Final

TOWN OF WOODWAY
SHORELINE MASTER PROGRAM

Prepared for
The Town of Woodway

May 2013

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CHAPTER 1. INTRODUCTION

1.1 Purpose and Responsibility

Washington's Shoreline Management Act (SMA; RCW 90.58) 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...."

The intent of the Town of Woodway Shoreline Master Program is to ensure comprehensive planning for Woodway's shorelines and to ensure the adoption and implementation of use regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies adopted by the State.

1.2 Title

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

1.3 Adoption Authority

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

1.4 Applicability

All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program. The policies and regulations of this Program apply to all shoreline uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required. The Town of Woodway has the authority and responsibility to condition a project even if it is exempt from the requirement for a substantial development permit. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

1.5 Liberal Construction

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

1.6 Severability

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

1.7 Point Wells

In addition to the Town's shoreline, the SMP update will consider and plan for the Town's Municipal Urban Growth Area (MUGA), Point Wells. Point Wells is a 61 -acre tract owned by the Alon Corporation/ Blue Square Real Estate. It is currently within unincorporated Snohomish County. If annexed by the Town of Woodway, the goals, policies and regulations of this program would be applied to Point Wells.

1.8 Shoreline Jurisdiction

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

- The Puget Sound shore within both the Town's municipal boundary and its Municipal Urban Growth Area (MUGA) known as Point Wells (Figure 2).
- The open water and tidelands extending to the middle of the Sound;
- The upland area landward 200 feet of the OHWM; and
- All associated wetlands.

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

The SMA further designates some shorelines as "shorelines of statewide significance". These "shorelines of statewide significance" include portions of Puget Sound and other marine water bodies, rivers with mean annual flow of 1,000 cfs or greater, and freshwater lakes 1,000 acres or larger. Consistent with RCW 90.58.020 and .090, the SMA raises the status of "shoreline of statewide significance" by establishing specific preferences for uses and calling for a higher level of effort in implementing the objectives of the SMA.

1.9 Document Organization

The SMP establishes long-term planning goals and policies, specific development standards and use regulations, and permitting and administrative procedures. As such, the SMP is a stand-alone document

that is linked to other town planning documents such as the Woodway Comprehensive Plan and to the Woodway Municipal Code (WMC). The organization of the SMP and the purpose for each chapter is explained below.

- Chapter 1. Introduction: provides Background, purpose and legal authority.
- Chapter 2. Master Program Vision and Goals: provides the SMP vision statement and enacting goals.
- Chapter 3. Shoreline Environment Designations: establishes a purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.
- Chapter 4. General Use Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Modification Policies and Regulations – Establishes policies and regulations of shoreline modification activities and structures.
- Chapter 6. Specific Use Policies and Regulations – Town: establishes policies and regulations of specific uses in the Town's shorelines.
- Chapter 7. Specific Use Policies and Regulations – Point Wells: establishes policies and regulations of specific uses in the Point Wells shorelines.
- Chapter 8. Administrative Procedures: provides procedures and process for permit applications associated with shoreline development.
- Chapter 9. Definitions: provides definitions for terms used throughout the SMP.

CHAPTER 2. SHORELINE VISION AND GOALS

2.1 Shoreline Vision

To preserve, protect and restore the ecological functions necessary to maintain shoreline natural resources while encouraging beneficial uses of the shoreline for the community

2.2 Shoreline Goals

2.2.1 Shoreline Use

Ensure that the land use pattern in the Town's shorelines protect the existing character of the Town and protect existing shoreline environments, habitat, and ecological systems.

Within Point Wells promote water-oriented uses and locate activities and development in areas that will be compatible with adjacent uses and will protect and enhance existing shoreline habitats and ecological systems.

2.2.2 Public Access

Protect the public's opportunity to enjoy the physical and aesthetic qualities of the shorelines, including views of the Puget Sound.

Ensure an adequate supply of safe public access to the Puget Sound shoreline within Point Wells.

2.2.3 Recreation

In Point Wells, encourage water-oriented recreation opportunities and maximize public recreational opportunities of the shoreline.

2.2.4 Circulation

Limit new circulation systems to those that serve allowed uses and limit the size of facilities to the minimum necessary.

Maintain adequate safety, environmental, and aesthetic standards for existing transportation systems within the shoreline jurisdiction.

2.2.5 Conservation

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

Avoid foreseeable risks from geological hazards to people and improvements by recognizing that erosion of marine bluffs is a natural processes and by recognizing how the BNSF Railroad and armored shoreline alter the function and ecological quality of marine nearshore environment.

Maintain or improve water quality and storm water quantity entering the Puget Sound and integrate shoreline goals with the Town's Comprehensive Stormwater Plan. Recognize that land use and water management activities on adjacent uplands affect the quality of the Town's waters and shorelines.

2.2.6 Restoration

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

In point Wells, strive for a net gain in ecological productivity in the nearshore intertidal and estuarine habitat areas.

2.2.7 Archeological, Historical and Cultural Resources

Identify, preserve, protect and restore buildings, sites, or areas of the shoreline that have historic, cultural, archeological, scientific, or educational value.

2.2.8 Flood Hazard Management

Protect the Town of Woodway from losses and damage created by flooding along the coast.

CHAPTER 3. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

3.1 Shoreline Jurisdiction

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

- The Puget Sound shore within both the Town's municipal boundary and its Municipal Urban Growth Area (MUGA) known as Point Wells (Figure 2).
- The open water and tidelands extending to the middle of the Sound;
- The upland area landward 200 feet of the OHWM; and
- All associated wetlands.

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

In administering this Program, the Ordinary High Water Mark (OHWM) shall be determined through a site-specific investigation using field indicators consistent with the definition in Chapter 9 and RCW 90.58.030(2)(c).

3.2 Shorelines of Statewide Significance

3.2.1 Designation of Shoreline of Statewide Significance

The SMA designates some shorelines as "shorelines of statewide significance". These "shorelines of statewide significance" include portions of Puget Sound and other marine water bodies, rivers with mean annual flow of 1,000 cfs or greater, and freshwater lakes 1,000 acres or larger. Consistent with RCW 90.58.020 and .090, the SMA raises the status of "shoreline of statewide significance" by establishing specific preferences for uses and calling for a higher level of effort in implementing the objectives of the SMA.

In the Town of the Woodway and its MUGA, shorelines of statewide significance include the open water areas of Puget Sound lying seaward from the line of extreme low tide. The shorelands landward of extreme low tide do not meet the criteria of RCW 90.58.030(2)(e) for designation as a shoreline of statewide significance, and are considered shorelines of the state. Figure 1 demonstrates this division:

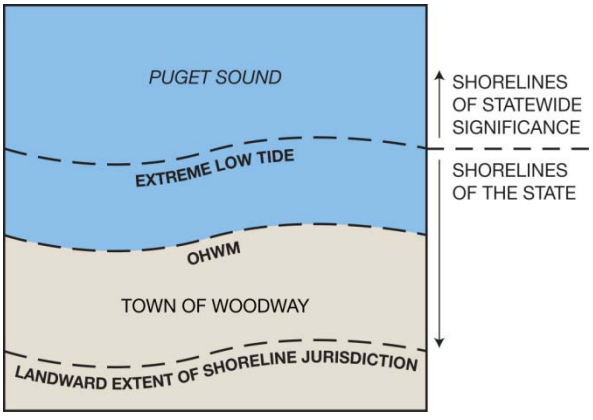


Figure 1. Shoreline of Statewide Significance

3.2.2 Management Policy

The following policies are hereby adopted for shorelines of statewide significance in Woodway, 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.
8. Uses that are not consistent with these policies should not be permitted on shorelines of statewide significance.

3.3 Shoreline Environment Designations

The objective of this Master Program is to provide reasonable and understandable guidelines to anyone seeking a permit for shoreline development. Therefore, in accordance with the SMA, this Master Program establishes three shoreline environments: "Urban Conservancy," "Point Wells Urban" and "Aquatic" environments as depicted on Figure 2. Shoreline environment designations are based on shoreline ecological functions, existing development patterns, potential for restoration, and community aspirations. The general boundaries of Woodway's environments are:

1. Urban Conservancy – includes all shorelands within the Town's municipal boundary
2. Point Wells Urban – Includes all shorelines with the Point Wells MUGA
3. Aquatic - Includes all shoreline areas waterward of the OHWM.

For each shoreline environment designation a purpose, designation criteria, and general management policies are provided. Any areas within the Town's shoreline jurisdiction that have not been mapped and designated shall be designated Urban Conservancy and will be managed and regulated under the identified goals, policies, and regulations of the Urban Conservancy designation.

3.3.2 Urban Conservancy

A. Purpose

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions, including properly functioning conditions for protected, threatened and endangered (PTE) species and ecological functions in urban and developed settings, while allowing a variety of water-oriented uses.

B. Designation Criteria

The area designated as Urban Conservancy includes the shorelines within the Municipal boundaries of the Town of Woodway landward of the OHWM.

C. Management Policies

1. The primary allowed uses should preserve the natural character of the area or promote preservation of open space, flood plain or sensitive lands either directly or over the long term.

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

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

4. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the environment and the setting.

3.3.3 Point Wells Urban

A. Purpose

The Point Wells Urban shoreline environment designation is for the Point Wells shoreline area that is currently within unincorporated Snohomish County. The purpose of the environment is to accommodate higher density uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. An additional purpose is to provide appropriate public access and recreational uses.

B. Designation Criteria

The point Wells urban designation includes the shoreline jurisdiction within the Point Wells MUGA landward of the OHWM

C. Management Policies

1. Within the Point Wells Urban environment, first priority should be given to water dependent and public access uses. Second priority should be given to water related and water enjoyment uses. Non water oriented uses should not be allowed except as part of mixed use developments.

2. New development should be designed and located to preclude the need of shoreline armoring, flood control structures, vegetation removal, and other shoreline modifications.

3. Shoreline use and modification policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new

development shall include environmental cleanup and restoration of the shoreline in accordance with applicable state and federal laws.

4. Non residential developments should be required to provide visual and physical public access to the shoreline where feasible.

5. Aesthetic objectives, such as preserving views and ensuring that building massing is compatible with adjacent uses should be implemented for all developments by means such as appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

6. Multi-family, multiple lot residential and recreational developments should provide public access and joint use for community recreational facilities.

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

8. Commercial development should be limited to water oriented uses.

3.3.4 Aquatic

A. Purpose

The purpose of the "Aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

B. Designation Criteria

The "Aquatic" environment designation is appropriate for all lands waterward of the marine ordinary high-water mark in the Town of Woodway and Point Wells.

