature of the harm the regulation is intended to prevent, the availability and effectiveness of alternative measures, and the economic loss borne by the owner. Public interest factors include the seriousness of the public problem, the extent to which the land involved contributes to the problem, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions.

Regional retention/detention facility: A surface water control structure proposed or defined by the City Public Works Department, to provide surface water control for a specific area, which will be determined by the City Public Works Department on a case-by-case basis.

Regional stormwater management facility: A surface water control structure installed in or adjacent to a stream or wetland of a basin or sub-basin by the King County Land and Water Resources Division (KCLWR) or a project proponent. Such facilities protect downstream areas identified by KCLWR as having previously existing or predicted significant regional basin flooding or erosion problems.

Regulated activities: Any of the following activities which are directly undertaken or originate in a regulated critical area or its buffer:

A. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

B. The dumping, discharging, or filling with any material;

C. The draining, flooding, or disturbing of the water level or water table;

D. The driving of pilings;

E. The placing of obstructions;

F. The construction, reconstruction, demolition, or expansion of any structure;

G. The destruction or alteration of wetlands vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules; or

H. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants.

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 and drain, dredge, fill, flood, or otherwise alter additional regulated wetlands are not included in this definition.

Restoration: Actions performed to return a stream, wetland, or other areas to a state in which its stability and functions approach its unaltered state as closely as possible.

Retention/detention facility: A type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground; or to hold runoff for a short period of time and then release it to the surface and stormwater management system.

Right-of-way: Any road, alley, street, avenue, arterial, bridge, highway, or other publicly owned ground or place used for the free passage of vehicular and pedestrian traffic and other services, including utilities.

Routine stream maintenance: The removal of instream organic and inorganic materials which could exacerbate erosion or flooding.

Salmonid: A member of the fish family salmonidae. In the City these include chinook, coho, chum, sockeye and pink salmon and steelhead.

Scrub-shrub wetland: A wetland with at least thirty (30) percent of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost strata.

Sediment: Waterborne particles, graded or undefined, occurring by erosive action.

Sedimentation: The action or process of deposition of soil and organic particles displaced, transported and deposited by water or wind.

Seismic hazard areas: Those areas of the City subject to severe risk of earthquake damage as a result of seismically induced settlement or soil liquefaction. These conditions may occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

SEPA: State Environmental Policy Act (Chapter 43.21C RCW) or as amended.

Serviceable: Presently usable.

Steep slope hazard areas: Any ground that rises at an inclination of forty (40) percent or more within a vertical elevation change of at least ten (10) feet (a vertical rise of ten (10) feet or more for every twenty-five (25) feet of horizontal distance). 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.

A. The “toe of a slope” is a distinct topographic break in a slope which separates slopes inclined at less than forty (40) percent from slopes equal to or in excess of forty (40) percent. Where no distinct break exists, the toe of a steep slope is the lowermost limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

B. The “top of a slope” is a distinct, topographic break in a slope which separates slopes inclined at less than forty (40) percent from slopes equal to or in excess of forty (40) percent. Where no distinct break in

slope exists, the top of a slope shall be the uppermost limit of the area where the ground surface rises ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

Stormwater facility: A human-built system or structure for the conveyance or control of stormwater runoff.

Streams: Those areas of the City where surface waters from natural sources such as streams, lakes, groundwater, springs or surface flows produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. Streams also include constructed or channelized streams used to convey water which flowed in a naturally defined channel prior to construction of such watercourse. This definition is not meant to include excavated or other entirely artificial watercourses, including irrigation ditches, swales, roadside ditches, canals, storm or surface water runoff devices.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Substantial improvement: Any repair, reconstruction, or improvement of a structure that would displace floodwater.

Unavoidable and necessary impacts: Impacts to regulated critical areas that remain after a person proposing to alter regulated wetlands has demonstrated that no practicable alternative exists for the proposed project.

Utilities: Water, sewer, storm drainage, natural gas, telephone, electric and cable communications, etc.

Utility corridor: Areas identified in the Comprehensive Plan for utility lines, including electric, gas, sewer and water lines, and public right-of-way and other dedicated utility right-of-way on which one (1) or more utility lines are currently located. The term “other dedicated utility right-of-way” means ownership, easements, permits, licenses or other authorizations affording utilities the right to operate and maintain utility facilities on private property.

Variance: An adjustment in the application of a zoning regulation to a particular piece of property in a situation where the property, because of special circumstances found to exist on the land, is deprived, as a result of imposition of the zoning regulations, of privileges commonly enjoyed by other properties in the same vicinity and zone. The adjustment in the application of the regulations shall remedy the disparity in privilege. A variance shall not be used to convey special privileges not enjoyed by other properties in the same vicinity and zone and subject to the same Land Use Code restrictions.

Vegetation: Any and all organic plant life growing at, below, or above the soil surface.

Vegetative classes: Descriptive classes of the wetlands taxonomic classification system of the U.S. Fish and Wildlife Service (“Classification of Wetlands and Deepwater Habitats of the United States,” Cowardin, et al., 1979, FWS/OBS-79/31).

Violation: The violation of: any provision of this chapter; the administrative rules promulgated thereunder; or any permit, approval or stop work order; or any other order issued pursuant thereto.

Water dependent use: A principal use which can only exist when the land/water interface provides biological or physical conditions necessary for the use.

Wellhead protection area (WHPA): The surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Clean Water Act.

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

Wetland buffers: A parcel or strip of land that is designated to remain permanently vegetated to provide protection to an adjacent wetland from impact.

Wetland classes, classes of wetlands or wetland types: Descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al., 1979). See also definition of "vegetative classes."

Wetland creation: Actions performed to intentionally establish a wetland at a site where one did not formerly exist.

Wetland delineation: The field identification and survey of a wetland edge, conducted by a qualified wetland professional, based on the procedures provided in the currently approved federal manual and applicable supplements and WAC 173-22-035.

Wetland functions, beneficial functions, or functions and values: The beneficial roles served by wetlands including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, historical and archaeological and aesthetic value protection, and recreation. These beneficial roles are not listed in order of priority.

Wetland mitigation (compensatory): The compensation stage of the mitigation sequence where impacts to the functions and values of wetlands are replaced through creation or re-establishment, rehabilitation, or enhancement of other wetlands. Types of compensatory mitigation include:

- Creation (Establishment). The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. 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. Establishment results in a gain in wetland acres.
- 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. Activities could include removing fill material, plugging ditches or breaking drain tiles. Re-establishment results in a gain in wetland acres and functions.
- Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.
- 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, flood water retention or wildlife habitat. 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. 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.

Wetland professional: A professional scientist or technical expert who by training and/or experience is qualified to provide expertise in matters related to wetlands.

Wetpond: An artificial body of water dug as a part of a surface water management system. (Ord. 2525 §§ 4, 7, 2008; Ord. 2500 § 6, 2007; Ord. 2497 § 6, 2007; Ord. 2491 § 4, 2007; Ord. 2455 § 2, 2006; Ord. 2314 § 1, 2001; Ord. 2301 § 3, 2001; Ord. 2164 § 10, 1997; Ord. 2108 § 10.2.6, 1996).

~~18.10.400 Exemptions.~~

~~The following are general exemptions to the provisions of this chapter and the administrative rules; however, provisions of this section are not exempt from the City of Issaquah Shoreline Master Program when applicable. These exemptions are not subject to any review or approval process, except where noted.~~

~~A. Emergencies that threaten the public health, safety and welfare as determined by the Director are exempt and shall not be subject to any review and approval process.~~

~~B. Structures which are in existence on the date the ordinance codified in this chapter becomes effective and which do not meet the setback or buffer requirements of this chapter for wetlands, streams, or steep slope hazard areas are exempt. These structures may be remodelled, reconstructed or replaced (through the appropriate land use permitting process or if none is required, then through Level 1 Review); provided, that the new construction or related activity does not further intrude into a stream, wetland, or steep slope buffer; and provided, that the remodel, reconstruction or replacement is still subject to the restrictions (of the critical areas regulations) set forth in this chapter. Structures undergoing reconstruction or replacement shall not develop outside of the original building footprint in size or location. Further provided, that no portion of a remodeled structure is located closer to the stream, wetland or steep slope than the existing structure. Except that single family structures may remodel, reconstruct or replace an existing single family structure (through Level 1 Review) that further intrudes into a buffer, or is outside of the original building footprint in size or location, provided a critical area study is performed and the Director determines that the following criteria have been met:~~

~~1. There will be no increased adverse impacts as a result of the remodel, reconstruction or replacement of the single family structure, based on the results of a critical area study; and~~

~~2. That the granting of an approval to remodel, reconstruct or replace the single family structure will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and~~

~~3. That alternative development concepts for remodelling, reconstructing or replacing a single family structure that does not further intrude into a buffer, or is not outside of the original building footprint in size or location, have been evaluated and that undue hardship would result if the strict adherence to the Code provisions is required.~~

C. The following agricultural activities in existence on the date that the ordinance codified in this chapter becomes effective, and performed not less than once every five (5) years thereafter, are exempt and not subject to any review and approval process:

1. Grazing of livestock;

2. Mowing of hay, grass or grain crops;

3. Tilling, disking, planting, seeding, harvesting and related activities for pasture, food crops, grass seed or sod; provided, that such activities shall not involve the conversion of any Class 1 or 2 wetland or buffer or Class 1 or 2 stream or buffer not currently under agricultural use and shall not take place on steep slopes;

4. Normal and routine maintenance of farm ponds, fish ponds, manure lagoons, and livestock watering ponds; provided, that such activities shall not involve conversion of any wetland not currently being used for such activity.

D. Normal and routine maintenance of existing irrigation and drainage ditches, including, but not limited to, vegetation control, and removal of sediment and debris, is exempt from this chapter and not subject to any review or approval process as an isolated action, except that the City shall be notified prior to such activities occurring; provided, however, that this exception shall not apply to any ditches used by salmonids unless the Washington State Department of Fisheries will grant hydraulic approval concurrently with or following City approval.

E. Public water, electric and natural gas distribution, public sewer collection, cable communications, telephone utility and related activities undertaken pursuant to City-approved best management practices, as follows:

1. Normal and routine maintenance or repair of existing utility structures, utility corridors or rights-of-way;

2. Relocation, repair, replacement, modification, operation and upgrading of facilities (i.e., lines, mains, pipes, equipment and/or appurtenances, and electric facilities, not including substations) within rights-of-way or utility corridors; provided, that such activities shall be undertaken in accordance with City-approved best management practices, which shall include restoration;

3. The relocation and upgrading of utilities within established easements and dedicated tracts shall include prior notification of the Director.

This does not exempt projects from other City permit review processes or SEPA review if required by the City's codes and regulations.

F. Maintenance, operation, repair, modification or replacement of publicly improved roadways or recreation areas. Any alteration involving the expansion of improvements into previously unimproved areas shall include approval of the Director.

G. Public agency development proposals whose construction contract was awarded before the effective date of the ordinance codified in this chapter are exempt; provided, that any regulation in effect at the time of such award shall apply to such proposal, except for the provisions established in IMC 18.10.420 (Public Agency and Utility Exemption).

H. Routine stream maintenance by a public entity which has been approved through the SEPA review process and by the Washington State Department of Fish and Wildlife.

I. Master planned developments, where these developments are subject to binding development requirements approved by the City, including protection of the critical areas. Approved critical areas requirements shall meet or exceed the intent of the City's adopted critical areas regulations. Master planned developments which do not contain critical areas regulations within their binding development requirements will be subject to the requirements of the City's adopted critical areas regulations.

The following are exemptions to various sections in this chapter and listed only for reference to those applicable sections:

1. IMC 18.10.410 (Critical Areas Studies) lists provisions in which a critical area study may not be required and where certain development proposals, due to their nature, may not require a critical areas study based on City field investigations. See IMC 18.10.410(B) for the specifics.

2. IMC 18.10.515 (Critical Area Tracts, Buffer Areas and Building Setback Areas) lists when street trees are allowed in and along the roadway rights-of-way portion of a critical area buffer. See IMC 18.10.515(C) for the specifics.

J. IMC 18.10.580 (Steep Slope Hazards) lists provisions in which an exception from the requirements of that chapter may be approved by the Director. See IMC 18.10.580(D) for the specifics.

K. Alterations to erosion, landslide and steep slope critical areas may be allowed for mineral resource and extraction activities, processing, facilities, and related uses in existence prior to August 2, 1999, and performed not less than once every twelve (12) months thereafter.

L. Removal of Nonnative Invasive Vegetation: Removal of nonnative invasive vegetation from critical areas and associated buffers is encouraged within the City of Issaquah. Removal shall be accomplished through the use of hand labor and/or hand-held light equipment and without the use of herbicides unless alternative methods are approved by the Planning Department.

1. Maintenance: Maintenance includes the removal of nonnative invasive vegetation within a total area extent of less than one hundred (100) square feet. Maintenance removal of nonnative invasive vegetation does not require City approval.

2. Enhancement: Enhancement includes the removal of nonnative invasive vegetation within a total area extent of one hundred (100) square feet or more. Enhancement requires Planning Department approval and additional supporting documentation may be required depending on the scale, scope and

~~complexity of the proposal. Supporting documentation may include but is not limited to erosion control measures, plans for revegetation with native plant species and future monitoring/maintenance. (Ord. 2491 § 5, 2007; Ord. 2301 § 3, 2001; Ord. 2233 § 18, 1999; Ord. 2108 § 10.2.7, 1996).~~

18.10.410 Critical areas studies.

A. Required: An applicant for a development proposal that includes, or is adjacent to, or could have probable significant adverse impacts to critical areas shall submit a critical areas study as required by the Director, for all critical areas defined in this chapter, to adequately evaluate the proposal and all probable impacts. The need for a critical areas study shall be determined through:

1. Agency resource maps or studies; or

2. At the request of the Director after field investigation (by City staff) has been conducted.

B. Waivers: The Director may waive the requirement for a critical areas study if there is a substantial showing that:

1. There will be no alteration of the critical areas or required buffers; and

2. The development proposal will not affect the critical areas in a manner contrary to the goals, purposes, objectives and requirements of this chapter; and

3. The minimum standards required by this chapter are met;

4. When no alteration of or adverse impact to the critical area will occur as a result of a remodel activity or any associated construction for additional parking for a single family residential Building Permit for the remodel of a structure; or

5. A critical areas study was prepared and provided previously for a development which currently requires a single family residential Building Permit and that the previous critical areas study adequately identified the impacts associated with the current development proposal.

C. Contents of Critical Areas Study: At a minimum a critical areas study shall be prepared at the applicant's expense, to identify and characterize any critical area as a part of the larger development proposal site; assess any hazards to the proposed development; assess impacts of the development proposal on any critical areas located on or adjacent to the development proposal site; and assess the impacts of any alteration proposed for a critical area. Studies shall propose adequate mitigation, maintenance and monitoring plans and bonding measures. Critical areas studies shall include among other requirements, a scale map of the development proposal site and a written report. The following criteria are the basic requirements for a critical areas study. Refer to the Permit Center in the Planning Department for more specific requirements.

1. Vicinity Information:

a. A description and maps at a scale no smaller than one (1) inch = fifty (50) feet (unless otherwise approved by the Director), showing the entire parcel of land owned by the applicant; adjacent area; and the exact boundary of the critical area on the parcel as determined in compliance with appropriate section of this chapter. Maps can be overlaid on aerial photographs;

b. For parcels containing wetlands, the study must include the location and description of the vegetative cover, including dominant species of the regulated wetland and adjacent area.