C. Management Policies

1. New overwater structures should be prohibited, except for water-dependent uses, public access, or ecological restoration and should be limited to the minimum necessary to support the intended use.

2. Repairs or maintenance should be allowed on existing overwater structures, provided that overwater coverage is not increased and light penetrating design techniques are used if appropriate.

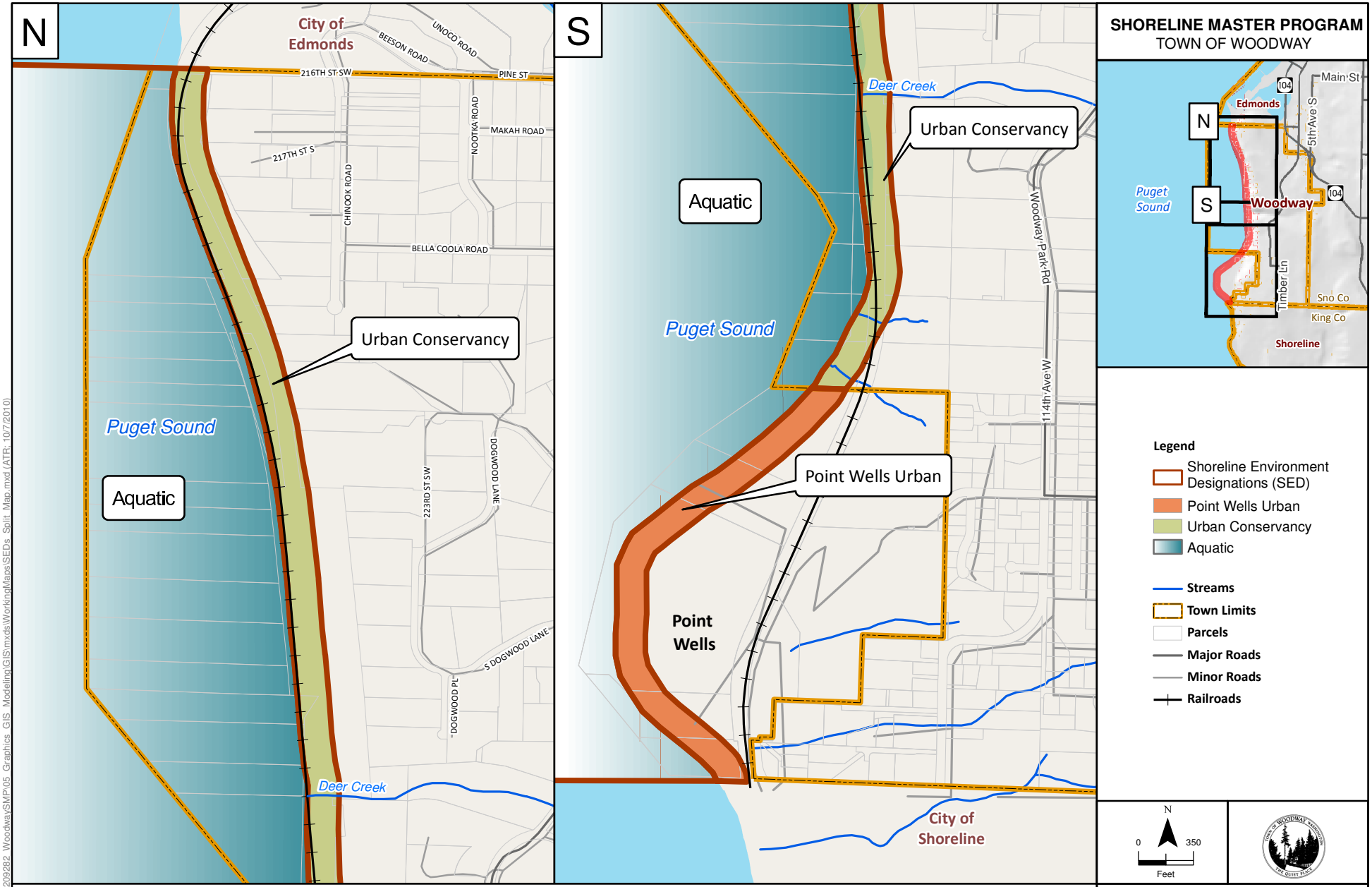
3. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

4. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of existing overwater facilities should be encouraged. Existing overwater facilities should support water-oriented uses.

5. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public

views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

6. Uses that adversely impact the ecological functions of critical saltwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.



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SHORELINE MASTER PROGRAM
TOWN OF WOODWAY

Figure 2

SHORELINE ENVIRONMENT DESGINATIONS (SED)

CHAPTER 4. GENERAL USE POLICIES AND REGULATIONS

4.1 General

General policies and regulations are applicable to all uses and activities that occur within all Shoreline Environmental Designations (SEDs). The policies and regulations found in this chapter are intended to be used in conjunction with the more specific use and activity regulations found in the following chapters. These policies apply to all uses within the jurisdiction, whether or not a separate shoreline permit is required. These policies may be used to condition any required permit or required letter of exemption.

4.2 Shoreline Use

4.2.1 Policies

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

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

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

4. Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource through avoiding view blockage, orienting development toward the shoreline and other similar measures.

5. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Future aquaculture uses are not anticipated within the Town's shoreline jurisdiction; however, some scale or form of aquaculture may be appropriate. A shoreline conditional use permit is required for all new geoduck aquaculture.

4.2.2 Regulations

1. All uses in the shoreline shall comply with the Town's development code (WMC Titles 11-16) and this Program.

2. The shoreline use table (Table 1) defines those uses that are permitted and those uses that are only permitted as a conditional use. All unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.

3. All structures in the shoreline shall be designed and constructed consistent with the underlying zoning and shall not exceed 35 feet above average grade level, consistent with RCW 90.58.

4.3 Environmental Protection and Critical Areas

4.3.1 Policies

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

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

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

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

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

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

4.3.2 Regulations

A. Marine Shoreline Buffers

1. Within the Urban Conservancy and Point Wells Urban environment designations, a standard buffer of 150 feet from the OHWM shall be established. The Shoreline buffer shall be maintained in a predominantly natural undisturbed, undeveloped, and well-vegetated condition except for the uses described below.

2. The following specific uses and activities may be allowed in the shoreline buffer provided they comply with all provisions of this Program:

    a. Water-oriented public access and recreational uses, including trails and/or pedestrian/bicycle paths; provided, that such development is operated, located, designed and constructed to minimize and, where possible, avoid disturbance to shoreline functions and native vegetation to the maximum extent feasible; or

    b. Mitigation, restoration, or enhancement actions that have been approved by the Town and which comply with all of the provisions of this Program.

B. Environmentally Critical Areas

1. The Town of Woodway Environmentally Critical Areas Regulations, as codified in WMC 16.10 (Ordinance No. 09-503, approved May 4, 2009), are herein incorporated into this Program except as noted.

2. Exceptions to the applicability of the Town of Woodway Environmentally Critical Areas Regulations within shoreline jurisdiction are as follows:

   a. The permit process and application requirements of WMC 16.10.120 shall not apply in the shoreline jurisdiction. Use and development proposals in the shoreline shall comply with the permit processing and application requirements in Chapter 8 of this Program.

   b. Development applications that are processed according to the Reasonable Use provisions of WMC 16.10.070 shall require a Shoreline Variance according to Section 8.5.5 of this Program and WAC 173-27.

   c. The procedural provisions, including interpretations, penalties and enforcement, and appeals, within shoreline jurisdiction shall be governed by this Program and not WMC 16.10.040.

   d. The buffer width variance provisions of WMC 16.10.150 shall not apply. Exceptions to Critical Area and Buffer Standards shall only be allowed as described in Section 4.3.2(A)(3) of this Program.

   e. Activities that are exempt from critical areas regulation per WMC 16.10.050 (CAO exemptions section) 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.

   f. The wetland buffer averaging provision of WMC 16.10.310(C)(5) shall not apply in shoreline jurisdiction. Wetland buffer widths may only be reduced to 25 percent as part of an approved wetland buffer averaging without a shoreline variance.

   g. Wetlands, streams and marine waters are subject to various state and federal regulations in addition to this Program. Although some category IV wetlands are not subject to the provisions of WMC 16.10, they may be subject to other state and/or federal regulations. Applicants proposing development that could affect wetlands, streams or marine waters are advised to consult the Washington State Department of Ecology and the U.S. Army Corps of Engineers for regulatory requirements.

   h. A proponent of any new shoreline use or development shall mitigate adverse environmental impacts to achieve no net loss of ecological functions consistent with WAC 173-26-201(2)(e),

whether or not the use/development requires a shoreline substantial development permit or is exempt from a shoreline permit.

i. Wetlands in shorelines are regulated solely under WMC 16.10.300 through 16.10.340 and this Program and shall not be subject to WMC 16.10.500 through WMC 16.10.540.

j. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements consistent with WAC 173-22-035.

k. The presence of hydric soils in the shoreline shall be determined in accordance with the approved federal wetland delineation manual and applicable regional supplements, or as revised by the Washington State Department of Ecology.

l. Mitigation for impacts to wetland within shoreline jurisdiction shall occur in the following prioritized order:

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

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

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

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

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

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

m. In addition to the mitigation monitoring and maintenance requirements of WMC 16.10.230, mitigation projects in the shoreline shall include ten (10) years of monitoring for scrub shrub or forested plantings and five (5) years of monitoring for herbaceous plantings.

n. The wetland mitigation ratio tables in WMC 16.10.320(E) shall not apply in the shoreline. Impacts to wetlands within the shoreline shall be replaced at the following ratios:

Wetland Category	Creation or re-establishment	Restoration or Rehabilitation	Enhancement	Preservation
Category I	6:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

o. In addition to the mitigation performance standard in WMC 16.10.330(B)(11), plantings in mitigation sites within the shoreline shall also require two (2) years of watering to ensure establishment.

p. If the provisions of the Critical Areas Regulations and other parts of this Program conflict, the provisions of this Program shall prevail.

4.4 Archeological, Historic and Cultural Resources

4.4.1 Policies

1. Due to the limited and irreplaceable nature of the resource, public or private uses and activities should be prevented from destroying or damaging any site having historic, cultural, scientific or educational value as identified by the appropriate authorities.

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

3. Development on sites having or adjacent to archeological, historical or cultural resources should be planned and carried out so as to prevent impacts to the resource. The Town should endeavor to involve tribal governments and the State Department of Archaeology and Historic Preservation (DAHP) in the review of development projects that could adversely affect such resources.

4.4.2 Regulations

1. If any archeological artifacts (including historic cemeteries, burials, or human remains) are uncovered during excavations in the shoreline, work must stop and the Town of Woodway, affected Indian Tribes, and the State Department of Archeology and Historic Preservation must be notified.

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

4.5 Restoration and Enhancement

4.5.1 Policies

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

2. Identify specific restoration opportunities where the Town can take the lead with support from other regional entities.

3. Incorporate habitat enhancement elements into the design and implementation of public infrastructure improvement projects.

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

5. Consideration should be made for potential adverse effects of global climate change and sea level rise when designing restoration and remediation projects.

6. Require development proposals to integrate hazardous substance remediation into development projects.

4.5.2 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 WMC 16.10 and assures compatibility with other shoreline uses.

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

4.6 Water Quality

4.6.1 Policies

1. Stormwater should be managed consistent with the Town's Stormwater Comprehensive Plan, storm and surface water regulations (WMC Title 11) and the Comprehensive Plan.

2. Encourage the implementation of capital improvement projects identified by the Woodway Stormwater Comprehensive Plan.

3. Implement low impact development techniques through incentives provided to increase on-site infiltration of stormwater where site soil, geology and groundwater conditions are appropriate.

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

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

4.6.2 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 Town's Stormwater Management Regulations (WMC Title 11), Stormwater Comprehensive Plan, Comprehensive Plan and other applicable laws.

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

4.7 Shoreline Vegetation Conservation

4.7.1 Policies

1. Preserve natural vegetation by controlling plant clearing and earth grading within the shoreline jurisdiction for new development and maintenance of existing facilities in a manner that ensures no loss of ecological functions.

2. Promote vegetation restoration, and the control of invasive weeds and nonnative species to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

3. Encourage restoration or enhancement of native shoreline vegetation through incentives and non-regulatory programs to insure the conservation of the ecological functions provided by shoreline vegetation.

4.7.2 Regulations

1. To conserve and maintain shoreline vegetation, shoreline uses and development shall comply with the buffer standards established in WMC 16.10.140 and adopted into this Program (Sections 4.3.2(A) and (B)); tree preservation regulations in WMC 16.12; and the setback standards established in WMC 14.24.040.

2. Restoration of any shoreline that has been disturbed or degraded shall use native plant materials with a diversity and type similar to that which originally occurred on-site.

4.8 Clearing and Grading

4.8.1 Policies

1. Clearing and grading should only be allowed in the shoreline in conjunction with a permitted use or development, unless otherwise allowed in this Program.

2. Disturbance to and removal of native soils should be minimized within shorelines.

3. Uses and site design should incorporate protection or re-establishment of the maximum amount of native vegetation on a particular site.

4.8.2 Regulations

1. Clearing and grading activities shall only be permitted as part of an authorized activity or as part of a ecological restoration or enhancement project

2. All clearing and grading shall achieve no net loss of ecological functions.

3. All clearing and grading activities shall meet the following standards:

    a. All clearing and grading activities shall be limited to the minimum necessary for the intended development;

    b. Exposed soils shall be immediately developed or re-vegetated to prevent erosion;

    c. Exposed soils must be replanted such that complete coverage of exposed soils is attained within one growing season, or otherwise stabilized using mulch or other BMPs.

4.9 Dredging and Dredge Material Disposal

4.9.1 Policies

1. Dredging and dredge material disposal should be prohibited except when associated with a publically-approved ecological restoration project.

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

3. Dredge material disposal should not be permitted in waterbodies, on shorelands or wetlands, except as part of a permitted shoreline restoration or habitat improvement project.

4.9.2 Regulations

1. Dredging and dredge material disposal shall only be allowed when necessary to support a publically-approved ecological restoration or enhancement project, beach

nourishment project, bulkhead removal or bio-engineered shoreline stabilization project.

4.10 Fill and Excavation

4.10.1 Policies

1. Fill and excavation waterward of the ordinary high water mark should be prohibited except when associated with a publically-approved ecological restoration project.

2. Fill and excavation landward of the ordinary high water mark should only be allowed in association with a permitted use and where allowed should be the minimum necessary.

3. Fill and excavation in the shoreline should be designed and located so there will be no significant degradation of water quality and no alteration of surface water drainage.

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

4.10.2 Regulations

1. Filling and/or excavation waterward of the ordinary high water shall only be allowed as part of a publically-approved ecological restoration or enhancement project, beach nourishment project, bulkhead removal or bio-engineered shoreline stabilization project.

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

3. All filling and excavation activities in the shoreline shall comply with the provisions of the WMC 11.02 (Stormwater Management and Drainage Design) and 16.10 (Environmentally Critical Areas).

4. Any fill or excavation shall only be permitted where it can be 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.

4.11 View Protection

4.11.1 Policies

1. Development, uses and activities on or near the shoreline should not impair or detract from the public's visual access to the water.

2. Public views from the shoreline and upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of vegetation that partially impairs views.

3. 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.

4. Visual access should be maintained, enhanced and preserved on shoreline street ends, public utilities and rights-of way and within designated "view corridors."

4.11.2 Regulations

1. Shoreline uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual access to the water and shorelines except as provided for in the Section 4.7 of this Program, Shoreline Vegetation Conservation.

2. Public lands such as street ends, rights-of-way and utilities shall provide visual access to the water and shoreline in accordance with RCW 35.79.035 and RCW 36.87.130.

3. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping.

4. Visual access shall be maintained, enhanced and preserved on shoreline street ends, public utilities and rights of way and within identified "view corridors."

5. Visual access to shorelines shall be required of new development, consistent with Section 4.5 of this Program.

6. Lighting shall be directed and shielded to avoid off-site glare and impacts to fisheries.

4.12 Prohibited Uses

The following uses are prohibited in all shoreline environments:

1. Agricultural uses

2. Forestry practices

3. Industrial uses

4. Mining

4.13 Unclassified Uses

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

4.14 Shoreline Use Table

All uses and developments in the Woodway Shoreline jurisdiction shall comply with the use regulations contained in the following table. Refer to the text section of this Program for all applicable provisions related to specific uses and development standards.

Table 1

Town of Woodway – Permitted Shoreline Uses

Land uses must be allowed in the underlying zoning district in additional to the Shoreline Environment Designation. See WMC Title 14 for specific land uses allowed in zoning districts. All uses are subject to limitations, conditions and/or exceptions as provided in this program and the Woodway Land Use Code.

	Shoreline Environment Designation		
	Urban Conservancy	**Point Wells Urban**	**Aquatic**
P = Permitted use subject to policies and regulations of Program C = Conditional use subject to polices and regulations of this Program X = Prohibited use			
Uses			
Agriculture	X	X	X
Aquaculture	X	X	C[1]
Boating Facilities (Marinas, launches, piers docks, floats and buoys)			
Marinas	X	C	X/C[2]
Boat Launches	X	X	X
Buoys	N/A	N/A	C[3]
Piers, Docks, and Floats	X	C	C/X[4]
Commercial			
Water-oriented	X	P	X
Non-water-oriented	X	X[5]	X
Industrial	X	X	X
Forest Practices	X	X	X
Habitat Restoration and Enhancement	P	P	P
Mining	X	X	X
Recreation	C	P	X
Residential			
Detached Single-family	P	X	X
Multi-family & Mixed Use	X	P	X
Transportation			
Roads[6]	X/C[7]	P/C[7]	X
Railways	C[7]	C[7]	X
Utilities	C	C	C

	Shoreline Environment Designation		
	Urban Conservancy	**Point Wells Urban**	**Aquatic**
P = Permitted use subject to policies and regulations of Program C = Conditional use subject to polices and regulations of this Program X = Prohibited use			
Shoreline Modifications			
Shoreline Stabilization			
New shoreline stabilization[8]	C	X	C
Maintenance of existing armoring	C	C	C
Breakwaters, Jetties, Groins, and Weirs	X	X	X
Dredging			
Restoration-related	P	P	P
Non-restoration related	X	X	X
Fill and Excavation			
Restoration-related	P	P	P
Non-restoration related landward of OHWM	P[9]	P[9]	N/A
Non-restoration related waterward of OHWM	N/A	N/A	X

P = Permitted use subject to policies and regulations of Program

C = Conditional use subject to polices and regulations of this Program

X = Prohibited use

Notes:

[1] A conditional use permit is required for new geoduck aquaculture.

[2] Marinas are prohibited in the aquatic environment adjacent to the Urban Conservancy environment and are allowed only as a conditional use adjacent to the Point Wells Urban environment.

[3] Any permitted buoy would require a DNR license, and WDFW and ACOE approval.

[4] Piers docks and floats are prohibited in the aquatic environment adjacent to the Urban Conservancy environment and are allowed only as a conditional use adjacent to the Point Wells Urban environment.

[5] Non-water-oriented commercial uses are allowed as part of a mixed-use development that includes a water-oriented use as its primary use.

[6] The only new roads allowed in the shoreline shall be roads necessary to access permitted uses and shall be limited to the minimum size necessary.

[7] Repair and expansion of existing transportation facilities is allowed as a conditional use and shall not result in a loss of shoreline function.

[8] Shoreline stabilization is allowed as a conditional use only where there is a demonstrated and immediate threat to an existing structure from landslide or erosion caused by tidal action, currents, or waves.

[9] Fill and/or excavation is allowed landward of the OHWM only when associated with a permitted use.\

CHAPTER 5. SHORELINE MODIFICATION

5.1 Shoreline Stabilization

5.1.1 Policies

1. New hard shoreline stabilization structures should be prohibited in Point Wells. New hard shoreline stabilization structures may be allowed as a conditional use in the Town of Woodway in cases where a legally existing primary structure is in imminent danger from landslide or erosion.

2. Where allowed, stabilization measures should use non-structural or soft shore bank stabilization techniques

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

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

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

6. All shoreline modification proposals should demonstrate that adverse impacts have been avoided, minimized, or mitigated consistent with WAC 173-26-201(2)(e) and section 4.3.2 of this Program.

5.1.2 Regulations

1. The Town shall not allow new uses, the creation of new lots or the construction of new development where it would be reasonably foreseeable that the development or use would require structural bank stabilization during the life of the use or development.

2. New hard shoreline stabilization structures are prohibited in the Point Wells Urban Environment (Point Wells). New hard shoreline stabilization structures may be allowed as a conditional use in the Urban Conservancy Environment (Town of Woodway) in cases where there is a demonstrated threat to an existing primary structure from landslide or erosion caused by tidal action, currents, or waves, where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible and less expensive than the proposed stabilization measures, and then only as a conditional use.

3. The need for new structural shoreline stabilization shall be demonstrated by a geotechnical analysis, which includes, at a minimum, documentation that the primary

structure is in danger from shoreline erosion caused by tidal action, currents, or waves and any erosion is not being caused by upland conditions, such as loss of vegetation or drainage. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard shore armoring techniques for shoreline stabilization.