2. Site Plan:

a. A site plan for the proposed activity at a scale no smaller than one (1) inch = twenty (20) feet (unless otherwise approved by the Director), showing the location, width, depth and length of all existing and proposed structures, roads, sewage treatment, and installations to be located within the critical area and/or its buffer;

b. The exact sizes and specifications for all regulated activities including the amounts and methods.

3. Project Description:

a. The purposes of the project and an explanation why the proposed activity cannot be located at another location on the project site, including an explanation of how the proposed activity is dependent upon the chosen specific location; and

b. Specific means to mitigate any potential adverse environmental impacts of the applicant's proposal.

4. Additional Information: The Director may at a minimum require the following additional information:

a. Topographic map, including elevations of the site and adjacent lands within the critical area and its buffer at contour intervals as specified by the Director but in most cases no greater than five (5) feet;

b. Elevations and cross sections;

c. Assessment of critical area functional characteristics including but not limited to a discussion of the methodology used and documentation of the ecological, aesthetic, economic, or other values of the critical area;

d. A study of flood, erosion, coal mine or other hazards at the site and the effect of any protective measures that might be taken to reduce such hazards; and

e. Any other information deemed necessary to verify compliance with the provisions of this Code or to evaluate the proposed use in terms of the purposes of this Code.

D. The City shall develop a list of qualified critical area specialists to conduct critical areas studies. The applicant shall be responsible for the total cost of the critical areas study.

E. The Director shall circulate the critical areas study to the SEPA Responsible Official, Public Works Department, Planning Department and the River and Streams Board for review and comment.

F. The Director shall make a final decision regarding the adequacy of the critical areas study or wetland reconnaissance based on the information provided and on comments from the City departments, Rivers and Streams Board and if applicable, the specialist selected to review the study.

G. If it is determined that the proposed regulated activity will occur within a critical area or critical area buffer, an approval must be granted through the appropriate land use permitting process prior to any development activity occurring on the site. (Ord. 2108 § 10.2.8, 1996).

18.10.420 Public agency and utility exemption.

A. This section only applies to development proposals not qualifying under IMC 18.10.400. If the application of this chapter would prohibit a development proposal by a public agency or public or private utility, the agency or utility may apply for an exception pursuant to this section. The exemption shall be reviewed through the appropriate land use permitting process or if none is required, then through Level 1 Review. The agency or utility shall prepare a report requesting the exemption and submit it to the Permit Center and shall incorporate other required documents such as land use or Building Permit applications, critical areas studies and SEPA documents.

B. The Director shall review the report and applications and make the final decision to approve, approve with conditions or deny the exemption based on the following criteria:

1. There is no other practical alternative to the proposed development with less impact on the critical area; and

2. The proposal minimizes the impact on critical areas; and

3. Mitigation measures are proposed as needed to avoid any significant adverse impacts to the critical area.

C. This exemption shall not allow the use of the following critical areas for regional retention/detention facilities except where there is a clear showing that the facility is required to protect public health and safety or to repair damaged natural resources including:

1. Class 1 streams or buffers covered by the City's Shoreline Management Program;

2. Category 1 or 2 wetlands or their buffers with Federal or State threatened or endangered plant species; and

3. Category 1 or 2 wetlands or their buffers which provide critical or outstanding actual habitat for the following unless the applicant clearly demonstrates that there would be no adverse impact on critical or outstanding actual habitat for:

a. Species listed as endangered or threatened by the federal or state government,

b. Washington Department of Fish and Wildlife Priority Species,

c. Herons,

d. Raptors,

e. Salmonids, salmon habitat. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.9, 1996).

18.10.430 Variances.

A. Applicability – The variance procedures herein apply to all property within the jurisdiction of the Shoreline Master Program. Variances for development on property located outside shoreline jurisdiction shall follow the variance process, standards and criteria listed in 18.10.430 of the Critical Areas Regulations.

B. Purpose: The variance provision is provided to property owners who, due to the strict implementation of this chapter and/or to unusual circumstances regarding the subject property, are deprived of privileges commonly enjoyed by other properties in the same vicinity, zone and under the same land use regulations or have been denied all reasonable use of the property; provided, however, that the fact that surrounding properties have been developed under regulations in force prior to the adoption of this Code shall not be the sole basis for the granting of a variance.

C. Variance Granted: Before any variance may be granted, the applicant must file an application with the Permit Center and must demonstrate to the satisfaction of the Hearing Examiner the ability to meet all of the criteria in IMC 18.10.430(C). In the event that the applicant is not able to fulfill all of the criteria in IMC 18.10.430(C), a demonstration must be made to the satisfaction of the Hearing Examiner, regarding the ability to successfully meet all of the criteria established in IMC 18.10.430(D).

A variance application shall be submitted to the Permit Center along with a critical areas special study, where applicable.

D. Variance Criteria Established:

1. The variance is in harmony with the purpose and intent of the relevant City ordinances and the Comprehensive Plan;

2. The variance shall not constitute a grant of special privilege which would be inconsistent with the permitted uses, or other properties in the vicinity and zone in which the subject property is located;

3. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity, located in the same zone as the subject property and developed under the same land use regulations as the subject property requesting the variance;

4. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;

5. That alternative development concepts that comply with the Code provisions to which the variance is requested have been evaluated, and that undue hardship would result if the strict adherence to the Code provisions is required;

6. The variance granted is the minimum amount that will comply with the criteria listed above and the minimum necessary to accommodate the permitted uses proposed by the application, and the scale of the use shall be reduced as necessary to meet this requirement; and

7. The need for the variance is not the result of actions of the applicant or property owner.

~~E. Reasonable Use Variance Criteria Established: Only after the determination, by the Hearing Examiner, that the proposal does not meet all of the variance criteria listed above, may the application be reviewed, by the Hearing Examiner at the same public hearing, under the following criteria:~~

~~1. There is no reasonable use of the property left; and~~

~~2. That the granting of this variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and~~

~~3. The variance granted is the minimum amount that will comply with the criteria listed above and the minimum necessary to accommodate the permitted uses proposed by the application, and the scale of the use shall be reduced as necessary to meet this requirement; and~~

~~4. The need for the variance is not the result of actions of the applicant or property owner.~~

F. Wetland buffer variance: The Hearing Examiner may reduce wetland buffer widths beyond requirements of IMC 18.10.650 only through review and approval of a variance application. In addition to the variance requirements the applicant must demonstrate that:

1. No direct or indirect, short-term or long-term, adverse impacts to wetlands would result from the proposed buffer reduction; and

2. The project includes a wetland and/or wetland buffer enhancement plan using native vegetation which demonstrates that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for wetlands functions and values and that the new buffer will provide the same level of protection to the wetland as the original buffer. (Ord. 2108 § 10.2.27.13 – 14, 1996).

G. Cumulative Impact of Area Wide Requests: In the granting of variances from this Code, 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 in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies and intent set forth in this chapter.

H. Public Hearing: The Hearing Examiner shall hold a public hearing and notice shall be provided under the provisions of the Land Use Code and Issaquah Municipal Code. The applicant or representative(s) shall appear in person at the hearing.

I. Notice of Hearing Examiner's Decision: Copies of the Hearing Examiner's decision shall be mailed to the applicant and to other parties of record not later than three (3) working days following the filing of the decision. "Parties of record" shall include the applicant and all other persons who specifically request notice of the decision by signing a register provided for such purpose at the public hearing.

J. Appeals: Decisions by the Hearing Examiner may be appealed to the City Council in accordance with IMC 18.04.250, Administrative appeals. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.10, 1996).

18.10.440 Nonconforming activities.

Regulated activities approved prior to the adoption of this chapter but which are not in conformity with the provisions of this chapter are subject to the provisions of Chapter 18.08 IMC. (Ord. 2108 § 10.2.11, 1996).

18.10.450 Density calculation in critical areas.

A. The following formula for density calculations is designed to provide incentives for the preservation of critical areas and critical area buffers, flexibility in design, and consistent treatment of different types of development proposals. The formula shall apply to all properties on which critical areas such as streams, wetlands, steep slopes, and floodways of streams and associated critical area buffers limit land area available for development. The formula lists the maximum density credits that may be transferred on a particular site from the critical area to a developable site area. However, in some cases the maximum density credits may not be attainable due to other site constraints including but not limited to acreage constraints of the developable site area.

B. For development proposals containing critical areas and associated critical area buffers that limit development, the Director shall determine allowable dwelling units for residential and allowable floor area for nonresidential or commercial development proposals based on the formulas below.

1. Residential: The maximum number of dwelling units (DU) for a lot or parcel which contains critical areas and associated critical area buffers that limit development shall be equal to the number of acres in critical area and critical area buffer that limit development, times the number of dwelling units allowed per acre, times the percentage of density credit, plus the number of dwelling units allowed on the remainder of the site; or: (Max. DU) = (Acres in Critical Area and Critical Area Buffer) (DU/Acre) (Density Credit) + (DU allowed on remaining acreage of site).

2. The density credit figure is derived from the following table:

Density Credits

Percentage of site in buffers and/or critical areas	translates into	Density Credit
1 – 10%		100%
11 – 20%		90%
21 – 30%		80%
31 – 40%		70%
41 – 50%		60%
51 – 60%		50%
61 – 70%		40%
71 – 80%		30%
81 – 90%		20%
91 – 100%		10%

3. The density credit can only be transferred within the development proposal site. The applicant may reduce lot sizes below the minimum required for that zone to accommodate the transfer of density. The applicant may not propose any uses which are not permitted in the underlying zone.

To the extent that application of the formula may result in lot sizes less than the minimum allowed by the underlying district, they are hereby authorized; provided, that the resultant lot is of sufficient size for an on-site waste disposal system if no sanitary sewer system exists. In any case, all other established setbacks shall be required, pursuant to Chapter 18.07 IMC.

4. Nonresidential: The maximum nonresidential or commercial square footage will be determined by the site constraints, including but not limited to: critical areas, associated critical area buffers, impervious surface ratio, height, setbacks, parking requirements, etc. (Ord. 2525 § 7, 2008; Ord. 2447 § 59, 2005; Ord. 2108 § 10.2.12, 1996).

18.10.460 Notice on title.

A. The owner of any property containing critical areas or buffers on which a development proposal is submitted, except for a public right-of-way or the site of a permanent public facility, shall file for record with the Records and Elections Division of King County a notice approved by the City. Such notice shall provide documentation in the public record of the presence of a critical area or buffer, the application of this chapter to the property, and that limitations on actions in or affecting such areas or buffers may exist. The required contents and form of the notice shall be set forth in administrative rules.

B. The applicant shall submit proof that the notice has been filed for record before the City shall approve any development proposal for such site or, in the case of subdivisions, short subdivisions and binding site plans, at or before recording. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be a violation of this chapter. (Ord. 2108 § 10.2.13, 1996).

18.10.470 Critical area tracts, buffer areas and building setback areas.

Repealed by Ord. 2301. (Ord. 2108 § 10.2.14, 1996).

18.10.480 Temporary marking – Permanent survey marking – Signs.

A. Temporary Marking: The location of the outer extent of the critical area buffer and building setback line pursuant to an approved Development or Land Use Permit shall be marked in the field with orange construction fencing or other appropriate apparatus, as determined by the Director during critical area review. The location of such marking in the field shall be approved by the Director, prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the construction activities.

B. Survey Markers: Permanent survey stakes using iron or cement markers as established by current survey standards shall be set delineating the boundaries between adjoining properties and the critical areas tracts.

C. Signs: Boundaries between critical area tracts and adjacent lands shall be identified using permanent signs explaining the type and value of the critical area. The signs shall be designed as follows, unless alternative designs are approved by the Director:

1. Size and Height: Minimum eight and one-half (8.5) inches tall by eleven (11) inches wide. The overall sign shall be three (3) to five (5) feet high;

2. Color: White lettering on dark background;

3. Material: Aluminum sign and wood posts;

4. Content: The language content of the sign shall be as determined by the Planning Department (examples available at the Permit Center). The title shall be a minimum one-half (1/2) inch tall letters and the text a minimum one-quarter (1/4) inch tall letters;

5. Installation: The sign shall be secured to a four (4) inch by four (4) inch wood post, long enough to set the post thirty-six (36) inches below grade and back fill with dirt (see Permit Center for sign diagram). (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.15, 1996).

18.10.490 Mitigation.

A. Mitigation sequence - Activities and development on sites containing critical areas shall follow the sequence of steps listed below in order of priority to further the goal of no net loss of ecological functions of environmental critical areas,

1. Avoid impacts altogether by not taking a certain action or parts of an action;

2. Minimize 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. Rectify impacts by repairing, rehabilitating or restoring the affected environment;

4. Compensate for the impact by replacing, restoring, creating, enhancing or providing substitute resources or environments.

5. Monitor the impact and the compensation projects and taking appropriate corrective measures.

B. Prior to development activities, mitigation measures shall be in place to protect critical areas and critical area buffers from alterations occurring on all or portions of the site that are being developed.

C. A mitigation plan shall be required for the design, implementation, maintenance and monitoring of mitigation.

D. A financial surety in the form of a performance and maintenance bond shall be required for all critical area mitigation efforts. The bonding amounts shall be listed in the mitigation plan, with the performance amount intended to cover the cost of design, installation, monitoring, and maintenance, and shall be an agreed-upon percentage of the performance bond. The bond shall be one hundred fifty (150) percent of the mitigation cost and the maintenance period shall be for five (5) years. If additional work is required after the five (5) year maintenance period is over, the bonding may be extended per the Director.

E. Other Agency Review: The Director may consult with and solicit comments from any federal, state, regional, or other local agency, including tribes, having any special expertise with respect to any environmental impact prior to approving a mitigation plan. The project proponents should provide sufficient information on plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation plan. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.16, 1996).

18.10.500 Monitoring.

A. The City shall require monitoring when mitigation is required for the alteration of a critical area.

B. Monitoring is required for a minimum of five (5) years.

C. Where monitoring reveals a significant deviation from predicted impacts or a failure of mitigation measures, the applicant shall be responsible for appropriate corrective action as specified by the Director which, when approved, shall be subject to monitoring. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.17, 1996).

18.10.510 Critical Areas Mitigation Fund.

There is hereby created a Critical Areas Mitigation Fund which shall be administered by the Finance Department. All funds received from civil penalties resulting from violations of this chapter shall be deposited in the fund which shall be used only for the purpose of paying all or part of the cost and expense of enforcing and implementing this chapter. Monies in said fund not needed for immediate expenditure shall be invested for the benefit of the Critical Areas Mitigation Fund pursuant to RCW 36.29.020. For investment purposes, the Director of Finance is hereby designated the Fund Manager. (Ord. 2108 § 10.2.18, 1996).

18.10.515 Critical area tracts, buffer areas and building setback areas.

A. Critical Area Tracts: Critical area tracts shall be used to protect all landslide and steep slopes hazard areas; mine, flood, erosion and seismic hazard areas; streams; and wetlands in proposals for subdivisions or other development proposals to which they apply, and shall be recorded on all documents of title of record for all affected lots.

1. Critical area tracts are legally created tracts containing critical areas and their buffers that shall remain undeveloped in perpetuity. Critical area tracts are an integral part of the lot in which they are created, are not intended for sale, lease or transfer, and shall be included in the area of the parent lot for purposes of subdivision method and minimum lot size.