4. An existing shoreline stabilization structure may be repaired or replaced as a conditional use with a similar structure if there is a demonstrated need to protect an existing use or structure from landslide or erosion provided:

    a. The repair or replacement is designed, located, sized, and constructed to assure no net loss of ecological functions.

    b. The repair or replacement structure does not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns. In such cases, the replacement structures shall abut the existing shoreline stabilization structure.

    c. Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, it is removed as part of the replacement measure.

5. For purposes of this section "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

6. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a legally established existing primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need for armoring is so great that it would foreclose on the opportunity to utilize measures that avoid or minimize impacts to ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft shore stabilization measures.

7. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, shoreline management efforts should be coordinated.

8. Shoreline vegetation shall be protected and restored along or near marine shorelines to protect and restore the ecological functions and ecosystem-wide processes and to protect human safety and property.

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

10. When any structural shoreline stabilization measures are demonstrated to be necessary, the following criteria shall be met:

    a. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses;

    b. The proposed structural stabilization is the minimum size necessary and is designed to assure no net loss of shoreline ecological functions; and

    c. Potential impacts have been mitigated to achieve no net loss of shoreline functions.

    d. Public access shall be required as part of any publically financed shoreline stabilization or structural flood hazard reduction measures.

11. Jetties, groins, and breakwaters shall be prohibited in all environments.

CHAPTER 6. TOWN OF WOODWAY SHORELINE POLICIES AND REGULATIONS

6.1 Public Access/Recreation

6.1.1 Policies

1. Legal and safe public access and recreational opportunities in the Woodway shoreline are limited by the BNSF right-of-way and steep coastal bluffs. The Town should focus on preserving and enhancing public views of the Puget Sound to ensure that the public may continue to enjoy the physical and aesthetic qualities of the shoreline, including views of and from the water.

2. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and, where no significant environmental impacts or threats to public safety will occur, enhanced.

3. The Town should pursue any opportunity to provide safe and legal physical access to the water's edge.

4. Any public access or recreational development should be located and designed to assure no net loss of shoreline ecological functions

6.1.2 Regulations

1. Development in the shoreline shall preserve public views of the shoreline.

6.2 Residential Use

6.2.1 Policies

1. Residential development in the Town of Woodway's shoreline jurisdiction is limited to properties located at the top of the coastal bluff. Residential development including accessory structures within the shoreline jurisdiction should be allowed provided they are developed consistent with all Town regulations including required building setbacks and the geologic hazard areas provisions of the Town's Environmentally Critical Areas regulations (WMC 16.10.600 through 16.10.650) as adopted in SMP Section 4.3.

2. 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 shoreline features.

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

6.2.2 Regulations

1. Residential development and accessory structures shall be allowed in the shoreline provided development activities are consistent with Section 4.3 (adoption of critical area regulation) of this program and the underlying zoning as described in WMC Title 14.

2. Residential development and accessory structures shall not be located or designed such that new structural shore or slope defense measures are necessary.

3. Residential development shall retain and protect natural vegetation of the shoreline area, or restore and enhance natural vegetation according to the Vegetation Conservation and Land Clearing and Grading provisions of this Program.

4. All residential structures, accessory uses and facilities shall be arranged and designed so as to preserve views and vistas to and from shorelines and water bodies and be compatible with the aesthetic values of the area.

5. In order to limit impervious surface in the shoreline, no structure shall cover more than one hundred fifty (150) square feet within the Town's shoreline jurisdiction.

6.3 Boating Facilities

6.3.1 Policies

1. New boating facilities including marinas, boat launches, piers, docks, and floats should be prohibited.

2. One buoy per residential shoreline property should be allowed in the aquatic environment as a conditional use, provided the installation and use of moorage buoys is consistent with all applicable state and federal laws and regulations.

6.3.2 Regulations

1. Marinas and boat launches are prohibited.

2. New docks, piers and floats are prohibited.

3. Moorage buoys may be allowed as a conditional use.

4. Moorage buoys shall 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.

5. Mooring buoys shall be located, spaced and oriented so as not to pose a hazard or obstruction to navigation or fishing.

6. Moorage buoys shall be limited to one per residential shoreline property.

7. Moorage buoys shall be located to avoid sensitive nearshore habitat areas and critical saltwater habitats and shall not result in the degradation of water quality or habitat areas.

6.4 Transportation

6.4.1 Policies

1. New transportation facilities in the shoreline jurisdiction should be strongly discouraged. Repair and maintenance of existing transportation facilities should be allowed as a conditional use.

2. All transportation related development should be carried out in a manner that minimizes or mitigates any impacts to shoreline functions and ensures no net loss of shoreline functions.

3. Joint use of transportation corridors within shoreline jurisdiction for utilities should be encouraged.

4. Abandoned or unused road or railroad rights-of-way that offer opportunities for public access to the water should be acquired and/or retained for such use.

5. All debris, overburden and other waste materials from transport facility construction or operation should be handled, contained and disposed of in a manner which prevents their entry into adjacent beaches and water bodies.

6.4.2 Regulations

1. New transportation facilities are prohibited in the shoreline. Expansion of existing transportation facilities is allowed as a conditional use and shall not result in a loss of shoreline function.

2. Transportation and utility facilities shall make joint use of rights-of-way and minimize adverse impact to the shoreline.

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

4. Overburden, debris and other waste materials from both construction and operation of transportation facilities shall not be deposited into or sidecast on the shoreline side of roads or in water bodies, wetlands, estuaries, tidelands, accretion beaches and other natural areas. Such material shall be contained and disposed of in a manner which prevents their entry into adjacent beaches and water bodies.

5. All shoreline areas disturbed by construction or maintenance activities shall be replanted and stabilized with compatible, self-sustaining vegetation by seeding,

mulching or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained until established. Dead or dying vegetation shall be replaced in a prompt and timely manner to ensure rapid establishment. Long-term monitoring of vegetation and bonding or other financial security may be required to ensure long-term survivability of vegetation required as part of a project.

6.5 Utilities

6.5.1 Policies

1. Utilities should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.

2. Utilities should be prohibited in wetlands, estuaries, critical wildlife areas, steep slopes or other unique and fragile areas unless no feasible alternatives exist.

3. New utility facilities should be located so as not to require shoreline protection works.

4. Utility facilities and corridors shall be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or alongside or under bridges.

5. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

6.5.2 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 an outfall.

2. 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.

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

4. New utility conveyance lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or where such placement would cause substantial environmental impact. Existing above ground lines shall be moved underground during normal replacement processes where undergrounding would reduce visual impacts but not result in a loss of ecological functions.

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

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

7. 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 Town's stormwater management regulations and all other provisions of this Program.

8. The following utility facilities, which are not essentially water-dependent, are prohibited in shoreline jurisdiction unless it can be shown that no reasonable alternative exists or unless the Town Council finds the project has substantial public benefit which outweighs the potential impacts on shoreline ecology. In such cases, the facility must be authorized by conditional use permit:

    a. water system treatment plants;

    b. sewage system lines, interceptors, pump stations and treatment plants;

    c. electrical energy generating plants, substations, lines and cables;

    d. petroleum and gas pipelines.

9. New solid waste disposal sites and facilities are prohibited.

CHAPTER 7. POINT WELLS SHORELINE POLICIES AND REGULATIONS

The policies and regulations of this Chapter apply to Point Wells, which comprises the Town's Municipal Urban Growth Area (MUGA). Point Wells is currently within unincorporated Snohomish County and subject to the development regulations and standards of the County. The policies and regulations of this Chapter would only be applicable to shoreline development in Point Wells upon annexation to the Town of Woodway.

7.1 Public Access/Recreation

7.1.1 Policies

1. Provide public access as part of any development project by a public entity, and for all private commercial development, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

2. Provide public access as part of new multiple-family residential development, and new subdivisions of more than four parcels, unless access is infeasible due to safety, impacts to shoreline ecology, or legal limitations.

3. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and where no significant environmental impacts or threats to public safety will occur, enhanced.

4. Require public access improvements commensurate with the scale and character of the development and adjoining development. Requirements should be reasonable, effective and fair to all affected parties including but not limited to the land owner and the public.

5. Public access should be located and designed to assure no net loss of shoreline ecological functions.

6. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.

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

7.1.2 Regulations

1. Public access shall be incorporated into all development proposals on public lands or funded by a public entity.

2. Public access shall be incorporated into all non-water-dependent private commercial uses/developments and all residential subdivisions of greater than four (4) lots when the following conditions exist:

a. The development would generate demand for one or more forms of public shoreline access; and/or

b. The development would eliminate, restrict, or otherwise impair existing legal access opportunities or rights.

3. Public access shall not be required in areas where the applicant demonstrates that one or more of the following provisions apply:

   a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;

   b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

   c. Significant environmental impacts would result from the public access that cannot be mitigated; and/or

   d. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

4. In order to meet any of the conditions "a" through "d" above, the applicant must first demonstrate, and the Town determine in its findings, that all reasonable alternatives have been exhausted, including but not limited to:

   a. Regulating access by such means as maintaining a gate and/or limiting hours of use;

   b. Separating uses and activities (e.g. fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and

   c. Developing provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.

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

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

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

8. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (RCW 36.87.130).

9. Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.

7.2 Residential

7.2.1 Policies

1. Development of residential units should result in no net loss of ecological function.

2. Single-family residential development or the subdivision of land into single-family lots should not be allowed.

3. New buildings within shoreline jurisdiction shall be set back sufficiently to ensure that shoreline stabilization will not be needed.

4. House boats, floating homes, or any overwater residential development should be prohibited.

5. Residential development on shorelines which would be dependent on future bulkheading or other shoreline modifications for protection from flooding, erosion or channel migration should not be allowed.

6. Access, utilities and public services should be available and adequate to serve existing needs and planned future residential development.

7. Residential development should be designed at a level of density that is compatible with the adjoining uses and the physical capabilities of the shoreline.

8. Multiple-family residential development of more than four (4) units, should be required to provide public pedestrian access to and along the waterfront within the project where appropriate.

9. Residential developments should be designed to adequately protect the water and shoreline aesthetics.

10. Residential proposals should be required to provide plans that ensure the preservation of existing native vegetation and the control of erosion, to the greatest extent possible.

11. Sewage disposal, water supply and storm drainage facilities should be provided in full compliance with Town and State health regulations.

12. In mixed-use buildings, residential units should occupy the upper floors of structures while the ground floors should be occupied by water-oriented uses.

13. Parking for residential development should be underground, located on uplands or on the street/landward side of the building.

7.2.2 Regulations

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

2. Single-family residential development and the subdivision of land for single-family lots shall be prohibited.

3. Residential structures shall not be approved when structural flood protection or shoreline stabilization measures will be necessary to protect development.

4. House boats, floating homes, or any overwater residential development is prohibited.

5. Sewage disposal, water supply and storm drainage facilities shall be provided in full compliance with Town and State health regulations.

6. Public access consistent with Section 7.1 of this Program shall be included in any multiple-family or mixed-use development of four or more dwelling units.

7. Removal or modification of existing shoreline vegetation shall be the minimum necessary to construct the structure, and will be replaced per an approved landscape plan, with appropriate native species within the next growing season.

8. Residential uses shall not be permitted on the ground floor of mixed-use structures.

9. Outdoor parking areas shall be located on the street/landward side of residential units.

7.3 Commercial

7.3.1 Policies

1. Commercial development should be designed and located so as to avoid or minimize impacts to shoreline ecological functions.

2. Preference should be given to commercial developments which include water dependent and water related uses and activities as primary uses within shoreline areas.

3. New commercial development along shorelines must incorporate innovative designs, including low impact development approaches, so that the footprint of the facility is minimized along the shoreline.

4. Parking, storage, loading and service areas and facilities serving commercial uses should minimize their visual impact on the shorelines, utilize low impact development techniques and be placed a minimum of 200 feet away from the OHWM as defined in this SMP and RCW 90.58.030(2)(c).

5. New commercial development and related accessory uses should ensure that all runoff is contained and treated prior to discharge.

6. Commercial projects should be designed to minimize impacts to both views of the shoreline and views from the water. Building orientation, height and the creation of view corridors should be considered in design.

7. Commercial uses should be compatible in use, scope and scale with adjacent uses and neighboring communities.

7.3.2 Regulations

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

2. New non-water-oriented commercial uses are prohibited, unless the use is part of a mixed-use project that supports water-oriented uses and provides a significant public benefit with respect to the public access and restoration goals of this Program.

3. All commercial development shall be required to provide public access consistent with Section 7.1 of this Program.

4. In construction of commercial uses, it is the intent of the Town to require that all permitted commercial uses, either through the nature of their use, their design and location, and/or through provisions for public access, take full advantage of the waterfront setting to maximize views of the shoreline both for the commercial use and for the general public, and enhance the aesthetic value of the shoreline through appropriate design treatments. An applicant for a commercial use shall demonstrate the following:

    a. That the proposed development will be designed and oriented to take advantage of the waterfront site and the water view;

    b. That the proposed development will be designed to maximize to the greatest extent feasible public view and public access to and along the shoreline, as provided in Section 7.1 of this Program;

    c. That the proposed development will be designed to be compatible with existing and/or proposed uses and plans for adjacent properties;

    d. That landscaping for proposed developments will receive special consideration to screen unsightly aspects of their operation from the public view but to minimize blockage of the existing water scenic view; and

    e. That the proposed development will be designed to be compatible with the character of the Shoreline District in which it is located.

7.4 Boating Facilities

7.4.1 Policies

1. New boat launches should be prohibited. Launches for non-motorized boats may be allowed as a conditional use.

2. Docks, piers, floats and buoys associated with residential development should be prohibited.

3. Public docks and/or piers may be allowed as a conditional use, provided they are located and constructed in a manner that would not adversely affect water quality or critical saltwater habitats and that required mitigation consistent with section 4.3.2 would assure no net loss of shoreline functions.

4. Repairs or modifications to existing docks should only be allowed in cases where it can be demonstrated that the repairs or modifications would improve wildlife habitat and water quality and improve or increase light penetration.

5. Overwater residential uses should not be allowed, with the exception of live-aboard vessels.

7.4.2 Regulations

1. New marinas, motorized boat launches, boat houses and covered moorage are prohibited.

2. Overwater residential uses are prohibited pursuant to WAC 173-26-241(3)(j). However, live-aboard vessels may be considered subject to approval of a marina live-aboard management plan.

3. New docks, piers, and floats associated with residential development are prohibited.

4. Public piers, docks and floats may be allowed as a conditional use, provided they are located and constructed consistent with the following regulations:

    a. Piers, docks and floats shall not extend into the Puget Sound in such a manner as to impede navigation or create any navigation hazard.

    b. All work avoids or, if that is not possible, minimizes and mitigates all identifiable impacts to ecological functions, critical saltwater habitat areas resources such as eelgrass beds and fish habitats and processes, such as currents and littoral drift, in accordance with guidance provided by WAC 173-26-221(2)(c) (iii).

    c. Piers, docks and floats shall not be located on or over critical saltwater habitats or spawning areas for anadromous fish.

d. Piers, docks and floats shall not be located on or over nearshore accretion areas, such as sandflats, mudflats and pocket estuaries.

e. Piers, docks and floats shall avoid, or if that is not possible, mitigate aesthetic impacts.

5. Construction of new public docks, piers or floats shall comply with the following dimensional standards:

   a. Construction materials that come in direct contact with the water shall not be treated or coated with toxic materials. Untreated wood, precast concrete, plastic or nontoxic alternatives shall be used;

   b. A public dock or pier shall have a total overwater area not to exceed 1,000 square feet and shall extend beyond the OHWM no further than 110 feet; and

   c. The decking of all piers and docks shall be designed to allow a minimum of 45 percent light passage.

6. The Town may permit a dock, pier or float with different dimensions, through a shoreline variance, if it can be demonstrated that the proposal would not result in a net loss of shoreline ecological function.

7. Repair, maintenance, or rehabilitation of existing piers, docks or floats shall be allowed given adherence to the following standards:

   a. No expansion of overwater coverage is allowed;

   b. No increase in the size or quantity of pilings is allowed;

   c. Light transparency must be increased;

   d. All in-water work shall avoid or, if that is not possible, minimize and mitigate all identifiable impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift, in accordance with guidance provided by WAC 13-26-221(2)(c) (iii) and (iv). Impact minimization shall include the use of construction materials approved by applicable state agencies; and

   e. Proposed work shall not result in loss of ecological functions.

8. Moorage buoys may be allowed as a conditional use, provided consistency with the following regulations

   a. Moorage buoys shall 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 so as not to pose a hazard or obstruction to navigation or fishing.

c. Moorage buoys shall be located to avoid sensitive nearshore habitat areas and, with required mitigation, shall not result in a net loss in shoreline ecological functions.

7.5 Transportation

7.5.1 Policies

1. New transportation facilities should be located outside of shoreline jurisdiction unless there is no reasonably feasible alternative alignment or location or they are required to access a permitted use. In these situations, they should be the minimum width possible and not result in a loss of ecological functions.

2. New and expanded transportation facilities should be designed and located away from shoreline areas so as to ensure no net loss of shoreline ecological functions.

3. Encourage joint use transportation corridors by consolidating transportation and utility facilities in shared rights-of-way when they must cross shoreline areas.

4. Locate and design new and expanded transportation facilities so as to avoid the need for structural shoreline stabilization.

5. Require development and redevelopment within shoreline areas to manage stormwater impacts consistent with the Town's stormwater comprehensive plan and regulations (WMC Title 11).

6. Locate and design new circulation systems consistent with the Snohomish County and Town of Woodway comprehensive plans to provide for alternative modes of transportation in the shoreline jurisdiction.

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

8. When necessary in shoreline areas, transportation facilities should be located where routes will have the least impact to shoreline ecological functions.

9. Provide safe pedestrian and other non-motorized travel facilities in public shoreline areas.

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

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

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

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

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

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

7.5.2 Regulations

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

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

3. Transportation facilities that cross over watercourses or wetlands shall utilize elevated, open pile or pier structures whenever feasible.

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

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

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

   c. All of the following conditions shall be met when a parking facility is proposed in the shoreline jurisdiction:

      i. The facilities shall be located landward from the primary building or use being served, except when the parking facility is within or beneath the structure and adequately screened;

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

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

7.6 Utilities

7.6.1 Polices

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

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

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

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

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

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

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

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

7.6.2 Regulations

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

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

    a. Non-water dependent and non-water related above-ground generating facilities, switching complexes, pumping stations, treatment plants, storage tanks, towers and substations shall be set back from the ordinary high water mark at least 200 feet;

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

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

d. Utility transmission lines, pipes and wires entering or leaving a body of water shall be bored or buried below the surface of the water body's bed from the ordinary high water mark out to a minimum water depth of minus ten feet (-10 feet) below mean lower low water. Directional boring, instead of excavation or trenching, is required where feasible;

e. Utility facilities shall not be located on feeder bluffs or in critical saltwater habitat unless no feasible alternative exists and all adverse impacts can be mitigated.

CHAPTER 8. ADMINISTRATIVE PROVISIONS

8.1 General Compliance

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

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

3. 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.

4. 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.

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

6. The time limits in WAC 173-27-090 shall apply to all shoreline substantial development permits, shoreline conditional use permits or shoreline variances.

7. Revisions to permits shall comply with the provisions of WAC 173-27-100.

8. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Town Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Town Administrator 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.

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

10. The Town will track all shoreline permits and exemption activities to evaluate whether the Master Program is achieving no net loss. A no net loss report shall be prepared every eight (8) years as part of the Town's Shoreline Master Program evaluation or Comprehensive Plan Amendment process.

11. Pursuant to WAC 173-27-060, direct federal agency activities affecting shoreline jurisdiction must be consistent with the SMA, SMP Guidelines, and this SMP.

8.2 Administrative Authority and Responsibility

1. Town Administrator

    a. The Town Administrator or his/her designee shall have the authority to act upon the following matters:

        i. Interpretation, enforcement, and administration of the Town's Shoreline Master Program as prescribed in this Program. When preparing formal written interpretations of shoreline development regulations, the Town Administrative shall consult with the Department of Ecology to insure consistency with the purpose and intent of RCW 90.58 and the applicable shoreline guidelines per WAC 173-26-140.

        ii. Application for a shoreline exemption as prescribed in this Program;

        iii. Applications for Shoreline Management Substantial Development Permits as prescribed in this Program;

        iv. Applications for Shoreline Conditional Use Permits as prescribed in this Program;

        v. Applications for Shoreline Variances as prescribed in this Program;

        vi. Modifications or revisions to any of the above approvals.

2. Permit review implementation, and enforcement procedures affecting private property shall be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

3. Pursuant to WAC 173-26-140, any formal written interpretations of shoreline policies or regulations shall be submitted to the Department of Ecology for review. An interpretation of this SMP will be enforced as if it is part of this code. Formal interpretations shall be kept on file by the Town and shall be available for public review, and shall periodically be incorporated into this SMP during required update processes.