2. Permanent survey stakes using iron or cement markers as established by current survey standards shall be set delineating the boundaries between adjoining properties and the critical area tracts.

B. Protection of Critical Area Tracts: The Director shall require, as a condition of any permit issued pursuant to this Code, that the critical area tract or tracts created pursuant to this section be protected by one of the following methods:

1. The permit holder shall convey an irrevocable offer to dedicate to the City or other public or nonprofit entity specified by the Director, a native growth protective easement for the protection of native vegetation within a critical area and/or its buffer; or

2. The permit holder shall establish and record a permanent and irrevocable deed restriction on the property title of all lots containing a critical area tract or tracts created as a condition of this permit. Such deed restriction(s) shall prohibit in perpetuity the development, alteration, or disturbance of vegetation within the critical area tract except for purposes of habitat enhancement as part of an enhancement project that has received prior written approval from the City, and any other agency with jurisdiction over such activity.

C. Buffer Areas: Buffer areas shall be established from the outer edge of the critical area for wetlands, streams, steep slope hazard areas and landslide hazard areas, as determined by the Director, through review of the critical areas study and based on the minimum buffer requirements set forth in the appropriate section of this Code.

Landscaping, with the exception of street trees, that occurs as a result of new development, shall not intrude into the buffer of any critical area, unless approved by the Director (through a Level 1 Review or through the appropriate land use permitting process). Street trees, consistent with the City "Street Tree Master Program" and approved by the Director, shall be allowed in and along the roadway rights-of-way portion of a critical area buffer. When critical area buffers overlap, the largest buffer width shall be applied to ensure adequate protection for each critical area.

D. Building Setback Areas: A minimum fifteen (15) foot building setback area shall be established from the outer edge of the critical area buffer for wetlands, streams, steep slope hazard areas and landslide hazard areas.

1. Prohibitions on the use of hazardous or toxic substances and pesticides or certain fertilizers in this area shall be imposed for setbacks from streams and wetlands.

2. Minor structural intrusions (e.g., architectural features, patios, decks less than thirty (30) inches above finished grade) may be allowed into the building setback area, if consistent with IMC 18.07.040.

3. The building setback area shall be illustrated on all preliminary plats, final plats, land use permits, and building permit site plans containing or adjacent to critical areas. (Ord. 2455 § 3, 2006; Ord. 2301 § 3, 2001).

Development Standards

18.10.520 Mine hazard areas and erosion hazard areas – Protection mechanisms and permitted alterations.

A. Coal Mine Hazard Areas:

1. General Requirements: Alteration of a site containing a coal mine hazard area may be permitted only when all significant risks associated with abandoned mine workings have been eliminated or mitigated. Appropriate mitigation shall be based upon a critical areas study that has been prepared by a qualified professional.

2. Building Setback Lines: Building setback lines to accomplish this objective shall be determined by the Director based on the critical areas study.

B. Erosion Hazard Areas: Alteration of a site containing an erosion hazard area shall meet the following requirements:

1. Clearing on erosion hazard areas is allowed only from April 1st to November 1st.

2. Only that clearing necessary to install temporary sedimentation and erosion control measures shall occur prior to clearing for roadways or utilities.

3. Clearing limits for roads, sewer, water and stormwater utilities, and temporary erosion control facilities shall be marked in the field and approved by the Department of Public Works prior to any alteration of existing native vegetation.

4. The authorized clearing for roads and utilities shall be the minimum necessary to accomplish project-specific engineering designs and provide necessary electrical clearances.

5. Clearing of trees permitted pursuant to Chapter 18.12 IMC, Landscaping, may occur in conjunction with clearing for roadways and utilities.

6. Retained trees, understory, and stumps may subsequently be cleared only if such clearing is a specific element of residential, multifamily, or commercial structure site plan approval. This shall be carried out as a part of a vegetation management plan developed pursuant to criteria established in the administrative rules.

7. Hydroseeding or other erosion control methods as required in temporary erosion control plans shall be required.

8. All development proposals shall submit an erosion control plan consistent with this section and other adopted requirements prior to receiving approval. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.19, 1996).

18.10.530 Areas of special flood hazard – Protection mechanisms and permitted alterations.

A. Application: Development proposals located within areas of special flood hazard shall meet the requirements and definitions of Chapter 16.36 IMC, Areas of Special Flood Hazard.

18.10.540 Protection mechanisms and permitted alterations for the one hundred (100) year floodplain.

Repealed by Ord. 2301. (Ord. 2164 § 10, 1997; Ord. 2108 § 10.2.21, 1996).

18.10.550 Floodway – Protection mechanisms and permitted alterations.

Repealed by Ord. 2301. (Ord. 2108 § 10.2.22, 1996).

18.10.560 Landslide hazard areas – Protection mechanisms and permitted alterations.

Development proposals on sites containing landslide hazard areas shall meet the following requirements:

A. Buffers: A minimum buffer of fifty (50) feet shall be established from all edges of landslide hazard areas and from landslide hazard areas with slopes of less than forty (40) percent unless these areas are approved for alteration pursuant to this section. Existing native vegetation within the buffer area shall be maintained, and the buffer shall be extended beyond these limits as required to mitigate steep slope and erosion hazards, or as otherwise necessary to protect the public health, welfare or safety.

B. Building Setback: An additional fifteen (15) foot building setback shall also be established from the outer edge of the buffer as regulated by IMC 18.10.515(D), Building Setback Areas.

C. Alterations:

1. A landslide hazard area located on a slope forty (40) percent or steeper shall be altered only as allowed under standards for steep slope hazard areas. A landslide hazard area, located on a slope less than forty (40) percent, may only be altered under the following circumstances:

a. The development proposal will not decrease slope stability on adjacent properties; and

b. The landslide hazard area can be modified or the development proposal can be designed so that the landslide hazard to the project and adjacent property is eliminated or mitigated, based on criteria including altering of drainage patterns and subsurface flow, and the development proposal on that site is certified as safe by a licensed geotechnical engineer.

2. Where such alterations are approved, buffers and critical area tracts may also be altered. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.23, 1996).

18.10.570 Seismic hazard areas – Protection mechanisms and permitted alterations.

Development proposals on sites containing a seismic hazard area shall meet the requirements of this section.

A. Development proposals on-sites containing mapped seismic hazard areas may make alterations to a seismic hazard area only when the applicant demonstrates and the Director concludes that:

1. Evaluation of site specific subsurface conditions show that the site is not located in a seismic hazard area; or

2. Mitigation is implemented to the greatest extent feasible, and shall minimize any potential adverse impacts.

B. Development proposals will be subject to two (2) levels of review standards based on occupancy types – critical facilities and standard structures. The review standards for critical facilities will be based on larger earthquake reoccurrence intervals than the earthquakes considered for standard occupancy structures. The review standards will be set forth in the administrative rules. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.24, 1996).

18.10.580 Steep slope hazard areas – Protection mechanisms and permitted alterations.

Steep slope hazard areas and associated buffers shall not be altered (see definition of "alteration" IMC 18.10.390) except as expressly authorized below.

Development proposals on sites containing a steep slope hazard area shall meet the requirements of this section.

A. Buffers:

1. A minimum buffer shall be established at a horizontal distance of fifty (50) feet from the top or toe and along all sides of slopes forty (40) percent or steeper. Existing native vegetation within the buffer area shall be maintained and the buffer shall be extended beyond these limits as required to mitigate landslide and erosion hazards, or as otherwise necessary to protect the public health, safety and welfare.

2. The buffer may be reduced to a minimum of ten (10) feet when an applicant demonstrates to the Director, pursuant to a critical areas study, that the reduction will not reduce the level of protection to the proposed development and the critical area as provided by the fifty (50) foot buffer. An occupied building shall not be closer than twenty-five (25) feet (including buffer) to the toe of a steep slope (or altered steep slope).

3. A decision by the Director to reduce the buffer shall be based on a critical area study that includes the following assessment criteria:

a. Steep slope development areas shall be subject to site-specific geotechnical studies.

b. Steep slope development areas shall be subject to engineering design considerations that ensure the stability of steep slope areas. Engineering design considerations shall include but are not limited to the following:

(1) Soil cuts require slope stability analysis to evaluate the change in relative stability. Based on the results of the stability analysis, retaining structures will be required to replace any lateral soil support lost. In no case shall the factor of safety be less than one and one-half (1.5).

(2) Soil fills require slope stability analysis and engineering design measures, including keying the fill, compaction, drainage measures, reinforced earth, and structural retaining walls.

(3) Foundations must be extended to firm, undisturbed native soil, and embedded deep enough to resist lateral loads caused by soil creep (surficial slope movement inherent to all steep slope areas) and other lateral loads which the foundation may be subject to (i.e., seismic and deep seated slope failures).

(4) Provide subgrade (i.e., reinforced compacted subgrade) or retaining wall design (rockeries are not considered retaining walls or engineered structures) that replaces the

support of cuts; designed with a factor of safety of at least one and one-half (1.5). Compacted subgrade without reinforcement or retaining structures will not be considered for the support of cuts.

(5) Provide effective, positive drainage for all underground elements of structures or facilities.

(6) All utility connections within steep slope and landslide hazards shall have sufficient flexible connections to avoid utility failure.

c. All geotechnical analyses prepared shall have a third-party independent review by a qualified geotechnical engineer.

4. The decision by the Director to reduce the buffer shall include the following conditions:

a. The applicant shall establish a mechanism that is acceptable to the Director which notifies all future buyers of the lot that the steep slope buffer was reduced and that development has occurred within fifty (50) feet of the steep slope or the steep slope has been eliminated (e.g., notice on title); and

b. The applicant shall execute an agreement on a form approved by the City Attorney, which indemnifies and holds the City harmless for development within fifty (50) feet of the steep slope.

Both conditions shall be met prior to the issuance of a building permit. The Director may attach additional conditions as necessary to achieve the purpose and intent of this section.

B. Building Setback: An additional fifteen (15) foot building setback shall also be established from the outer edge of the buffer as regulated by IMC 18.10.515(D), Building Setback Areas.

C. Critical Areas Tracts: Any continuous steep slope hazard area and its buffers one (1) acre or greater in size shall be placed in separate critical areas tracts in development proposals as described in IMC 18.10.515.

D. Alterations: Alterations to steep slopes shall be allowed only as follows:

1. Surface Water Management: Steep slopes may be used for approved surface water conveyance as specified in the City's currently adopted Surface Water Design Manual. Installation techniques shall minimize disturbance to the slope and vegetation.

2. Trails: Construction of public and private trails may be allowed on steep slopes, provided they receive site-specific approval by the City as guided by the construction and maintenance standards in the U.S. Forest Service "Trails Management Handbook" (FSH 2309.18, June 1987 as amended) and "Standard Specifications for Construction of Trails" (EM-7720-102, June 1984 as amended); but in no case shall trails be constructed of concrete, asphalt or other impervious surface which would contribute to surface water runoff unless such construction is necessary for soil stabilization or soil erosion prevention.

3. Utilities: Construction of public and private utility corridors may be allowed on steep slopes in accordance with adopted standards. In the event that standards have not been adopted or are not applicable, the activity may be allowed; provided, that a critical areas study indicates that such alteration will not subject the area to the risk of landslide or erosion.

4. View Corridors: The City may allow the limited trimming and limbing of vegetation on steep slopes for the creation and maintenance of views; provided, that the soils are not disturbed, plant health is not compromised, and the activity is subject to the applicable City ordinance.

E. Limited Exemptions:

1. Slopes forty (40) percent and steeper with a vertical elevation change of up to twenty (20) feet may be exempted from the provisions of this section (through Level 1 Review or through the appropriate land use permitting process), based on the City review and acceptance of a soils report prepared by a geologist or licensed geotechnical engineer when no adverse impact will result from the exemption.

2. Any slope which has been created through previous, legal grading activities may be regarded as part of an approved development proposal. Any slope which remains equal to or in excess of forty (40) percent following site development shall be subject to the protection mechanisms for steep slopes.

F. Removal or Introduction of Vegetation on Landslide or Steep Slopes: Unless otherwise specified, the following restrictions apply to vegetation removal or introduction in steep slope hazard areas, landslide hazard areas and their buffers:

1. There shall be no removal of any vegetation from any steep slope hazard area or buffer except for the limited plant removal necessary for surveying purposes and for the removal of hazardous trees determined to be unsafe by the City Horticulturist or a private, qualified arborist.

2. On slopes which have been disturbed by human activity or infested by noxious weeds, replacement with native species or other appropriate vegetation may be required subject to approval by the City of an enhancement plan. (Ord. 2525 § 4, 2008; Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.25, 1996).

18.10.590 Wetlands – General protection mechanisms.

Development activity on sites containing wetlands or wetland buffers shall meet the requirements of this chapter. Wetlands and associated buffers shall not be altered (see definition of “alteration” IMC 18.10.390) except as expressly authorized by this chapter. The applicant is responsible for ensuring that the requirements of all other agencies with jurisdiction have been met. (Ord. 2455 § 4, 2006; Ord. 2108 § 10.2.26.1 – 4, 1996).

18.10.600 Regulated wetland activities.

Project Permit approval through the appropriate land use permitting process, or if none is required, then through Level 1 Review shall be obtained from the City prior to undertaking the following activities in a regulated wetland or its buffer unless authorized by IMC 18.10.610(A):

A. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

B. The dumping, discharging, or filling with any material;

C. The draining, flooding, or disturbing of the water level or water table;

D. The driving of pilings;

E. The placing of obstructions or fences;

F. The construction, reconstruction, demolition, or expansion of any structure;

G. The destruction or alteration of wetlands vegetation through clearing, grubbing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules;

H. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants;

I. Any development or construction activity not specifically authorized as an allowed activity in IMC 18.10.610(A);

J. Restoration or enhancement projects; or

K. Introduction into any wetland area or associated buffers of all vegetation or wildlife shall be indigenous to the Issaquah region unless authorized by the state of Washington or a federal license or permit. (Ord. 2455 § 5, 2006; Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.26.5, 1996).

18.10.610 Allowed wetland activities.

A. Activities Not Subject to Review or Approval: The following activities shall be allowed without a wetland reconnaissance or wetland study and without notice to the Director, within a wetland or wetland buffer to the extent that they are not prohibited by any other ordinance or law and provided they are conducted using best management practices, except where such activities result in the conversion of a regulated wetland or wetland buffer to an activity to which it was not previously subjected; and provided further, that forest practices and conversions shall be governed by Chapter 76.09 RCW and its rules. These activities are not subject to any review or approval process.

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

2. Outdoor recreational activities, including fishing, bird watching, hiking, hunting, boating, swimming and canoeing. Horseback riding and bicycling are allowed only on designated, established, public trails;

3. The noncommercial 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;

4. Existing and ongoing agricultural activities including farming, horticulture, aquaculture, irrigation, ranching or grazing of animals. 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 for twenty-four (24) consecutive months;

5. The maintenance (but not construction) of existing ditches. Maintenance includes clearing the ditch of sediment, debris and/or vegetation, but does not include additional excavation that increases the depth or width of the ditch. Excavation of sediment deposited in the ditch shall not exceed the original construction elevation;

6. Education, scientific research, and use of publicly designated nature trails;

7. Navigation aids and boundary markers;

8. Boat mooring buoys;

9. 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;

10. Minor modification of existing serviceable structures (e.g., utilities, monitoring equipment, etc.) within a buffer where modification does not adversely impact wetland functions;

11. Site investigative work necessary for land use application submittals such as delineations, surveys, soil logs, percolation tests and other related activities; and

12. Removal of exotic, invasive plants in wetlands and buffers as established in IMC 18.10.400(L), Removal of Nonnative Invasive Vegetation.