8.3 Administration

1. This Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.

2. Shoreline substantial development permits and shoreline conditional use permits shall be subject to all of the applicable requirements of WMC 14A.

3. Shoreline variances shall be processed in the same manner as variance from the Town's zoning code and shall be subject to all applicable provisions of WMC 2.56 and 14A.

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

5. 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.

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

8.4 Enforcement, Violations and Penalties

1. The Town Administrator is authorized to enforce the provisions of this title, the ordinances and resolutions codified in it, and any rules and regulations promulgated there under pursuant to the enforcement and penalty provisions of WAC 173-27-270, 280, and 290.

2. This Program will be enforced by the means and procedures set forth in WMC 1.14.

8.5 Shoreline Permits and Exemptions

8.5.1 Shoreline Substantial Development Permit Required

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

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

8.5.2 Exemptions from a Substantial Development Permit

1. Exempt development shall comply with WAC 173-27-050.

2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040 (List of Exemptions), and SMP Section 8.5.3 shall not require a substantial development permit but shall conform to the policies and regulations of this Program.

3. If any part of a proposed development is not eligible for exemption as defined in RCW 90.58.030(3)(e), WAC 173-27-040 and SMP Section 8.5.3, then a substantial development permit is required for the entire proposed development project.

4. 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.

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

8.5.3 Exemptions Listed

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 8.5.2 and required in Section 8.5.4:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred and eighteen dollars ($5,718.00), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

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

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

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Town Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

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

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

normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

7. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if, in salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars. For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia and Puget Sound and all bays and inlets associated with any of the above.

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

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

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

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

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

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

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

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

    d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to pre-existing conditions; and

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

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

14. Watershed restoration projects as defined in Chapter 9. The Town shall review the projects for consistency with this Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

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

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

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

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

    d. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs when the provisions of WAC 173-27-040(2)(p) have been met.

8.5.4 Statement of Exemption

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

2. The Town Administrator is hereby authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in SMP Section 8.5.3. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Town Administrator's analysis of the consistency of the project with this Program and the Act. The letter shall be sent to the applicant and the Department. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

8.5.5 Shoreline Variance

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

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

3. When a shoreline variance is requested, the Town Hearing Examiner shall be the final approval authority for the Town. However, the State Department of Ecology shall be the final approval authority under the authority of WAC 173-27-200.

4. The Town may approve a shoreline variance consistent with WMC 2.56.080, in which the Town Hearing Examiner is authorized to grant a variance from the performance standards of this Program only when all of the criteria in WMC 14.50.010 and WAC 173-27-170 are met.

5. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(c), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized by Ecology provided the applicant can demonstrate all of the following:

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

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

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

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

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

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

6. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

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

    b. That the proposal is consistent with the criteria established under section 8.5.5(5)(a through f) of this program; and

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

7. Before making a determination to grant a shoreline variance, the Town Hearing Examiner shall consider issues related to the conservation of valuable natural resources, the cumulative impacts of additional requests for like actions in the area and the protection of views from nearby public roads, surrounding properties and public areas.

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

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

8.5.6 Shoreline Conditional Use Permit

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

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

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

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

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

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

d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is located;

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

4. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

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

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

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

8.5.7 Ecology Review

1. Ecology shall be notified of any Shoreline Substantial Development, Conditional Use, Variance or rescission or revision permit decisions made by the Town Administrator, whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Town Administrator shall file the following with the Department of Ecology and Attorney General:

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

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

   c. The final decision of the Town;

   d. The permit data sheet per WAC 173-27-190;

e. Affidavit of public notice; and

f. Where applicable, the Town Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C).

2. After Town approval of a conditional use or variance permit, the town shall submit the permit to the State Department of Ecology for the department's approval, approval with conditions, or denial. The department shall render and transmit to the Town and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by the Town pursuant to WAC 173-27-110.

3. The department shall review the complete file submitted by the Town on conditional use and variance permits and any other information submitted or available that is relevant to the application. The department shall base its determination to approve, approve with conditions or deny a conditional use permit or variance on consistency with the policy and provisions of the act and, except as provided in WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.

4. The Town shall provide timely notification of the department's final decision to those interested persons having requested notification from the Town pursuant to WAC 173-27-130.

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

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

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

8.5.8 Minimum Permit Application Submittal Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.5.9 Non-conforming Uses

1. Uses and developments that were legally established prior to approval of this program by the Washington State Department of Ecology and are nonconforming with regard to the use regulations of this master program may continue as legal nonconforming uses. Such uses shall conform to the provisions of WAC 173-27-080 and all applicable Town regulations

2. Non conforming uses shall not be enlarged or expanded or expand their non-conformity.

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

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 preexisting nonconformities.

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

6. If a nonconforming 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 through a conditional use permit.

CHAPTER 9. DEFINITIONS

9.1.1 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. Accretion. Accretion means the gradual extension of land by natural forces, as in the addition of sand to a beach by ocean currents, or the extension of a floodplain through the deposition of sediments by repeated flooding. Included are such shore forms as barrier beaches, points, spits, and hooks.

3. 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.

4. 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.

5. 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.

6. 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).

7. Aquaculture. Aquaculture means the farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater, and may include development such as structures, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of wildstock geoduck on state-owned lands. Wildstock geoduck harvest is a fishery. Aquaculture does not include recreational shellfish harvesting for personal use and consumption; harvesting for educational projects; or improvements of habitats.

8. 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.

9. Backfill. Backfill means the placement of earth or rocks or other introduced material behind a retaining wall or structure.

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

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

12. Boating Facilities. Boating facilities includes marinas, including foreshore and backshore types, dry storage and wet-moorage types, covered moorage, boat launches, docks, piers and floats.

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

14. Breakwater. Breakwater means an offshore structure parallel to shore, sometimes shore-connected, that provides protection from waves.

15. 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 adjacent uplands from waves or currents.

16. 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.

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

18. Commercial use. Commercial use means structures or sites whose primary function is to support the exchange of money for goods or services. Excluded from this definition are home occupations, industrial development and utilities.

19. Conditional Use, Shoreline. Conditional use or a Conditional Use Permit (CUP) is intended to allow for flexibility and the exercise of judgement in the application of regulations in a manner consistent with the policies of the Shoreline Management Act (SMA) and this Master Program. While not prohibited, these uses are an exception to the general rule.

20. Critical Areas. Critical areas are those areas with especially fragile biophysical characteristics and/or with significant environmental resources. These areas include, but are not limited to: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

21. Critical Saltwater Habitat. Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

22. Development. 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;

23. 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.

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

25. Drift cell. Drift cell means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

26. 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 marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200(2)(c).

27. Excavation. Excavation means the mechanical removal of earth material.

28. Exempt. 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.

29. Feasible. Feasible means, for the purpose of this program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

    a. The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently available and likely to achieve the intended results;

    b. The action provides a reasonable likelihood of achieving its intended purpose; and

c. The action does not physically preclude achieving the project's primary intended use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the Town may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. This evaluation shall give special consideration and precedence to protecting PFC for PTE species.

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

31. Feeder bluff. Feeder bluff means any bluff or cliff experiencing periodic erosion from waves, sliding or slumping, whose eroded earth, sand or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. These natural sources of beach material are limited and vital for the long term stability of driftways and accretion shoreforms.

32. 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 ground elevation or creates dry land.

33. 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.

34. Flood plain. The flood plain is synonymous with one hundred-year floodplain 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 based upon Flood Insurance Regulation Maps (FIRM)

35. Floodway. The floodway is those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover conditions. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. The limits of the floodway are based on flood regulation ordinance maps or by a reasonable method which meets the objectives of the SMA (RCW 90.58.030(2g); WAC 173-22-030(3)).

36. Foreshore. Foreshore means, in general terms, the beach between mean higher high water and mean lower low water.

37. Forest Practices. Forest practice means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting of timber, or the processing of timber, including but not limited to: road and trail construction and maintenance; harvest, final and intermediate; pre-commercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.

38. 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 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 engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes.

39. 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.

40. Groin (also referred to as a spur dike or rock weir)" means a barrier-type structure extending from the backshore or stream bank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials.

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

42. Habitat. Habitat means the place or type of site where a plant or animal naturally or normally lives and grows.

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

44. Height. Height is the distance measured from the average grade level to the highest point of a structure. Provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or the master program provides otherwise).

45. Impervious Surface. Impervious Surface means a surface which greatly reduces or stops the transmission of water, including, but not limited to, asphalt and Portland cement paving, paving blocks, compacted soils and gravel for parking areas, rooftops, or any

man-made material that impedes the flow of water and is permanently fixed to the ground. Lattice work paving systems which have a portion of their area open to the subgrade shall not be considered impervious as to the portion which is open.

46. Jetty. Jetty means a structure(s) usually projecting out into the sea at the mouth of a river for the purpose of protecting a navigation channel, a harbor or to influence water currents.

47. Letter of Exemption. A letter of exemption means a letter or other official certificate issued by the Town to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable master program.

48. Littoral. Littoral means living on, or occurring on, the shore.

49. 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.

50. Marina. Marina means a water dependent use that consists of a system of piers, buoys or floats to provide moorage for ten or more boats.

51. Marine. Marine means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

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

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

54. Mitigation. Mitigation means:

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

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

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

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

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

f. Monitoring the impact and taking appropriate corrective measures.

55. Moorage Buoy. Mooring Buoy means a floating object anchored to the bottom of a water body to which vessels may be tied.

56. Multifamily Residential Development. Multifamily residential development is a building or portion thereof designed for or used as the residence of four or more families living independently of each other.

57. 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.

58. 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.

59. 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.

60. 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.

61. Normal Protective Bulkhead**.** A normal protective bulkhead is a bulkhead, common to single-family residences, constructed at or near the ordinary high water mark to protect an existing single-family residence, and which sole purpose is for protecting land from erosion, not for the purpose of creating new land (WAC 173-27-040(2)(c)).

62. Normal Maintenance or Repair. Normal maintenance or 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.

63. Ordinary High Water Mark (OHWM). 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 Town or the Department of Ecology. Provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide. On a site-specific basis, the Department of Ecology has the final authority on determining where the ordinary high water mark is located.

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

65. 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.

66. 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.

67. 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.

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

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

70. 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.

71. 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.

72. Recreation. Recreation means the refreshment of body and mind through forms of play, amusement or relaxation. Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public.

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

74. Revetment. Revetment means a facing of stone or concrete built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

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

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

77. Sediment. Sediment means the fine grained material deposited by water or wind.

78. Setback. Setbacks including front, rear and side yard means the distance from the eaves or other projections of the building to the nearer of the lot boundary line or, where there is a street, right-of-way, access easement or private road through the lot, the edge of the street, right-of-way, access easement or private road nearest the building.

79. Shall. Shall means a mandate; the action must be done.

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

81. Shoreline Stabilization. Shoreline stabilization refers actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization.

82. 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 streams, lakes, and tidal waters which are subject to the provisions of this Program; the same to designated as to location by the Department of Ecology.

83. Shoreline Jurisdiction. Shoreline jurisdiction means all "shorelines of the state" and "shorelands."

84. Shoreline Modifications. 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 bulkhead, or other shoreline structure. Shoreline modifications can include other actions, such as clearing, grading, or application of chemicals.

85. Shorelines of Statewide Significance. Shorelines of Statewide Significance means those shorelines described in RCW 90.58.030. The Puget Sound shoreline is a shoreline of statewide significance.

86. 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.

87. Shorelines of the State. Shorelines of the state are the total of all 'shorelines' and 'shorelines of statewide significance' within the Town of Woodway.

88. 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.

89. 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.

90. Single family Residence. A single-family residence is a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

91. 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.

92. Soft-shore bank stabilization. Soft-shore bank stabilization or bioengineering means project designs or construction methods which use living plant material or a combination of living plant material 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.

93. Substantial Development, Shoreline. Substantial Development means any development of which the total cost, or fair market value, whichever is higher, exceeds the dollar threshold established or as hereafter adjusted for inflation by the state office of

financial management pursuant to WAC 173-27-040(2)(a), or any development which materially interferes with the normal public use of the water or shorelines of the state.

94. Tidelands. Tidelands means the land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.

95. Town. Town means the Town of Woodway.

96. 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.

97. Upland. Upland means generally the area above and landward of the ordinary high water mark, not including wetlands and other waters of the state.

98. 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.

99. 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.

100. Vegetation Conservation. Vegetation Conservation includes activities to protect, enhance or restore 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.

101. 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.

102. View corridor. View corridor means an open-air space on a lot affording a clear view across the lot to the water from the abutting street.

103. Water-dependent Use. 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 is 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.

104. 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.

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

106. 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.

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

108. Watershed Restoration Project. Watershed restoration project means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

    a. A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

    b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

    c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

109. Watershed Restoration Plan. Watershed restoration plan means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

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.

9.1.2 Unlisted Words and Phrases

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

1. Town development regulations;

2. Any Town resolution, ordinance, code or regulations;

3. Any statute or regulation of the state of Washington (i.e., the most applicable);

4. Legal definitions from case law or a law dictionary; and

5. The common dictionary.

APPENDIX A: PERMIT DATA SHEET AND TRANSMITTAL LETTER

Shoreline Management Act
Permit Data Sheet and Transmittal Letter

From: (local government)_____ To: (appropriate Ecology office)_____
_____ _____
_____ _____
_____ _____

Date of Transmittal:_____ Date of Reciept: (provided by Ecology)_____

Type of Permit: (Indicate all that apply)

Substantial Development __; Conditional Use __; Variance __; Revision __; Other _____.

Local Government Decision: Approval ___; Conditional Approval ___; Denial ___:

Applicant Information:
Name:_____
_____
Address:_____
_____
_____
_____

Phone(s):_____
_____

Applicant's Representative: (If primary contact)
Name:_____
_____
Address:_____
_____
_____
_____

Phone(s):_____
_____

Is the applicant the property owner? __yes __no

Location of the Property: (Section Township and Range to the nearest 1/4, 1/4 Section or latitude and longitude, and a street address where available)

_____
_____
_____

Water Body Name:_____

Shoreline of Statewide Significance: Yes___ No___.

Environment Designation: _____

Description of the Project: (Summary of the intended use or project purpose)

_____
_____
_____

Notice of Application Date:_____ Final Decision Date: _____

By:____(Local Government Primary Contact on this Application)_____

Phone No: _____

APPENDIX B: SHORELINE RESTORATION PLAN

Draft

SHORELINE RESTORATION PLAN

Shoreline Master Program Update

Prepared for

Town of Woodway

August 2012

ESA

1.0 INTRODUCTION

1.1 Purpose

The Town of Woodway is updating its Shoreline Master Program (SMP) consistent with state guidelines (WAC Chapter 173-26) with the assistance of a grant administered by the Washington Department of Ecology (Ecology) (SMA Grant No. G1000060). According to Substitute Senate Bill (SSB) 6012, passed by the 2003 Washington State Legislature, cities and counties are required to update their SMPs consistent with the state Shoreline Management Act (SMA), Revised Code of Washington (RCW) 90.58 and its implementing guidelines, Washington Administrative Code (WAC) 173-26.

This document addresses the state requirements to prepare a restoration plan for areas under the Town's shoreline jurisdiction.

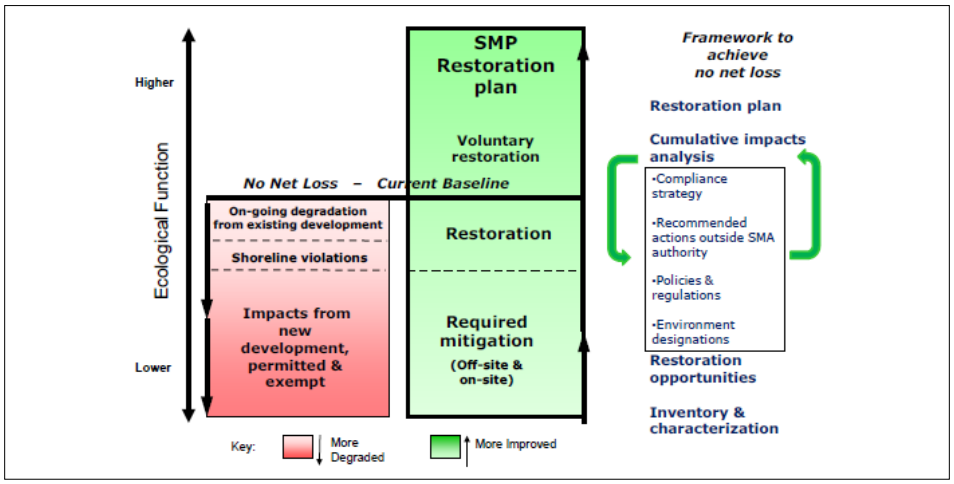
1.2 Regulatory Overview

The Draft Woodway SMP (2011) provides standards and procedures to evaluate individual uses or developments for their potential to impact shoreline resources on a case-by-case basis through the permitting process. The State has directed local governments to develop SMP provisions "...to achieve overall improvements in shoreline ecological functions over time when compared to the status upon adoption of the master program." This overarching goal is accomplished primarily through two distinct objectives (Figure 1):

1. **Protection of existing shoreline functions through regulations and mitigation requirements to ensure "no net loss" of ecological functions from baseline environmental conditions; and**

2. **Restoration of shoreline ecological functions that have been impaired from past development practices or alterations.**

Figure 1. Mitigation versus Restoration in Shoreline Master Programs



The concept of no net loss of shoreline ecological function is embedded in the SMA and in the goals, policies and governing principles of the shoreline guidelines. The State's general policy goals for shorelines of the state include the "protection and restoration of ecological functions of shoreline natural resources." This goal originates in the SMA, which states, "permitted uses in the shoreline shall be designed and conducted in a manner that minimizes insofar as practical, any resultant damage to the ecology and environment of the shoreline area." The governing principles of the guidelines further clarify that protection of shoreline ecological functions is accomplished through the following (WAC 173-26-186):

- Meaningful understanding of the current shoreline ecological conditions;
- Regulations and mitigation standards that ensure that permitted developments do not cause a net loss of ecological functions;
- Regulations that ensure exempt developments in the aggregate do not result in net loss of ecological functions;
- Goals and policies for restoring ecologically impaired shorelines;
- Regulations and programs that fairly allocate the burden of mitigating cumulative impacts among development opportunities; and
- Incentives or voluntary measures designed to restore and protect ecological functions.

The restoration planning component of the SMP is focused on voluntary mechanisms, not regulatory provisions. Restoration planning is focused on incentives, available funding sources, volunteer programs, and other programs that can contribute to a no net loss strategy. However, the restoration framework developed for these non-compensatory mitigation projects can also be applied to compensatory mitigation projects. In this way, all efforts to improve ecosystem functions are coordinated and designed to work together.

1.3 Defining Restoration

There are numerous definitions for "restoration" in scientific and regulatory publications. Specific elements of these definitions often differ, but the core element of repairing damage to an existing, degraded ecosystem remains consistent. In the SMP context, the WAC defines "restoration" or "ecological restoration" as:

> "…the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions" (WAC 173-26-020(27)).

Using the WAC definition of restoration in regard to state shorelines, it is clear the effort should be focused on specific shoreline areas where natural ecological functions have been impaired or degraded. The emphasis in the WAC is to achieve overall improvement in existing shoreline processes or functions, if these functions are impaired. Therefore, the goal is not to restore to historically natural conditions,

but rather to improve on existing, degraded conditions. In this context, restoration can be broadly implemented through a combination of programmatic measures (such as surface water management; water quality improvement; public education) and site-specific projects (such as bulkhead replacement and riparian plantings). The guidelines do not state that local programs should or could require individual permittees to restore past damages to an ecosystem as a condition of a permit for new development. For these reasons, restoration planning focuses on the Town's shoreline program as a whole rather than parcel by parcel, or permit by permit.

1.4 Key Elements of Restoration Planning in the SMP Update Process

Table 1 lists the key elements of shoreline restoration planning as required by WAC 173-26-201(2)(f) and shows where each element is addressed in this restoration plan.

Table 1. Document Organization

Key elements for the shoreline restoration planning process WAC 173-26-201(2)(f)	Where addressed in this report
Identify degraded areas, impaired ecological functions, and sites with potential for ecological restoration.	Chapters 2 and 4
Establish overall goals and priorities for restoration of degraded areas and impaired ecological functions.	Chapter 4
Identify existing and ongoing projects and programs that are currently being implemented which are designed to contribute to local restoration goals.	Chapter 3
Identify timelines and benchmarks for implementing restoration projects and programs and achieving local restoration goals.	Chapter 6
Provide for mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals (e.g., monitoring of restoration project sites).	Chapter 6
Identify additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources for those projects and programs.	Chapter 5

2.0 SUMMARY OF EXISTING SHORELINE FUNCTIONS

This chapter first provides an overview of the region and watershed, followed by a summary of shoreline functions in Woodway. Shoreline restoration planning begins with the identification of "degraded areas" or areas with "impaired ecological functions." The following summary relies on the *Town of Woodway Shoreline Inventory and Characterization Report* (ESA, 2010).