B. Activities Allowed in Wetland Buffers: In wetland buffers, regulated activities which have minimal adverse impacts within the buffers and no adverse impacts on wetlands may be allowed through the Land Use Permit process, provided they are conducted using best management practices and restoration. These activities include:

1. Low impact, passive recreation-related activities such as development of pervious recreation trails, nonpermanent wildlife watching blinds, short-term scientific or educational activities; or

2. Stormwater management facilities having no feasible alternative on-site locations, where appropriate restoration is included, and which would not adversely affect the function or values of the buffer or wetland, may be allowed in buffers associated with Category 2, 3 and 4 wetlands only. Stormwater management facilities shall not encroach into wetland buffers by more than twenty-five (25) percent of the standard wetland buffer width, per IMC 18.10.640, or use more than twenty-five (25) percent of the total buffer area without a variance. Any wetland buffer area displaced by a stormwater management facility shall be compensated for by adding wetland buffer area in accordance with IMC 18.10.650(D)(3) so that no net loss of wetland buffer area results from the construction of the facility; or

3. Flood conveyance compensatory storage, where there is no other feasible alternative, where appropriate restoration is included, and where wetland hydrology or vegetation will not be significantly impacted; or

4. Surface water discharge to a wetland from a detention facility, presettlement pond or other surface water management activity or facility may be allowed if the discharge enhances the wetland and/or does not increase the rate of flow, change the plant composition in a forested wetland, or decrease the water quality of the wetland; or

5. Trails: Construction of public and private trails may not be allowed in wetland buffers unless a critical areas study per IMC 18.10.410 documents no loss of buffer functions and values. Additional buffer width equal to the width of the trail tread and the cleared trail shoulders shall be required, except where existing development prevents adding buffer width. In this case, other mitigating measures shall be required to ensure no loss of buffer functions and values.

C. Utilities in Wetland Buffers: Sewer utility corridors may be allowed in wetland buffers only if the applicant demonstrates that sewer lines are necessary for gravity flow and no other technologically practical alternative exists, and:

1. The corridor is not located in a wetland or buffer used by species listed as endangered or threatened by the state or federal government or containing critical or outstanding actual habitat of those species, and consider construction timing in areas with heron rookeries or raptor nesting trees;

2. The corridor alignment including, but not limited to, any allowed maintenance roads shall not encroach into the wetland buffer at any location by more than twenty-five (25) percent of the standard wetland buffer width, per IMC 18.10.640: 3. Corridor construction and maintenance protects the wetland and buffer and is aligned to avoid cutting trees greater than twelve (12) inches in diameter at breast height, when practical;

4. An additional, contiguous and undisturbed buffer, equal in width to the proposed nonvegetated areas, including any allowed maintenance roads, is provided to protect the wetland;

5. The corridor is revegetated with appropriate vegetation native to King County at preconstruction densities or greater immediately upon completion of construction or as soon thereafter as possible, and the sewer utility ensures that such vegetation is established for at least five (5) years;

6. Any additional corridor access for maintenance is provided, to the extent possible at specific points rather than by a parallel road; and

7. The width of any necessary parallel road providing access for maintenance is as small as possible, but not greater than fifteen (15) feet, and the location of the road is within the utility corridor on the side away from the wetland.

D. Temporary Construction Disturbance: Except as otherwise specified, where temporary buffer disturbance has occurred during construction, revegetation with native vegetation is required. (Ord. 2491 § 6, 2007; Ord. 2455 § 6, 2006; Ord. 2314 § 1, 2001; Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.26.6 – 7, 1996).

18.10.615 Wetland delineations

A. A wetland report shall be prepared either prior to or with a development application, where a site inspection or other available information indicates the potential presence of a wetland on any portion of the subject property or within 200 feet of the subject property.

B. A field identification or delineation of the wetland edge shall be conducted by a qualified wetland professional based on the procedures provided in the currently approved federal manual and applicable regional supplements and WAC 173-22-035.

C. Wetland delineations and wetland ratings shall be based on the entire extent of the wetland, irrespective of property lines, ownership patterns, or other factors.

D. The Planning Director/Manager shall approve a wetland delineation and wetland rating prior to approval of development permits. The City may require additional review of a wetland delineation and/or wetland rating by a wetland professional not associated with an applicant. Additional wetland review shall be at the applicant's expense.

E. A final wetland delineation report shall be valid for three (3) years. Additional time may be approved by the Planning Director/Manager if an application is proceeding through the permit process in a timely manner. The Planning Director/Manager may require an updated wetland delineation report whenever physical circumstances have markedly and demonstrably changed on the subject property or the surrounding area as a result of natural processes or human activity.

F. After City approval of the wetland delineation and required wetland buffer, a professional survey of the wetland edge and required wetland buffer shall shown on the permit application. The survey of the wetland delineation shall be tied to a known monument.

18.10.620 Wetland rating system.

A. To promote consistent application of standards, wetlands within the City of Issaquah shall be classified according to their characteristics, function and value, and/or their sensitivity to disturbance. Wetlands shall be rated and regulated according to the categories defined by the Washington State Department of Ecology Wetland Rating System for Western Washington, (Ecology Publication #04-06-025). This document contains the methods for determining the wetland category.

1. Wetlands, as defined by this chapter, shall be classified into Category I, Category II, Category III, and Category IV, as follows:

a. Category I Wetlands: Category I wetlands are those that (1) represent a unique or rare wetland type; or (2) are more sensitive to disturbance than most wetlands; or (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions. All wetlands with one (1) or more of the following criteria shall be considered a Category I wetland:

(1) Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality, relatively undisturbed wetlands, or wetlands that support State-listed threatened or endangered plants; or

(2) Bogs; or

(3) Mature and old-growth forested wetlands over one (1) acre in size; or

(4) Wetlands that provide a very high level of functions as evidenced by a score of seventy (70) points or more on the Western Washington Rating System form.

b. Category II Wetlands: Category II wetlands are those wetlands that provide high levels of some functions which are difficult to replace. Category II wetlands meet the following criteria:

(1) Wetlands scoring between fifty-one (51) and sixty-nine (69) points on the Western Washington Rating System form.

c. Category III Wetlands: Category III wetlands are those wetlands that provide a moderate level of functions. They are typically more disturbed and have less diversity or are more isolated from other natural resources in the landscape than Category II wetlands. Category III wetlands meet the following criteria:

(1) Wetlands scoring between thirty (30) and fifty (50) points on the Western Washington Rating System form.

d. Category IV Wetlands Over Two Thousand Five Hundred (2,500) Square Feet: Category IV wetlands are those wetlands that provide the lowest level of functions and are often heavily disturbed. Category IV wetlands meet the following criteria:

(1) Wetlands scoring less than thirty (30) points on the Western Washington Rating System form. (Ord. 2455 § 7, 2006; Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.27 – 10.2.27.3, 1996).

e. Category IV Wetlands Less Than Two Thousand Five Hundred – Category IV wetlands less than two thousand five hundred (2,500) square feet in size, that are not part of a wetland complex, do not require wetland buffers and may be altered if mitigation is provided to demonstrate no net loss of functions or values, consistent with IMC 18.10.720.H.3.

18.10.640 Wetland buffer width requirements.

A. Wetland buffers shall be required for all regulated activities adjacent to wetlands.

B. Any wetland created, restored or enhanced as mitigation or compensation for approved wetland alterations shall also include the standard wetland buffer required for the category of the created, restored, or enhanced wetland.

C. All wetland buffers shall be measured from the wetland boundary as delineated using the DOE Wetland Manual and surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category, as follows:

Table 18.10.640.C Wetland Buffer Standards

Category	Wetland Characteristic	Buffer
I (Wetlands with a total score of 70 points or more on the DOE Wetland Rating form)	Natural heritage wetlands	190 feet
	Bogs	190 feet
	Forested	Based on score for habitat or water quality functions
	Habitat score of 31 to 36	225 feet
	Habitat score of 26 to 30	150 feet
	Habitat score of 22 to 25	100 feet
	Habitat score of 21 or less	75 feet
II (Wetlands with a total score of 51 to 69 points on the DOE Wetland Rating form)	Habitat score of 31 to 36	225 feet
	Habitat score of 26 to 30	150 feet
	Habitat score of 22 to 25	100 feet
	Habitat score of 21 or less	75 feet

III (Wetlands with a total score of 30 to 50 points on the DOE Wetland Rating form)	Habitat score of 26 to 30	110 feet
	Habitat score of 22 to 25	75 feet
	Habitat score of 21 or less	50 feet
IV **over 2,500 square feet** (Wetlands scoring less than 30 points on the DOE Wetland Rating form)	Total score for functions less than 30 points	40 feet
IV **less than 2,500 square feet**		No buffer required

D. Building Setback: An additional fifteen (15) foot building setback shall also be established from the outer edge of the buffer as regulated by IMC 18.10.515(D), Building Setback Areas. (Ord. 2455 § 8, 2006; Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.27.5 – 9, 1996).

18.10.650 Exceptions to wetland buffer width requirements.

A. Existing Conditions:

1. Previously Established Buffers: Where a wetland buffer has been previously established through City or County development approval on or after November 27, 1990, and is permanently recorded on title or placed within a separate tract, the buffer shall be as previously established, provided it is at least fifty (50) percent of the required standard wetland buffer width in Table 18.10.640.C.

2. Roads or Infrastructure in Wetland Buffers: Where a legally established road right-of-way or similar infrastructure is located within a wetland buffer, the edge of the improved right-of-way shall be the extent of the buffer, provided it is demonstrated that the buffer area on the opposite side of the right-of-way provides insignificant biological or hydrological functions in relation to the buffer area adjacent to the wetland.

B. Buffer Requirements for Wetlands Adjacent to Steep Slopes: Wetlands within twenty-five (25) feet of the toe of slopes equal to or greater than forty (40) percent shall have the following minimum buffers:

1. Where the horizontal length of the slope including small benches and terraces is within the buffer for that wetland category, the buffer width shall be the greater of:

a. The minimum for that wetland category; or

b. Twenty-five (25) feet beyond the toe of the slope.

2. Where the horizontal length of the slope extends beyond the minimum buffer for that wetland category, the buffer shall extend to a point twenty-five (25) feet beyond the minimum buffer for that wetland category.

3. No reduction to wetland buffer standards in IMC 18.10.640 are allowed.

4. The Director may recommend buffer averaging in instances where it will provide additional resource protection; provided, that the total area on-site contained in the buffer remains the same.

C. Increasing Wetland Buffer Requirements: The Director shall require increased buffer widths as necessary to protect wetlands. The additional buffer widths and other issues shall be determined by development application review on a case-by-case basis. This determination shall be supported by appropriate documentation demonstrating that an increased buffer is necessary to:

1. Maintain viable populations of existing species;

2. Protect critical fish and wildlife habitat;

3. Protect critical drainage areas;

4. Protect groundwater recharge or discharge areas;

5. Protect adjacent land from landslides or severe erosion.

D. Reducing Wetland Buffer Requirements:

1. Wetland buffer reduction provisions in this section may be used separately or together; provided that the cumulative, total wetland buffer reduction shall not exceed twenty-five (25) percent of the required wetland buffer area or encroach into the buffer at any location by more than twenty-five (25) percent of the standard wetland buffer width, per IMC 18.10.640,

2. A variance is required for wetland buffer reductions exceeding twenty-five (25) percent of the required buffer area or encroachments exceeding twenty-five (25) percent of the standard wetland buffer width.

2. Wetland Buffer Reduction with Buffer Vegetation Enhancement:

a. Purpose: The standard wetland buffer widths identified in Table 18.10.640.C may be reduced when enhancement of the existing wetland buffer vegetation would demonstratively improve water quality and habitat functions.

b. Applicability – Qualifying Wetland Buffers: A wetland buffer may qualify for a buffer reduction under this section when:

(1) The wetland buffer proposed to be enhanced/reduced meets all of the following characteristics:

(A) More than forty (40) percent of the buffer area is covered by nonnative and/or invasive plant species; or,

(B) Tree and/or shrub vegetation cover less than twenty-five (25) percent of the buffer area; and

(C) The wetland buffer has slopes of less than twenty-five (25) percent.

(2) The proposed development incorporates performance standards to minimize the impacts of the proposed land use, consistent with IMC 18.10.660.

c. Critical Area Study Required: A critical area study consistent with the requirements of IMC 18.10.410(C) and the following provisions is required in order to evaluate and approve a reduction of the standard buffer width. The critical area study shall:

(1) Evaluate the water quality, habitat, groundwater recharge, stormwater detention, and erosion protection functions of the wetland buffer;

(2) Document whether or not the:

(A) Wetland buffer under consideration meets the criteria established in subsection (D)(1)(b) of this section and qualifies for consideration of a buffer reduction under this section;

(B) Buffer reduction would adversely affect the functions and values of the adjacent wetland; and

(C) Ecological structure and function of the reduced buffer after planting enhancement would improve water quality and habitat functions.

(3) Propose a wetland buffer enhancement plan including:

(A) Removal of all invasive, nonnative vegetation; and

(B) Planting of appropriate native tree and shrub species at a minimum planting density of ten (10) feet on-center for trees and five (5) feet on-center for shrubs; and

(C) A monitoring and maintenance plan for the enhanced buffer for a five (5) year period, consistent with IMC 18.10.760 and 18.10.810.

d. Allowed Buffer Reduction: Following are the wetland buffer reductions allowed when all of the criteria in subsections B and C of this section are met:

Wetland Category	Maximum Buffer Reduction at Any Location
Category 1 and 2 wetlands	25 percent of the standard buffer width
Category 3 wetlands with habitat scores of 26 points or more	25 percent of the standard buffer width
Category 3 with habitat scores less than 26 points and Category 4 wetlands	15 percent of the standard buffer width

3. Wetland Buffer Reduction with Removal of Impervious Surface Area: The standard wetland buffer area may be reduced at a 1:1 ratio with the removal of existing, legally nonconforming impervious surface area located within the wetland buffer area. For example, if one hundred (100) square feet of existing impervious area is removed, the wetland buffer area may be reduced by one hundred (100) square feet. The removed impervious area shall be located closer toward the wetland than the proposed buffer reduction area. The removed impervious area shall be restored with native vegetation, consistent with the wetland buffer enhancement plan requirements in subsection (D)(1)(c)(3) of this section. Existing site characteristics, including buffer vegetation, slopes, etc., and the proposed development shall be considered in determining the location of the allowed reduced buffer area.

4. Wetland Buffer Averaging Requirements: Standard wetland buffer widths may be modified by averaging buffer widths after review of a critical area study prepared by a qualified wetland professional for compliance with the following criteria:

a. The proposed site plan demonstrates efforts to avoid and minimize wetland and wetland buffer impacts;

b. Buffer width averaging is consistent with the best available science and will not adversely impact functions or values;

c. The total area within the wetland buffer after averaging is not less than the area within the standard buffer prior to averaging. The location of the replacement buffer area shall be contiguous to the standard buffer to be averaged;

d. The buffer width shall not be reduced by more than twenty-five (25) percent of the standard buffer width at any location, unless a variance is approved in accordance with IMC 18.10.430;

e. A maximum of fifty (50) percent of the buffer perimeter on a site may be reduced by buffer averaging;

f. Buffer averaging shall consider physical characteristics on a site, including but not limited to existing wetland and buffer vegetation, slopes, floodplain, hydrology, surface drainage, and association with nearby wetlands and/or streams;

g. Buffer averaging credit shall not be allowed in areas already protected by the critical area regulations; and

h. Mitigation, such as revegetation and enhancement of existing vegetation, may be required by the Director.

18.10.660 Performance standards.

Development on sites with a wetland or wetland buffer shall incorporate the following performance standards to minimize the impacts of the proposed land use, as applicable:

A. Lights shall be directed away from the wetland. Lighting levels shall meet the outdoor lighting standards for spillover into critical areas, per IMC 18.07.107.

B. Activities that generate noise shall be located away from the wetland, or noise impacts shall be minimized through design or insulation techniques.

C. Toxic runoff from new impervious surface area shall be directed away from wetlands.

D. Treated stormwater runoff may be allowed into wetland buffers. Channelized flow should be prevented.

E. Use of pesticides, insecticides and fertilizers within one hundred fifty (150) feet of wetland boundary shall be limited and follow best management practices (BMPs).

F. The outer edge of the wetland buffer shall be planted with dense vegetation and/or fencing to limit pet and human disturbance. (Ord. 2455 § 10, 2006; Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.27.11, 1996).

18.10.700 Avoiding wetland impacts.

A. To further the goal of no net loss of wetland functions or values, regulated activities shall not be authorized in a wetland except as provided in IMC 18.10.700 or where it can be demonstrated that the impact is both unavoidable and necessary and/or that all reasonable uses are denied through the variance provision established in IMC 18.10.430.

B. With respect to Category 1 and 2 wetlands, an applicant must demonstrate through the variance provision as established in IMC 18.10.430, that denial of the proposal would preclude all reasonable use of the subject property on the part of the applicant brought about by circumstances peculiar to the subject property.

C. With respect to Category 3 and 4 wetlands, the following provisions shall apply:

1. For water-dependent activities, unavoidable and necessary impacts can be authorized by the Director where it is demonstrated that there are no practicable alternatives that would not involve a wetland or which would not have less adverse impact on a wetland, and would not have other significant adverse environmental consequences.

2. Where nonwater-dependent activities are proposed, it shall be presumed that adverse impacts are avoidable. This presumption may be rebutted upon a demonstration to the Director that:

a. The basic project purpose cannot reasonably be accomplished using one (1) or more other sites in the general region (outside the hydraulic influence area) that would avoid, or result in less, adverse impact on a regulated wetland;

b. The basic purpose of the project cannot be accomplished by reducing the size, scope, configuration, or density of the project, as proposed, and by using any alternative designs of the project, as proposed, that would avoid, or result in less adverse impact on a wetland or its buffer;

c. In cases where the applicant has rejected alternatives to the project, as proposed, due to constraints such as zoning, deficiencies of infrastructure, or parcel size, the applicant has made reasonable attempt to remove or accommodate such constraints.

D. If an applicant for a development proposal which has Category 3 or 4 wetlands can demonstrate to the satisfaction of the Director that application of the standards provided in this chapter will deny all reasonable use of the property, development as conditioned shall be allowed if the applicant also demonstrates all of the following to the satisfaction of the Director. The Director has the option to forward the decision to a Hearing Examiner through the variance provision outlined in IMC 18.10.430.

1. That the proposed project is water-dependent or requires access to the wetland as a central element of its basic function, or is not water-dependent but has no practicable alternative pursuant to IMC 18.10.700;

2. That no reasonable use with less impact on the wetland and its buffer is possible (e.g., agriculture, aquaculture, transfer or sale of development rights or credits, sale of open space easements, etc.);

3. That there is no feasible on-site alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable use with less adverse impacts to wetlands and wetland buffers;

4. That the proposed activities will result in minimum feasible alteration or impairment to the wetland's functional characteristics and its existing contours, vegetation, fish and wildlife resources, and hydrological conditions;

5. That disturbance of wetlands has been minimized by locating any necessary alteration in wetland buffers to the extent possible;

6. That the proposed activities will not jeopardize the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington;

7. That the proposed activities will not cause significant degradation of groundwater or surface-water quality;

8. That the proposed activities comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

9. That any and all alterations to wetlands and wetland buffers will be mitigated as provided in IMC 18.10.750;

10. That there will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and

11. That the inability to derive reasonable use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of the ordinance codified in this chapter. (Ord. 2108 § 10.2.27.16 – 19, 1996).

18.10.710 Minimizing wetlands impacts.

A. After it has been determined by either the Hearing Examiner or the Director pursuant to IMC 18.10.700 (Avoiding Wetland Impacts) that losses of wetlands are necessary and unavoidable or that all reasonable use has been denied, the applicant shall take deliberate measures to minimize wetland impacts.

B. Minimizing impacts to wetlands shall include but is not limited to:

1. Limiting the degree or magnitude of the regulated activity;

2. Limiting the implementation of the regulated activity;

3. Using appropriate and best available technology;

4. Taking affirmative steps to avoid or reduce impacts;

5. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;

6. Involving resource agencies early in site planning;

7. Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities;

8. Prohibiting the intentional introduction of nonnative vegetation, except in conjunction with approved restoration projects; and

9. Providing preventative measures for soil erosion such as inspections and a monitoring plan. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.27.20 – 21, 1996).

18.10.720 Mitigating for wetland impacts.

A. Goal: All approved impacts to regulated wetlands require compensatory mitigation so that the goal of no net loss of wetland function, value and acreage is achieved. Mitigation actions shall provide equivalent or greater wetland and buffer functions compared to wetland and buffer conditions existing prior to the proposed alteration.

B. Wetland Mitigation Ratios:

1. The following ratios apply to mitigation which is in-kind, on-site, the same wetland category, timed prior to or concurrent with alteration, and has a high probability of success. The first number specifies the acreage of required wetlands to be created, re-established, rehabilitated or enhanced and the second number specifies the acreage of existing wetlands proposed for alteration.

2. Minimum Replacement Ratio: In order to maintain no net loss of wetland acreage, in all cases the wetland creation or re-establishment ratio shall be a minimum of 1:1.

Category and Type of Wetland Impacts	Creation or Re-establishment	Rehabilitation Only	Creation or Re-establishment (R/C) and Rehabilitation (RH)	Creation or Re-establishment (R/C) and Enhancement (E)
Category IV Greater than 2,500 SF in size	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E

Category I – based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E
Category I Natural Heritage site	Not allowed	6:1 Rehabilitation of a Natural Heritage site	Not allowed	Not allowed
Category I Bog	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed

3. Category IV Wetlands Less Than Two Thousand Five Hundred – Category IV wetlands less than two thousand five hundred (2,500) square feet in size, that are not part of a wetland complex, may be altered if mitigation is provided to demonstrate no net loss of functions or values. No buffer is required for these wetlands. The following criteria shall apply in preferential order to avoid or mitigate impacts to Category IV wetlands less than two thousand five hundred (2,500) square feet in size:

    a. Preserve the wetland or demonstrate through mitigation sequencing that avoidance or minimization of impacts have been considered; or.

    b. Relocate the wetland on-site by creating, re-establishing or rehabilitating a new, equal size wetland; or.

    c. Enhance an equal area of another existing wetland on-site, demonstrating equivalent or greater functions; or

    d. Protect significant on-site trees. Protect an area of significant trees equal to the wetland area or enhance an equal upland area with native tree planting. This shall not apply to areas already protected as critical area buffers and shall be in addition to the tree retention requirements in IMC 18.12.1385; or

    e. Off-site mitigation opportunities may be considered.

4. Increased Mitigation Ratio: The Director may increase the ratios under the following circumstances:

    a. Uncertainty as to the probable success of the proposed restoration or creation;

    b. Significant period of time between destruction and replication of wetland functions;

c. Projected losses in functional value; or

d. Off-site compensation.

e. Mitigation ratios may be increased for remedial actions along with other penalties resulting from illegal, unpermitted wetland alterations.

5. Decreased Mitigation Ratio:

a. The Director may decrease the replacement ratios specified in IMC 18.10.730(F); provided, that findings of critical areas studies coordinated with the participation of agencies having expertise demonstrates that no net loss of wetlands function or value is attained under the decreased ratio.

C. Wetland Buffer Requirements for Mitigation Wetlands; Wetland buffer impacts are assumed when wetland fill or modification is proposed. A new wetland buffer shall be established around the wetland mitigation area equal in width to the standard wetland buffer width specified in IMC 18.10.640.

D. Criteria for Approval: Given the uncertainties in scientific knowledge and the need for expertise and monitoring, wetland compensatory projects may be permitted only when the Director finds that the compensation project is associated with an activity or development proposal directly associated with an approved Hearing Examiner's and/or Director's decision (as set forth in IMC 18.10.700) or an approved variance (IMC 18.10.420), and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces. A maintenance bond will be required pursuant to IMC 18.10.810.

E. Type of Compensation Project: Compensation areas shall be determined according to function, acreage, type, location, time factors, ability to be self sustaining and projected success. Wetland functions and values shall be calculated using the best professional judgement of a qualified wetland professional using the best available techniques. Multiple compensation projects may be proposed for one (1) project in order to best achieve the goal of no net loss.

F. In-Kind Compensation:

1. In-kind compensation shall be provided except where the applicant can demonstrate that:
   a. Scientific problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible; or
   b. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types)

G. Timing:

1. 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.

2. Construction of compensation projects shall be timed to reduce impacts to existing wildlife and flora.

H. Location:

1. On-site compensation shall be provided except where the applicant can demonstrate that:

    a. The hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be substantially damaged by the on-site loss; and

    b. On-site compensation is not scientifically feasible due to problems with hydrology, soils, waves, or other factors; or

    c. Compensation is not practical due to potentially adverse impact from surrounding land uses; or

    d. Existing functional values at the site of the proposed restoration are significantly greater than lost wetland functional values; or

    e. Established regional goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of compensatory measures at another site.

2. Off-site compensation shall occur within the same watershed as the wetland loss occurred.

3. In selecting compensation-sites, applicants shall pursue siting in areas conducive to wetland creation, enhancement, or restoration based on recommendations of a wetland biologist and approved by the City.

I. Wetland Mitigation Banking: The City may consider and approve replacement or enhancement of unavoidable adverse impacts to wetlands caused by development activities through an approved wetland mitigation bank, in advance of authorized impacts. Criteria governing the creation and use of a mitigation bank shall be established in administrative rules. (Ord. 2108 § 10.2.27.29 – 35, 1996).

J. Cooperative Projects:

1. The Director may encourage, facilitate, and approve cooperative projects wherein a single applicant or other organization with demonstrated capability may undertake a compensation project with funding and/or support from other applicants under the following circumstances:

    a. Restoration, creation or enhancement at a particular site may be scientifically difficult or impossible; or

    b. Creation of one (1) or several larger wetlands may be preferable to many small wetlands.

2. Persons proposing cooperative compensation projects shall:

    a. Submit a joint permit application;

    b. Demonstrate compliance with all standards;

    c. Demonstrate the organizational and fiscal capability to act cooperatively; and

    d. Demonstrate that long-term management can and will be provided.

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18.10.750 Mitigation plan required.

A. All wetland mitigation required pursuant to this Code either as a permit condition or as the result of an enforcement action shall follow a mitigation plan prepared by qualified wetland professionals and approved by the Director. Any compensation project prepared pursuant to this section and approved by the Director shall become part of the application for the project proposal.

B. The applicant shall receive written approval of the mitigation plan by the Director prior to commencement of any wetland mitigation activity. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.27.22 – 28, 1996).

C. Demonstration of Competence: Applicants shall meet the following minimum performance requirements to the satisfaction of the Director:

1. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to successfully carry out the project;

2. Demonstrate the capability of monitoring the site and make corrections during this period if the project fails to meet projected goals; and

3. Protect and manage or provide for the protection and management of the compensation area to avoid further development or degradation and to provide for long-term persistence of the compensation area. (Ord. 2108 § 10.2.27.40 – 42, 1996).

18.10.760 Mitigation plan information requirements.

A required mitigation plan shall be prepared in consultation with the Director and qualified wetland professionals. The scope and specific requirements of a mitigation plan are dependent on the size and nature of the development proposal, the nature of the impacted wetland, and the degree of cumulative impacts on the wetland from other development proposals. The mitigation plan shall contain at a minimum the following components; however, the Director may request additional information as required for the decision-making process:

A. Identification of Project Team: A Compensation Project Manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects.

B. Baseline Information: A written assessment and accompanying maps of the environmental conditions of the impacted regulated wetland and the mitigation site if different.

C. Environmental Goals and Objectives: A written report shall be provided identifying goals and objectives of the mitigation plan. The goals and objectives shall be related to the functions and values of the original wetland or if out-of-kind, the type of wetland to be emulated and an analysis of the likelihood of success of the created or restored wetland.

D. Evaluation Criteria: Specific criteria, including ecological, geological, or hydrological criteria, shall be provided for evaluating whether or not the goals and objectives of the project will be met and whether or not remedial action or contingency measures should be initiated.

E. Detailed Landscape Construction Plans: Drawings and written specifications describing the mitigation techniques and materials to be used.

F. Monitoring Program: A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided, including a protocol of how the monitoring data will be evaluated by agencies that are tracking the progress of the mitigation project. All mitigated wetlands shall be monitored at least annually for a minimum of five (5) years. Additional monitoring may be required by the Director depending on the recommendations of the first monitoring report.

G. Maintenance Program: All wetlands located adjacent to proposed development shall be maintained by the property owner in perpetuity based on direction from the Director with input from City staff.

H. Contingency Plan: Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.27.43 – 49, 1996).

18.10.765 Lakes – Lake Sammamish

Development activity within 200 feet of the ordinary high water mark (OHWM) of Lake Sammamish is subject to the Shoreline Master Program (SMP). The SMP contains all policies, standards and regulations for development adjacent to Lake Sammamish.

18.10.770 Streams – General protection mechanisms.

Development activity on sites containing streams or stream buffers shall meet the requirements of this chapter. Streams and associated buffers shall not be altered (see definition of “alteration” IMC 18.10.390) except as expressly authorized by this chapter. The applicant is responsible for ensuring that the requirements of all other agencies with jurisdiction have been met. In addition, the following general protections apply to streams and associated buffers:

A. Development proposals on sites containing streams shall meet the requirements of IMC 18.10.770 through 18.10.795. Streams and associated buffers shall not be altered except as expressly authorized by this chapter and all approved alterations require mitigation plans. The applicant is responsible for ensuring that the requirements of all other agencies with jurisdiction have been met.

B. The applicant must notify affected communities and native tribes of alteration plans prior to any alteration of a stream, submit evidence of such notification to the Federal Insurance Administration, and any alterations must be consistent with IMC 18.10.520 through 18.10.530.

C. There shall be no introduction of any vegetation or wildlife which is not indigenous to the Pacific Northwest into any stream critical area or associated buffers unless authorized by the state of Washington or a federal license or permit. (Ord. 2525 § 4, 2008; Ord. 2455 § 12, 2006; Ord. 2108 § 10.2.28, 1996).

18.10.775 Alterations to streams and buffers.

No structures shall be permitted within streams or stream buffers except as outlined in the following subsections:

A. Stream Crossings: Stream crossings may be allowed only if they meet the requirements as follows:

1. All road and utility crossings shall use bridges or other construction techniques which do not disturb the stream bed or bank; however, in the case of Class 2, 3 or 4 streams, appropriate methods demonstrated to provide fisheries protection may be used if the applicant demonstrates that such methods and their implementation will pose no harm to the stream and will not inhibit migration of fish and will accommodate one hundred (100) year flood flows as established by the City. This shall be accomplished through bridge crossing design and/or appropriate flood control facilities constructed as part of the project design. Any structure spanning a stream shall be designed so the supporting foundation is outside the ordinary high water mark;

2. All crossings shall be constructed during summer low flow and be timed to avoid stream disturbance during periods when use is critical to salmonids;

3. Crossings shall not occur over salmonid spawning areas unless no other possible crossing site exists on the subject property;

4. Crossings shall not diminish the flood carrying capacity of the stream;

5. Underground utility crossings shall be located at a preferred depth of four (4) feet below the maximum depth of scour for the base flood predicted by a Washington State licensed civil engineer and be constructed in a manner approved by the Washington State Department of Fisheries; and

6. Crossings shall be minimized and serve multiple purposes and properties whenever possible.

B. Relocations: The following relocations may be allowed if they meet all requirements and are approved by all agencies with jurisdiction.

1. Class 1 streams shall not be relocated, except for approved restoration projects.

2. Class 2 streams shall not be relocated except for approved restoration projects and public road projects which have been authorized by the exemption process set out in IMC 18.10.400.

3. Class 3 and 4 streams may be relocated under a mitigation plan for the purpose of enhancement of in-stream resources. Appropriate floodplain protection measures must be used. The relocation shall occur

on-site; provided, that upon demonstration that on-site relocation is impracticable, the City may consider off-site relocation if the location is in the same drainage sub-basin and the applicant obtains all necessary easements and waivers from affected property owners.

4. Prior to any stream relocation, an applicant must demonstrate that the proposed project meets the following criteria, based on information provided by a licensed geotechnical engineer and a biologist. All work performed must also be carried out under the supervision of a licensed geotechnical engineer and a biologist. The criteria includes the following:

a. The equivalent base flood storage volume and function will be maintained;

b. There will be no adverse impact to local groundwater;

c. There will be no increase in velocity;

d. There will be no interbasin transfer of water;

e. The biological values of the stream will be maintained or enhanced;

f. Performance standards as set out in the mitigation plan are met;

g. The relocation conforms to other applicable laws.

C. Trails: Construction of public and private trails is not allowed in stream buffers unless a critical areas study per IMC 18.10.410, Critical areas studies, documents no loss of buffer functions and values. The buffer area used for the trail tread and cleared trail shoulders shall be replaced by adding an equal area to the buffer. Where existing development prevents adding the replacement buffer, other mitigation measures shall be required to ensure no loss of buffer functions and values. Other mitigating measures may include off-site mitigation along the same stream as the trail. The critical areas study shall evaluate and recommend the best location(s) for the replacement buffer and any off-site mitigation.

D. Stream Channel Stabilization: Stream channels may be stabilized when movement of the stream channel threatens existing residential or commercial structures, public improvements, unique natural resources, or the only existing access to property, and when stabilization is done in accordance with the requirements in IMC 18.10.530 and the administrative rules.

E. Surface Water Management: The following surface water management actions may be allowed (through the appropriate review and approval process, or Level 1 Review if none is specified) only if they meet the following requirements:

1. Surface water discharges to streams from detention facilities, presettlement ponds, or other surface water management structures may be allowed so long as the discharge complies with the provisions of the City's currently adopted Surface Water Design Manual.

2. Flood conveyance compensatory storage, where there is no other feasible alternative, where appropriate restoration is included, and where wetland hydrology will not be significantly affected.

3. Class 2, 3 and 4 stream buffers may be used for regional retention/detention facilities when:

a. Authorized by the exemption process set out in IMC 18.10.400; and

b. All requirements of the City's currently adopted Surface Water Design Manual are met; and

c. The use will not alter the rating or the factors used in rating the stream; and there are no significant adverse impacts to the stream or its resources; and

d. The retention/detention facilities shall not encroach into stream buffers by more than twenty-five (25) percent of the standard stream buffer width, per IMC 18.10.785, or use more than twenty-five (25) percent of the total buffer area without a variance ; and

e. Any stream buffer area displaced by a stormwater management facility shall be compensated for by adding stream buffer area in accordance with IMC 18.10.790(D)(3) so that no net loss of stream buffer area results from the construction of the facility.

4. Streams and buffers may be altered to remove exotic or invasive vegetation, and for restoration of flood plains and habitat, so long as the project will have no lasting adverse impacts that result from construction on any stream and all requirements of the City's currently adopted Surface Water Design Manual and all other applicable codes are met.

F. Utilities in Stream Buffers:

1. Utility Construction: Construction of utilities shall be permitted in the outermost twenty-five (25) percent of a stream buffer only when it has been determined through Level 1 Review or through the appropriate land use permitting process that:

a. No practical alternative location is available; and

b. The utility corridor meets the criteria set forth in the applicable City ordinance including, but not limited to, requirements for installation, replacement of vegetation, and maintenance; and

c. Impacts to the buffer area are minimized and restoration is implemented to the greatest extent feasible; and

d. The requirements for sewer utility corridors in IMC 18.10.610.C shall also apply to stream buffers.

G. Enhancement Independent of Development Proposals:

1. Enhancement of streams, not associated with any other development proposal, may be allowed when the City, or any state agency with jurisdiction, determines that such enhancement benefits stream functions. Such enhancement shall be performed under a plan for the design, implementation, maintenance and monitoring of the project prepared by a civil engineer and a biologist and shall be carried out under the direct supervision of a biologist.

2. Stream restoration projects for fish habitat enhancement by a public agency unassociated with mitigation of a specific development proposal may be allowed. Such projects are limited to placement of log controls, spawning gravel, and other specific salmonid habitat improvements to be performed under direct supervision of a biologist, within the approved Washington State Department of Fisheries window, if applicable.

3. Removal of exotic or invasive plants within streams and buffers is allowed. A City-approved mitigation plan is required before removal of vegetation commences.

H. Drainage Ditch Maintenance: Drainage ditches must be maintained through use of best management practices developed in consultation with City, state and federal agencies with expertise or jurisdiction.

I. Revegetation shall include only native plant species, except in conjunction with approved restoration projects.

J. Where construction activities occur adjacent to a stream buffer, an erosion control specialist, provided by the applicant, shall visit the site at least once a day during construction, and report daily to the City's inspector, for the purpose of monitoring potential erosion problems and specifying erosion control measures necessary to protect the critical area. (Ord. 2525 § 4, 2008; Ord. 2455 § 13, 2006).

18.10.780 Stream rating system.

A. Class 1 Streams: "Class 1 streams" means those streams identified as "shorelines of the state" under the City Shoreline Master Program, pursuant to Chapter 90.58 RCW.

B. Class 2 Streams with Salmonids: "Class 2 streams with salmonids" means those streams smaller than Class 1 streams that flow year-round during periods of normal rainfall and all streams that are used by salmonids.

C. Class 2 Streams: "Class 2 streams" means those streams smaller than Class 1 streams that flow year-round during years of normal rainfall with no salmonids.

D. Class 3 Streams: "Class 3 streams" means those streams that are intermittent or ephemeral during years of normal rainfall and areas not used by salmonids.

E. Class 4 Streams: "Class 4 streams" are constructed or channelized streams, that are intermittent, are not used by salmonids and do not provide salmonid habitat, and/or are not directly connected to a Class 1, 2, or 3

stream by an above ground channel. (Ord. 2455 § 14, 2006; Ord. 2301 § 3, 2001; Ord. 2164 § 11, 1997; Ord. 2108 § 10.2.29, 1996).

18.10.785 Stream buffer width requirements.

A. Location of Ordinary High Water Mark: All buffers shall be measured from the ordinary high water mark as identified in the field or, if that cannot be determined, from the top of the bank. In braided channels, the ordinary high water mark or top of bank shall be determined so as to include the entire stream feature.

B. Special Exception: For properties on which easements were granted for creek channel improvements constructed by the City to increase conveyance and on the same side of the creek as the improvements, the ordinary high water mark (OHWM) existing prior to the construction of the improvements by the City shall govern the establishment of building setbacks for the properties. The buffer area established using the OHWM identified at the time the channel improvements are constructed shall be surveyed and recorded as a covenant running with the land. Buildings on these parcels of land shall adhere to the fifteen (15) foot building setback to the stream buffer. The establishment of the OHWM under this exception does not establish the OHWM used for building setbacks under the City's Shoreline Master Program. (Note: Both OHWM standards, Critical Areas – Stream buffer and the Shoreline Master Program, shall be used in determining the appropriate building setback lines for development of these properties.)

C. Stream Buffer Width Standards: The following buffers on each side of the ordinary high water mark are minimum requirements:

1. Class 1 streams – one hundred (100) foot buffer.

2. Class 2 streams used by salmonids – one hundred (100) foot buffer.

3. Class 2 streams – seventy-five (75) foot buffer.

4. Class 3 streams – fifty (50) foot buffer.

5. Class 4 streams – twenty-five (25) foot buffer.

D. Any stream restored, relocated, replaced or enhanced because of alterations should have at least the minimum buffer required for the class of stream involved.

E. Building Setback: An additional fifteen (15) foot building setback shall also be established from the outer edge of the buffer as regulated by IMC 18.10.515(D), Building Setback Areas. (Ord. 2455 § 15, 2006).

18.10.790 Exceptions to stream buffer width requirements.

A. Buffer Requirements for Streams Adjacent to Steep Slopes: When the ordinary high water mark of any stream is within twenty-five (25) feet of the toe of slopes equal to or greater forty (40) percent the following minimum buffers shall be provided:

1. Where the horizontal length of the slope including small benches and terraces is within the buffer for that stream class, the buffer shall be the greater of:

   a. The minimum buffer for that stream class; or

   b. Twenty-five (25) feet beyond the top of the slope.

2. Where the horizontal length of the slope extends beyond the minimum buffer for that stream class, the buffer shall extend to a point twenty-five (25) feet beyond the minimum buffer for that stream class.

3. No reduction to stream buffer standards in IMC 18.10.785.C are allowed.

B. Buffer Requirements for Streams Adjacent to Other Critical Areas: Any stream adjoined by riparian wetland or other adjacent critical area shall have the buffer which applies to the wetland or other adjacent critical area, unless the stream buffer requirements are more expansive.

C. Increasing Stream Buffer Requirements: Issaquah shall require increased buffer widths as necessary to protect streams. The additional buffer widths and other issues shall be determined during project review and will be based on the results of a critical area study with consideration of and including, but not limited to:

1. Critical drainage areas;

2. Location of hazardous materials;

3. Critical fish and wildlife habitat;

4. Landslide or erosion hazard areas;

5. Groundwater recharge and discharge; and

6. The location of trail or utility corridors.

D. Reducing Stream Buffer Requirements:

1. Stream buffer reduction provisions in this section may be used separately or together; provided that the cumulative, total stream buffer reduction shall not exceed twenty-five (25) percent of the required stream buffer area or encroach into the buffer at any location by more than twenty-five (25) percent of the standard stream buffer width, per IMC 18.10.785.C,

2. A variance is required for stream buffer reductions exceeding twenty-five (25) percent of the required buffer area or encroachments exceeding twenty-five (25) percent of the standard stream buffer width.

3. Stream Buffer Reduction for Class 1 and Class 2 Streams with Salmonids: Prior to the City's approval of a stream buffer reduction, an applicant shall first demonstrate the proposed site plan avoids and minimizes the amount of buffer reduction, consistent with IMC 18.10.490.

4. Stream Buffer Reduction with Buffer Vegetation Enhancement:

a. Purpose: The standard stream buffer widths identified in IMC 18.10.785(C) may be reduced when enhancement of the existing stream buffer vegetation would demonstratively improve water quality and habitat functions.

b. Applicability – Qualifying Stream Buffers: A stream buffer may qualify for a buffer reduction under this section when:

(1) The stream buffer proposed to be enhanced/reduced meets all of the following characteristics:

(A) More than forty (40) percent of the buffer area is covered by nonnative and/or invasive plant species; or

(B) Tree and/or shrub vegetation cover less than twenty-five (25) percent of the buffer area; and

(C) The stream buffer has slopes of less than twenty-five (25) percent.

(2) The proposed development incorporates performance standards to minimize the impacts of the proposed land use, consistent with IMC 18.10.660.

c. Critical Area Study Required: A critical area study consistent with the requirements of IMC 18.10.410(C) and the following provisions is required in order to evaluate and approve a reduction of the standard buffer width. The critical area study shall:

(1) Evaluate the water quality, habitat, groundwater recharge, stormwater detention, and erosion protection functions of the stream buffer;

(2) Document whether or not the:

(A) Stream buffer under consideration meets the criteria established in subsection (D)(1)(b) of this section and qualifies for consideration of a buffer reduction under this section;

(B) Buffer reduction would adversely affect the functions and values of the adjacent stream; and

(C) Ecological structure and function of the reduced buffer after planting enhancement would improve water quality and habitat functions.

(3) Propose a stream buffer enhancement plan including:

(A) Removal of all invasive, nonnative vegetation; and

(B) Planting of appropriate native tree and shrub species at a minimum planting density of ten (10) feet on-center for trees and five (5) feet on-center for shrubs; and

(C) A monitoring and maintenance plan for the enhanced buffer for a five (5) year period, consistent with IMC 18.10.760 and 18.10.810.

d. Allowed Buffer Reduction: Following are the stream buffer reductions allowed when all of the criteria in subsections B, C and D of this section are met:

Stream Class	Maximum Buffer Reduction at Any Location
Class 2, 3, and 4 streams	25 percent of the standard buffer width
Class 2(S) and Class 1 streams	25 percent of the standard buffer width (see subsection (D)(1)(d) of this section)

5. Stream Buffer Reduction with Removal of Impervious Surface Area: The standard stream buffer area may be reduced at a 1:1 ratio with the removal of existing, legally nonconforming impervious surface area located within the stream buffer area. For example, if one hundred (100) square feet of existing impervious area is removed, the stream buffer may be reduced by one hundred (100) square feet. The removed impervious area shall be located closer toward the stream than the proposed buffer reduction area. The removed impervious area shall be restored with native vegetation, consistent with the stream buffer enhancement plan requirements in subsection (D)(1)(c)(3) of this section. Existing site characteristics, including buffer vegetation, slopes, etc., and proposed development shall be considered in determining the location of the allowed reduced buffer area.

6. Stream Buffer Averaging Requirements: Standard stream buffer widths may be modified by averaging buffer widths after review of a critical area study prepared by a qualified professional for compliance with the following criteria:

a. The proposed site plan demonstrates efforts to avoid and minimize stream and stream buffer impacts;

b. Buffer width averaging is consistent with the best available science and will not adversely impact functions or values;

c. The total area within the stream buffer after averaging is no less than the area within the standard buffer prior to averaging. The location of the replacement buffer area shall be contiguous with the standard buffer to be averaged;

d. The buffer width shall not be reduced by more than twenty-five (25) percent of the standard buffer width at any location, unless a variance is approved in accordance with IMC 18.10.430;

e. A maximum of fifty (50) percent of the buffer perimeter on a site may be reduced by averaging;

f. Buffer averaging shall consider physical characteristics on a site, including but not limited to existing buffer vegetation, slopes, floodplain, hydrology, surface drainage, and association with nearby streams and wetlands. Buffer averaging shall not be allowed within the designated floodway of streams;

g. Buffer averaging credit shall not be allowed in areas already protected by the critical area regulations; and

h. Mitigation, such as revegetation and enhancement of existing vegetation, may be required by the Director.

18.10.795 Mitigation for streams.

A. Mitigation shall be conducted as defined in IMC 18.10.390, as provided in IMC 18.10.490, and in this section.

B. Standards for Restoration, Enhancement or Replacement:

1. Restoration is required when a stream or its buffer has been altered in violation of this chapter or any other ordinance applying to the treatment of streams, or when an unapproved or unanticipated alteration occurs during the construction of an approved development proposal; provided, that a mitigation plan for the restoration demonstrates that:

a. The stream is degraded and will not be further degraded by the restoration activity;

b. The restoration will reliably and demonstrably improve the water quality and fisheries and wildlife habitat of the stream;

c. The restoration will have no lasting significant adverse impacts on any in-stream resource; and

d. All work will be carried out under the direct supervision of a biologist.

e. The following minimum performance standards shall be met for restoration of a stream; provided, that these standards may be modified if the applicant can demonstrate that greater habitat value can be obtained:

(1) The natural or channel dimensions existing immediately prior to the development proposal (unless illegally altered), including identical depth, width, length and gradient at the location and the horizontal alignment (meander lengths) should be replaced to replicate the conditions immediately prior to the development proposal (unless illegally altered);

(2) The bottom should be restored with identical or similar materials;

(3) The bank and buffer configuration should be restored to the natural conditions;

(4) The channel, bank and buffer areas should be replanted with native vegetation which replicates the optimal in species, sizes and densities; and

(5) The natural habitat value should be restored.

2. Replacement or enhancement is required when the City permits or approves the alteration of a stream or buffer. There will be no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations.

a. Replacement: When an approved alteration involves the relocation of a stream, the performance standards in subsection (B)(1)(e) of this section are required in order to replicate the structure and function of the original stream, unless the applicant can demonstrate that greater habitat value can be obtained through varying these standards.

b. Enhancement: Enhancement, when allowed, should improve the functions and values of the streams. Surface water management or flood control alterations shall not be considered enhancement unless other functions and values are simultaneously increased.

c. On-Site: Replacement or enhancement for streams shall be accomplished in streams, and shall occur on-site unless the applicant demonstrates that: on-site replacement or enhancement is not possible; the off-site alternative is in the same drainage sub-basin; and greater biological and hydrological values will be derived.

3. Monitoring Program: Stream and stream buffer monitoring shall be required in accordance with IMC 18.10.500.

4. Maintenance Program: All streams and stream buffers adjacent to proposed development shall be maintained in perpetuity based on direction from the Director with input from City staff. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.31, 1996. Formerly 18.10.800).

18.10.940 Shoreline Master Program adopted.

A. The Issaquah Shoreline Master Program, dated February 2013, is adopted as the City's Shoreline Master Program pursuant to the Washington State Shoreline Management Act of 1971 as amended (RCW 90.58). The Shoreline Master Program is adopted under the authority granted by the Act and WAC Chapter 173-26. (Ord. 2108 § 10.3.1, 1996; Ord. 1863 § 2, 1990).

B. Shoreline exemptions, shoreline substantial development permits, shoreline variances and shoreline conditional use permits shall be subject to all of the applicable procedural requirements of IMC 18.04.

APPENDIX B

Chapter 16.36
AREAS OF SPECIAL FLOOD HAZARD

Sections:

16.36.010 Findings.

The City Council finds that:

A. Certain areas within the corporate limits of the City, identified herein, are subject to periodic inundation which endangers life, property, health and safety, causes disruption of commerce and governmental services, and creates extraordinary public expenditures for flood protection and relief.

B. These flood losses are caused by the natural flow and ponding of floodwaters and the cumulative effect of obstructions in areas of special flood hazards, which increase flood depths and velocities. Buildings that are

inadequately floodproofed, elevated or protected from flood damage or that otherwise encroach on the natural storage capacity of the floodplain increase the extent of flooding and the amount of flood damage.

C. These regulations are promulgated in order to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect life and property by preventing the unwise use of flood-prone lands;

2. To minimize expenditure of public money and costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

7. To ensure that potential buyers, appraisers, assessors, and others are notified that property is in an area of special flood hazard;

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and

9. To ensure that existing and new homes, businesses and public buildings will qualify for participation in the National Flood Insurance Program.

D. The purposes of this regulation will best be fulfilled by regulations and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

4. Controlling filling, grading, dredging and other development which may increase flood damage; and

5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1465 § 1, 1981).

16.36.020 Scope.

A. The provisions of this chapter shall apply to any lands and buildings thereon, whether existing or proposed, located within the areas of special flood hazard. These regulations shall apply to the construction, reconstruction, relocation, addition, or substantial improvement of such buildings, in conjunction with a building permit authorized under Chapter 16.04 IMC, Construction Codes, which may include additional requirements for flood-resistant construction under the International Building Code, the International Residential Code, and other applicable requirements, and to land-altering activities involving placement or move of fill or other material that impede the movement and/or storage of floodwater.

B. Exemptions. The following land-altering activities within areas of special flood hazard are not considered to alter the movement and/or storage of floodwater and therefore are exempt from the provisions of this chapter:

1. Clearing of nonnative vegetation and planting of City-approved native vegetation at streamside restoration projects.

2. Temporary placement of sand bags for flood protection purposes, provided they are placed within 5 feet of structures being protected and not along property boundaries or stream banks. Temporary shall mean that sand bags are in place no longer than 6 months within any year. Discarded sand bags must be completely removed from areas of special flood hazard.

3. Replacement of rip rap protection at bridge footings, piers and abutments, removal of accumulated sediment from bridges and sedimentation facilities, removal of accumulated sediment from detention ponds and drainage ditches, and other maintenance actions intended to restore the original design dimensions and condition of a constructed facility.

4. Installation and maintenance of underground utilities, and maintenance of streets and other utilities, provided there is no net loss of flood storage capacity.

5. Naturally fallen trees and flood- or storm-deposited sediment and debris in or across the floodplain or floodway areas shall not be considered obstructions or fill for the purposes of this chapter. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1827 § 1, 1989; Ord. 1465 § 2, 1981).

16.36.030 Definitions.

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Appeal” means a request for a review of the designated official’s interpretation of any provision of this chapter or a request for a variance.

2. “Area of shallow flooding” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to 3 feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. (AO zones are characterized by sheet flow, and AH zones are indicative of ponding.)

3. “Area of special flood hazard” means the land in the floodplain within the City subject to a 1 percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

4. “Base flood” means the flood having a 1 percent chance of being equaled or exceeded in any given year. Designation on maps always includes the letters A or V.

5. “Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

6. “Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations; installations which produce, use, or store hazardous materials or hazardous waste in a manner that could result in a significant release during flooding conditions; and any structure classified as a group “E,” “H” or “I” occupancy as defined by the International Building Code.

7. “Designated official” means the City of Issaquah Director of Public Works or any duly authorized representative of such director. For the purposes of reviewing development proposals for building code compliance and elevation certificates, the Director authorizes the Building Official to administer the relevant portions of this chapter.

8. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, installation of landscape berms and planters, storage of equipment or materials, excavation or drilling operations located within the area of special flood hazard.

9. “Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

10. “Flood Insurance Study” means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

11. “Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of inland waters; and/or

b. The unusual and rapid accumulation of runoff of surface waters from any source.

12. “Floodplain management regulations” means the zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

13. “Floodplain or flood-prone area” means a land area adjoining a river, stream, watercourse, or lake which is likely to be flooded.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

15. “Flood wall” means any material so constructed, piled, bermed or otherwise placed in an area of special flood hazard that diverts or displaces flood water for the purpose of protecting structures and/or property.

16. “Floodway” means the 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 1 foot at any point.

17. “Fully enclosed area” means (a) an area where the net free openings in an exterior wall comprise less than 30 percent of the exposed wall under consideration. The exposed wall is the area within the boundaries described by the grade line, the vertical edges of the wall, and a horizontal line set at an elevation of 1 foot above the base flood elevation; or (b) any time the bottom edge of an opening, considered to be a portion of the net free opening area as described above, is located more than 1 foot above the grade line.

18. “Improvement” means any repair, reconstruction, or improvement of an existing structure.

19. “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of IMC 16.36.130.

20. “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers and other similar vehicles.

21. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

22. “Map” means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency.

23. “Mean sea level” means the average height of the sea for all stages of the tide.

24. “New construction” means new, complete residential or nonresidential structures for which the start of construction is commenced on or after the effective date of the ordinance codified in this chapter. For the purposes of this chapter, building additions are termed improvements (see “substantial improvements”).

25. “100-year flood.” See “base flood.”

26. “Person” includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

27. “Post-FIRM building” is a structure built after May 1, 1980, when the Flood Insurance Rate Maps (FIRMs) first became effective in the City of Issaquah and associated construction standards were adopted under Ord. 1422 (replaced in 1981 by Ord. 1465).

28. “Recreational vehicle” means a vehicle which is:

a. Built on a single chassis;

b. Four hundred square feet or less when measured at the largest horizontal projection;

c. Designed to be self-propelled or permanently towable by a light duty truck; and

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

29. “Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the building permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

30. “Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

31. “Substantial improvement” means any repair, reconstruction, or improvement of an existing structure, the cumulative cost of which since the year 1980 equals or exceeds 50 percent of the current fair market value of the structure either:

a. Before the proposed improvement or repair (construction) is started; or

b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

32. “Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

33. “Water dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

34. “Water surface elevation” means the projected heights in relation to mean sea level reached by floods of various magnitudes and frequencies in the floodplains of shoreline or riverine areas. (Ord. 2420 § 1, 2005; Ord. 2065 § 1, 1995; Ord. 2030 § 6, 1994; Ord. 1827 § 2, 1989; Ord. 1465 § 3, 1981).

16.36.040 Areas of special flood hazard designated.

The areas of special flood hazard include, but are not limited to, those areas identified by the Federal Emergency Management Agency (FEMA) in the King County, Washington, Flood Insurance Study dated April 19, 2005, with accompanying Flood Insurance Rate Maps (FIRMs), and any revisions hereto, which are adopted by reference and declared to be part of this chapter. Other base flood areas may be determined in accordance with IMC 16.36.210(B). The Flood Insurance Study and accompanying FIRMs are on file at the Issaquah Public Works Engineering Department. (Ord. 2420 § 1, 2005; Ord. 2182 § 1, 1998; Ord. 2065 § 2, 1995; Ord. 2030 § 6, 1994; Ord. 1827 § 3, 1989; Ord. 1465(A), 1981).

16.36.060 Interpretation.

A. The designated official is authorized and directed to interpret the provisions of this chapter.

B. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under State statutes. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1465 § 5(D), 1981).

16.36.070 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1465 § 5(C), 1981).

16.36.080 Warning and disclaimer of liability.

A. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

B. In addition to the terms, conditions and requirements of this chapter, the City's building code and other City ordinances, any person making application for improvements to lands or structures or construction of new structures on lands included in the areas of special flood hazard shall, as a condition for approval of the permit, provide the City with an executed "Covenant Not to Sue," as required by Chapter 16.24 IMC. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1827 § 4, 1989; Ord. 1465 § 5(E), 1981).

16.36.090 Permits – Required.

A. No land within the areas of special flood hazard shall hereafter be subdivided or short subdivided, improved, filled, graded or cleared; nor shall any structure or development, including manufactured homes, be constructed, reconstructed, improved, relocated, or erected on such lands unless the person(s) responsible for such improvements shall first obtain a flood hazard permit for such action in accord with the provisions of this chapter. When the development results in the displacement of flood water, the flood hazard permit shall include a certification by a licensed civil engineer registered in the State of Washington that compensatory storage is provided and the hydraulic capability of the floodplain is preserved on-site to convey floodwaters through the property without affecting adjacent properties, in accordance with IMC 16.36.130 and 16.36.140.

B. To certify that actual building elevations meet the requirements of this chapter, an elevation certificate prepared by or under the direct supervision of a professional land surveyor licensed in the State of Washington is required for new and substantially improved structures in special flood hazard areas and shall be submitted and approved by the City prior to a final inspection or issuance of a certificate of occupancy.

C. To certify that floodproofing meets National Flood Insurance Program requirements, a floodproofing certificate prepared by a Washington State licensed engineer or architect is required for nonresidential buildings floodproofed up to or above the base flood elevation.

D. Compliance with the requirements of this chapter is intended to meet the minimum requirements of the Federal Emergency Management Agency, which allows City participation in the National Flood Insurance Program and makes federally subsidized flood insurance available to owners and occupants of structures located in the City. Meeting the minimum standards does not necessarily mean that a structure will receive the lowest insurance premium, as determined by insurance rating factors, that is potentially available for a new or improved structure constructed at a particular location. It is applicant's responsibility to identify those higher building standards that could potentially improve a structure's insurance rating and lower the resulting flood insurance premium.

E. Exemptions. This section shall not apply to small accessory buildings under 200 square feet that are exempt from a building permit; provided, that no displacement of floodwaters occurs. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1827 § 5, 1989; Ord. 1465 § 6(A), 1981).

16.36.100 Permit – Application.

A. To obtain a permit required in this chapter, the applicant shall fill out an application form, provided by the designated official, that shall include at a minimum the following:

1. The name and address of the applicant;

2. The name and address of the legal owner;

3. The nature of the proposed action;

4. Description of proposed new structure or improvements to an existing structure;

5. Description of proposed fill and other nonstructure site improvements, with accompanying site plan, showing details of proposed mitigation that will be required to meet the floodplain standards contained in this chapter.

B. The following documents shall be provided by the applicant at the time the permit application is filed with the City:

1. A topographic survey of the property, prepared by a licensed surveyor, with sufficient scale and contour interval to adequately assess variations in the ground surface, and based on the mean sea level datum;

2. A design of site drainage in compliance with Chapter 13.28 IMC, Stormwater Management Policy;

3. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed improvements or development. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1465 § 6(B, C), 1981).

16.36.110 Permit – Fees.

A fee shall accompany the permit application in accordance with IMC 3.65.040(I), Flood Hazard Permit Application Fees. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1827 § 6, 1989; Ord. 1465 § 6(D), 1981).

16.36.120 General standards.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Crawlspaces. Crawlspaces are allowed in residential and nonresidential construction only where the difference in elevation between the crawlspace interior grade and lowest adjacent exterior grade is 2 feet or less, the total height of the crawlspace as measured from the interior grade of the crawlspace to the bottom of the floor joists is 4 feet or less, and adequate drainage is provided to remove floodwaters within a reasonable amount of time after a flood event. Interpretation and application of these requirements shall be consistent with official FEMA technical bulletin guidance on crawlspace construction. Other types of foundations, such as open pile or column foundations, that allow free-flow of floodwaters may be required in high velocity areas (i.e., velocities exceeding 5 feet per second). Below grade crawlspaces constructed in accordance with these

requirements will not be considered basements. Crawlspaces that are excavated below grade will result in higher flood insurance premiums.

D. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

3. On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding. On-site disposal systems require permits and approval by Seattle-King County Department of Public Health.

4. Utility transmission lines transporting hazardous substances shall be buried at a minimum depth of 4 feet below the maximum depth of scour for the base flood as predicted by a Washington State licensed professional civil engineer and shall achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated.

E. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Main collector roads serving new subdivisions shall have a surface elevation high enough to be safely used for evacuation in the event of a 100-year flood. In addition, all roads serving new subdivisions shall be of sufficient width to allow parking of vehicles and access for emergency vehicles during periods of inundation.

5. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated by the applicant for subdivision proposals and other proposed developments which contain at least 2 lots or 2 acres, whichever is less.

F. Review of Building Permits. Where base flood elevation data is not available, either through the Flood Insurance Study or from another authoritative source (IMC 16.36.210 (B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least 2 feet above the highest existing grade may result in higher insurance rates.

G. Channel Migration and Bank Stabilization. No structure shall be allowed which would be at risk due to stream bank destabilization including that associated with channel relocation or meandering.

H. Temporary Structures. Temporary structures that do not have footings, foundations, or other anchorage to prevent flotation, collapse or movement of the structure during floods shall be removed from the floodplain during the flood season from September 30th to May 1st.

I. Flood Walls. No flood walls are allowed except if constructed within 3 feet of a flood-prone structure that is not built to current flood standards. Flood walls shall be designed by a qualified engineer to withstand hydrostatic pressures and undermining of footings. Flood walls are also subject to the floodway encroachment standard in IMC 16.36.140, and reduction in floodplain conveyance and storage due to flood wall construction shall require mitigation. A flood wall is not meant to include a building wall or foundation that is associated with an approved structure. Applicants constructing flood walls shall be notified that flood insurance premiums for residential structures will still be based on lowest floor elevations regardless of the effect of the flood wall.

J. Flood Hazard Notification. Base flood data and flood hazard notes shall be shown on the face of the recorded plat, including, but not limited to, the base flood elevation, required flood protection elevations, and the boundaries of the floodplain. The following note, or similar language, shall appear on the face of the recorded plat and on the individual titles for all affected lots.

NOTICE

> Lots and structures located within flood hazard areas may be inaccessible by emergency vehicles and personnel during flood events. Residents and property owners should take appropriate advance precautions. Property damage and personal safety risks may occur.

(Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1827 § 7, 1989; Ord. 1465 § 7(A), 1981).

16.36.130 Specific standards (Zone AE).

In all areas of special flood hazards designated with the letters AE where base flood elevation data has been provided as set forth in IMC 16.36.040 or 16.36.210(B), the following provisions are required:

A. Residential Construction. New construction, substantial improvement of any residential structure, and improvement of any post-FIRM residential structure shall have the lowest floor and all electrical, heating, ventilation, plumbing, air-conditioning equipment, and other utility and service facilities elevated to at least 1 foot above the base flood elevation.

1. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer and must meet or exceed the following minimum criteria:

a. A minimum of 2 openings having a total net free area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than 1 foot above the adjacent exterior grade;

c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters; and provided, that the screens, louvers, or other devices meet the requirements of the International Building Code.

B. Nonresidential Construction. New construction, substantial improvement of any commercial, industrial or other nonresidential structure, and improvement of any post-FIRM commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, and all electrical, heating, ventilation, plumbing, air-conditioning equipment, and other utility and service facilities elevated to at least 1 foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that up to a level of 1 foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in IMC 16.36.210(C)(2);

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in IMC 16.36.130(A);

5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as 1 foot below that level).

C. Compensatory Storage and No Reduction in Floodplain Conveyance Required. Development proposals shall not reduce the effective base flood storage volume of the floodplain, and also shall not reduce the hydraulic capability of the floodplain on-site to convey floodwaters through the property during the base flood event. The compensatory storage requirement means that the project shall not result in any additional net fill within the floodplain. No reduction in floodplain conveyance means that no rise in base flood elevations is allowed on adjacent properties. Providing this compensatory conveyance capacity can be done in conjunction with the compensatory storage. Compensatory storage can be provided either on-site or at a hydraulically connected off-site location, and can be obtained from a previous project that was constructed by the applicant or by another owner who provides written permission; provided, that excess and unused compensatory storage is available from that project. A floodplain hydraulic study prepared by a licensed civil engineer registered in the

State of Washington may be required to verify compliance with the compensatory storage and compensatory conveyance requirements. Certification by the engineer that appropriate hydraulic modeling methods were used to comply with these requirements shall accompany the flood hazard permit. In lieu of an engineering study the applicant must be able to provide adequate information that demonstrates an understanding of floodplain conveyance and compliance with this section.

D. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is 1 foot above the base flood elevation and shall be securely anchored to an anchored foundation system in accordance with the provisions of IMC 16.36.120(A).

E. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use, on their wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the requirements for manufactured homes.

F. Bank Improvements. Where proposed development or improvements include modifications or work within the portion of the stream channel under the jurisdiction of the Washington Department of Fisheries and Wildlife (WDFW), an application shall also be made for a State hydraulics permit approval (HPA), the application for which is through WDFW using a joint aquatic resource permit application (JARPA). Once the State HPA permit is approved, application shall be made for the permit required by this chapter.

G. Critical Facilities. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the base floodplain. Construction of critical facilities shall be permissible within the base floodplain if no feasible alternative site is available. Critical facilities constructed within the floodplain shall have the lowest floor elevated to 3 or more feet above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to assure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base floodplain shall be provided to all critical facilities to the extent possible. (Ord. 2420 § 1, 2005; Ord. 2115 § 1, 1996; Ord. 2065 § 3, 1995; Ord. 2030 § 6, 1994; Ord. 1872 § 7, 1989; Ord. 1465 § 7(B), 1981).

16.36.140 Floodways.

Located within the area of special flood hazard established in IMC 16.36.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and

hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. New construction and substantial improvements meeting this standard shall comply with all applicable provisions of IMC 16.36.130.

B. All new construction, substantial improvement, any improvement to a structure that increases the ground floor area, and relocation of structures, including manufactured homes, is prohibited. Work done on structures to correct existing violations with existing health, sanitary, or safety codes which have been identified by the local code enforcement or building official and are the minimum necessary to assure safe living conditions may be excluded in the monetary calculation of a substantial improvement. A residential dwelling located partially within a designated floodway will be considered as totally within a designated floodway and must comply with this chapter. However, the floodway prohibition in this subsection does not apply to existing farmhouses in designated floodways that meet the provisions of WAC 173-158-075, or to substantially damaged residential dwellings other than farmhouses that meet the depth and velocity and erosion analysis provisions of IMC 16.36.140(D), or to structures identified as historical places.

C. Agricultural uses, including crops, nursery stock, tree farming, stream improvements and all stream maintenance functions or operations of any government agencies, or private individuals, public works such as streets, bridges, water and sewer and other underground utility lines, and park and recreational facilities, excluding structures, may be permitted in the floodway when shown to be in conformance with the provisions of this chapter.

D. Substantially Damaged Residential Dwellings in Floodways Other than Farmhouses. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Department of Ecology, at the request of the City, is authorized to assess the risk of harm to life and property posed by the specific conditions of the floodway. Based upon scientific analysis of depth, velocity, flood-related erosion and debris load potential, the Department of Ecology may exercise best professional judgment in recommending to the City repair, replacement or relocation of a substantially damaged structure. The property owner shall be responsible for submitting to the City any information necessary to complete the assessment required by this section when such information is not otherwise available.

1. Recommendation to repair or replace a substantially damaged residential structure located in the regulatory floodway shall be based on the flood characteristics at the site. In areas of the floodway that are subject to shallow and low velocity flooding, low flood-related erosion potential, and adequate flood warning time to ensure evacuation, the Department of Ecology may recommend the replacement or repair of the damaged structure. Any substantially damaged residential structure located in the regulatory floodway in a high risk zone based on the flood characteristics will not be recommended to be repaired or replaced. Flood warning times must be 12 hours or greater, except if the local government demonstrates that it has a flood warning system and/or emergency plan in operation. For purposes of this paragraph, flood characteristics must include:

a. Flood depths cannot exceed more than 3 feet; flood velocities cannot exceed more than 3 feet per second.

b. No Evidence of Flood-Related Erosion. Flood erosion will be determined by location of the project site in relationship to channel migration boundaries adopted by the City. Absent channel migration boundaries, flood erosion will be determined by evidence of existing overflow channels and bank erosion.

2. At the request of the City, the Department of Ecology will prepare a report of findings and recommendations for the City concurrence on repair or replacement of substantially damaged residential structures located in the regulatory floodway. Without a recommendation from the Department of Ecology for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per subsection B of this section.

3. Before the repair, replacement, or reconstruction is started, all other requirements of this chapter must be satisfied. In addition the following conditions must be met:

a. There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.

b. A replacement residential structure is a residential structure built as a substitute for a previously existing residential structure of equivalent use and size.

c. Repairs or reconstruction or replacement of a residential structure shall not increase the total square footage of floodway encroachment.

d. The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of 1 foot higher than the base flood elevation.

e. New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.

f. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the floodwaters.

g. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1827 § 8, 1989; Ord. 1465 § 7(C), 1981).

16.36.145 Shallow flooding areas (AO zones).

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in those zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is

unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

A. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures, and to ensure that flood water in likely flow pathways such as swales are not blocked and cause it to be diverted to adjacent properties.

B. New construction, substantial improvement of any residential structure and manufactured home, and improvement of any post-FIRM residential structure and manufactured home within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade to the structure, 1 foot or more above the depth number specified in feet on the community's FIRM (at least 2 feet above the highest adjacent grade to the structure if no depth number is specified):

1. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer and must meet or exceed the following minimum criteria:

a. A minimum of 2 openings having a total net free area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than 1 foot above the adjacent exterior grade;

c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters; and provided, that the screens, louvers, or other devices meet the requirements of the International Building Code.

C. New construction, substantial improvement of any commercial, industrial or other nonresidential structure, and improvement of any post-FIRM commercial, industrial or other nonresidential structure within AO zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, 1 foot or more above the depth number specified on the FIRM (at least 2 feet if no depth number is specified), or

2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer as set forth in IMC 16.36.090(C).

3. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as 1 foot below that level).

D. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use, on their wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the requirements for manufactured homes. (Ord. 2420 § 1, 2005).

16.36.150 Hazardous materials.

The placement or storage of chemicals, petroleum products or by-products, fertilizers, insecticides, pesticides, lime, cement or other material that, when inundated, will contribute to or constitute a hazard to life, health and safety, and/or adversely affect the quality of surface waters is prohibited within the areas of special flood hazard. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1465 § 7(D), 1981).

16.36.160 Appeals.

Any person aggrieved by a decision or interpretation of the designated official relative to the provisions of this chapter may appeal such decision to the Hearing Examiner as established by the City and shall comply with all procedural requirements prescribed by the Hearing Examiner and Chapter 1.32 IMC, Appeals. The Hearing Examiner shall affirm the decision unless from a review of the record it is determined the decision being appealed was clearly erroneous. (Ord. 2420 § 1, 2005; Ord. 2301 § 5, 2001; Ord. 2030 § 6, 1994; Ord. 1827 § 9, 1989; Ord. 1777 § 1, 1988; Ord. 1465 § 4(E), 1981).

16.36.170 Variances.

A. Purpose. The variance provision is provided to property owners who, due to the strict implementation of standards set forth in this chapter, and/or due to unique circumstances regarding the subject property, are deprived of privilege commonly enjoyed by other properties in the same vicinity and flood area and under the same flood regulation; provided however, the fact that surrounding properties have been developed under regulations in force prior to the adoption of this code shall not be the sole basis for the granting of a variance.

B. Variance Criteria.

1. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

d. Variances may be issued for nonresidential buildings to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with IMC 16.36.120 and 16.36.130.

2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the provisions of subsection C of this section have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variances increases.

C. In passing upon such variance applications, the Hearing Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. Upon consideration of the factors of subsection C of this section and the purposes of this chapter, the Hearing Examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

E. Any applicant to whom a variance is granted relief from the lowest elevation standards in this chapter shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

F. The designated official shall maintain the records of all variance actions and report any variances to the Federal Insurance Administration upon request. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1827 § 10, 1989; Ord. 1465 § 4(F), 1981).

16.36.180 Enforcement authority.

The designated official is authorized and directed to enforce all provisions of this chapter and is empowered to promulgate such rules and administrative procedures as may from time to time be necessary to accomplish the purpose of this chapter, subject to approval by the City Council. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1465 § 4(A), 1981).

16.36.190 Designated official – Right of entry.

A. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the designated official or his authorized representative has reasonable cause to believe that there exists in any building or upon any lands any condition or violation of this chapter which makes such building or lands unsafe, dangerous or hazardous, the designated official or his authorized representative may enter such building or lands at all reasonable times to inspect the same or to perform any duty imposed on the designated official by this chapter; provided, that if such building or lands be occupied, he shall first present proper credentials and request entry; and if such building or lands be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or lands and request entry. If such entry is refused, the designated official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

B. No owner or occupant or any other person having charge, care, or control of any building or lands shall fail or neglect, after proper request is made as provided in this chapter, to promptly permit entry by the designated official or his authorized representative for the purpose of inspection and examination pursuant to this chapter. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1465 § 4(B), 1981).

16.36.200 Inspections.

Whenever it is necessary to verify compliance with the provisions of this chapter, either during the review process before any work is commenced, or during the construction or development stage after all permits have been obtained, it shall be the responsibility of the designated official to ensure that all necessary inspections are performed in a timely manner. The designated official shall keep records reflecting inspection dates and results thereof. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1465 § 4(C), 1981).

16.36.210 Designated official – Duties and responsibilities.

The duties of the designated official shall include, but not be limited to:

A. Permit Review.

1. The designated official shall review all development permits to determine that the permit requirements of this chapter have been satisfied;

2. The applicant shall obtain and comply with conditions of all necessary Federal, State, and local permits, and incorporate those conditions into all applicable development permits and the flood hazard permit.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with IMC 16.36.040, the designated official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer IMC 16.36.130, 16.36.140 and 16.36.145. Sources of other base flood elevation and floodway data include, but are not limited to, draft work maps prepared for flood insurance study updates, preliminary flood insurance rate maps, and site-specific floodplain studies conducted by a licensed professional engineer. If available flood information provides sufficient evidence that the base flood elevations shown on the flood insurance rate maps are not accurate, or if the development site area is not within the mapped coverage of the flood insurance rate maps and flood hazards exist at the site due to proximity to a stream or evidence of past flooding, a development proposal may be required to submit a floodplain hydraulic analysis based on available flood and site information in order for the designated official to administer IMC 16.36.130, 16.36.140 and 16.36.145.

C. Information to Be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study, flood insurance rate map, or as required through IMC 16.36.210(B), obtain and review all elevation certificates and record the actual elevation for new and substantially improved structures, to ensure completeness and accuracy,

and file with property's building records. Elevation data shall be provided in both the FEMA datum shown on the effective flood insurance rate map and the City datum (NAVD 88).

2. For all new or substantially improved floodproofed nonresidential structures, obtain and review all floodproofing certificates for nonresidential structures, to ensure completeness and accuracy, and file with property's building records. Elevation data shall be provided in both the FEMA datum shown on the effective flood insurance rate map and the City datum (NAVD 88).

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify FEMA and affected landowners, adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse. Applicants may be required to submit applications and fees for letters of map revision to FEMA to modify flood insurance rate maps if a permitted development activity results in any change to a floodway boundary or a greater than 1/2 foot change to base flood elevations.

2. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished. (Ord. 2420 § 1, 2005; Ord. 2030 § 6, 1994; Ord. 1844 § 1, 1990; Ord. 1465 § 4(D), 1981).

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