2.1 Regional and Watershed Overview

The Town of Woodway is located with the Cedar – Sammamish Watershed (Map 1), referred to as Water Resource Inventory Area (WRIA) 8. WRIA 8 is located predominantly within the borders of King County, with the northwest portion extending into Snohomish County. The land area of WRIA 8 is some of the most intensely developed within the state. WRIA 8 has the highest human population in the state with nearly 1.5 million residents (Kerwin, 2001). Development within the watershed has increased impervious surface, which increases runoff volumes and decreases infiltration. The net result is an increased volume of water conveyed through natural drainages, causing more frequent flooding and erosion of stream channels.

The Central Puget Sound marine shoreline including the Town of Woodway is dominated by urban structures. The BNSF railroad bed adds a 35- to 75-foot-wide swath of rock and/or pavement in the upper intertidal zone and adjacent upland shorelands along most of the Central Puget Sound shore.

The results of a Washington State Department of Ecology analysis of hydrological processes (Stanley et al., 2009) indicate that the Town and its shorelines are good candidates for restoration for hydrological processes. The Puget Sound shorelines are ecologically important areas that have been highly altered by the BNSF railroad and other associated development (in the case of Point Wells).

2.2 Town of Woodway Shoreline Planning Area

The approximate extent of shoreline jurisdiction within the municipal limits of the Town of Woodway is referred to as the shoreline planning area (SPA). In general this extent represents:

- Lands within 200 feet of the ordinary high water mark (OHWM) of Puget Sound within the municipal limits of the Town and its municipal urban growth area (MUGA) (Point Wells);
- Any mapped wetlands that lie adjacent and contiguous to the areas above; and
- The open water and tidelands waterward of the OHWM to the middle of Puget Sound consistent with RCW 35.21.160.

The shoreline planning area is intended for planning purposes only. As a result, the actual regulated boundaries of the shoreline jurisdiction may differ from the area shown on ICR Map 1 depending on information gathered on the ground at any specific location.

2.3 Habitat and Species Use

The Puget Sound nearshore environment is a highly productive zone that provides habitat for a variety of aquatic and terrestrial species. The "nearshore" is generally considered to be an area extending from the top of bluffs across the beach and intertidal zone, to the point where light no longer penetrates the water. Important documented features of the nearshore that provide habitat include:

- Banks, bluffs, beaches and backshore (sediment sources, substrate, and storm berms);
- Tidal flats (intertidal or shallow subtidal areas used by juvenile salmonids, shorebirds, and shellfish);
- Eelgrass meadows and kelp forests (feeding and rearing habitat for wide variety of marine organisms);
- Streams (fish and wildlife corridors and source of fluvial sediment to the nearshore).

The existing railroad bed, land clearing, and shoreline armoring have impacted the marine riparian zones of the entire Town's SPA. There are no marine riparian zones mapped within any of the shoreline units analyzed (WDNR, 2001).

There are no salmon bearing streams in Woodway. However, the nearshore areas within Woodway are known or expected to support juvenile salmonids including bull trout (federally listed), Chinook (federally listed), chum, coho, cutthroat, pink, and sockeye (KCDNR, 2001). No Pacific herring, Longfin smelt or Eulachon spawning areas are currently documented in any of the Town's nearshore areas. Surf smelt spawning areas are documented along the south shore of Point Wells. A sand lance spawning area is also mapped along the southern shoreline of Point Wells (Kerwin, 2001, WDFW, 2010).

2.4 Land Use and Public Access

The shoreline in the Town of Woodway is dominated by the BNSF Railroad right-of-way, which constitutes approximately 66 percent of the Town's SPA. A large area in the northern portion of the shoreline landward of the railroad is owned by the Town and referred to as Olympic Reserve (Figure 4-9 and Map 7 in the ICR). The remainder of the shoreline including adjacent tidelands is in private ownership (Town of Woodway, 2004).

Single-family development comprises approximately 23 percent of the SPA and the remainder is in parks and open space. There are 27 residential parcels that abut the coastal bluff in the Town. All of them are developed with single-family homes that are set back more than 50 feet from the top of the bluff. Of the 23 percent of the Town's SPA identified as single-family use, most of the area is undeveloped and likely undevelopable because it is on or at the bottom of the bluff or on the waterward side of the railroad, which is not accessible (ICR Map 6).

Land use at Point Wells is currently industrial. The property abuts the Puget Sound shoreline for a length of 3,411 linear feet. The Point Wells facility, previously a petroleum product (gasoline and diesel fuel) marketing and distribution center, discontinued operation in 1994. The property was sold to Paramount of Washington in 2005 and is currently being used for petroleum products storage, processing and distribution. The southern area of the waterfront is being used as the final portal for King County's

Brightwater Regional Wastewater conveyance outfall into Puget Sound. The Point Wells waterfront is accessed via Richmond Beach Road through the City of Shoreline. There is no access to this site from the Town of Woodway.

2.5 Impairment of Shoreline Ecological Functions

Similar to other cities along Puget Sound, existing development and infrastructure have affected the shoreline environment within the Town of Woodway. Ecosystem-wide processes and ecological functions that have been altered in the marine shoreline include sediment processes, large woody and organic debris recruitment and transport, habitat conditions, riparian vegetation and water quality.

Nearshore ecological processes in the Town's shoreline planning area have been altered primarily by shoreline modifications. Shoreline modifications refer to structural alterations of the shoreline's natural bank, including riprap, bulkheads, docks, piers or other in-water / overwater structures. These modifications alter natural process dynamics, leading to beach narrowing, lowering, and decreased driftwood abundance (Johannessen and MacLennan, 2007).

According to the WDNR ShoreZone inventory data (2001), approximately 88 percent of the Town's shoreline is armored with riprap associated with the BNSF railroad bed and bulkheads (ICR Map 8). Approximately 77 percent of the Point Wells shoreline is armored with riprap (39 percent) and sheet pile (38 percent) as well as a large barge dock. As a result, sediment delivery is limited to several streams including Deer Creek that deliver sediment via culverts under the railroad. Forage fish spawning still occurs at these limited points of sediment input (Pentilla, 2007).

Clearing of riparian vegetation along the marine shoreline for the BNSF Railway construction and maintenance, and other shoreline armoring, has resulted in a lack of large woody and organic debris available for recruitment to the marine system. The lack of debris in turn affects the stability of the beaches; the presence of beach logs and debris can reduce erosion by dissipating wave energy and trapping sediment. Large woody debris also provides thermoregulation of sediment for spawning forage fish and detritus recruitment.

The Point Wells site is listed on the Department of Ecology's Suspected and Confirmed Contaminated Sites List for soil, groundwater and surface water contamination associated with previous petroleum production (Ecology website, 2008). Table 2 summarizes shoreline impairments in the Woodway SPA.

Table 2. Summary of Shoreline Functions and Impairments

Condition and Causes of Impairment	Scale of Alterations and Impairment	Shoreline Ecological Functions Affected
Bulkheads on shoreline deflect wave action and disrupt natural coastal processes. Bulkheads disrupt natural delivery of sediment to coastal areas, as well as increase beach scouring and wave deflection	Town scale	Hydrologic Sediment transport and deposition
Alteration to and development near feeder bluffs reduce the potential of these areas to provide sediment delivery to coastal zones, disrupting natural coastal beach accretion. 90 percent of beach sediments come from feeder bluff erosion. The BNSF	Watershed scale Town scale	Sediment delivery and beach creation

Condition and Causes of Impairment	Scale of Alterations and Impairment	Shoreline Ecological Functions Affected
railroad has completely separated the coastal bluffs from the shoreline.		
Placement of BNSF shoreline armoring along the Town's shoreline have, over time, changed the morphology of the coastal bluff. Relatively constant shallow sloughing and spalling of steep cliffs has changed to less frequent but more massive slides.	Town scale	Coastal Processes
Wetlands adjacent to the Puget Sound coast are altered due to development and land use and can no longer provide essential habitat or water quality functions.	Watershed scale Town scale	Hyporheic Hydrologic
Marine riparian vegetation is generally absent due to presence of the BNSF Railroad. Input of large wood from the bluffs is largely eliminated by BNSF railroad maintenance practices. The absence of a back beach significantly reduces accumulation of large wood on the beach.	Watershed scale Town scale	Riparian habitat structure

3.0 EXISTING PLANS AND PROGRAMS

This chapter describes agencies and organizations involved in ongoing restoration projects and planning efforts to address water resource management, water quality, and salmon habitat recovery. Restoration agencies are found locally within Snohomish County and regionally within the Lake Washington/Cedar River/Sammamish Lake Watershed (WIRA 8) and the Greater Puget Sound.

3.1 Town of Woodway

The *Town of Woodway Stormwater Comprehensive Plan* (HDR, 2006) identified 10 areas where inadequate stormwater facilities have resulted in local flooding and concerns for erosion of steep slopes. A Capital Improvement Plan or CIP was then developed to address financial needs for improving the stormwater system. The CIP presents an opportunity to restore habitats and improve shoreline functions in conjunction with planned stormwater improvements.

In addition, the Town is a partner with Sound Transit on restoration work being performed to mitigate the impacts of building a second track along sections of the BNSF railway between Everett and Seattle (see Section 3.3.9).

3.2 Snohomish County

3.2.1 Snohomish County Noxious Weed Control Board

State law requires all landowners (private or agency) to manage weeds on their properties (RCW 17.10.140). The Snohomish County Noxious Weed Control Board oversees county-wide management of noxious weeds in an effort to ultimately prevent establishment of invasive vegetation and preserve native species and habitat. Weed Control Board meetings occur in seven months out of the year to refine regulations, the noxious weed list, and provide guidance on methods of control (SCNWCB, 2011).

3.2.2 Snohomish Conservation District

Guided by the Washington State Conservation Commission, the Snohomish Conservation District (SCD) is a natural resources assistance agency whose mission is to work with landowners promoting conservation and responsible land use. SCD has programs and information to help with stream and wetland restoration, including urban streams; revegetation with native trees and shrubs; low impact development practices such as rain gardens and bioswales; and they hold an annual plant sale (SCD, 2011).

3.2.3 Snohomish County Marine Resources Advisory Committee

The Snohomish County Marine Resources Advisory Committee (MRC) is a citizen-based volunteer committee appointed by the Snohomish County Council. It is one of seven county-based MRCs that conduct restoration, conservation, and education projects. These efforts are coordinated and guided by the Northwest Straits Commission, a federally-funded organization. The MRC is currently undertaking a nearshore sediment assessment project covering approximately four miles of shoreline from Mukilteo to Everett. One of the project's objectives is to develop a long-term sediment strategy for the railroad-impounded shoreline, to maintain beach function based on processes for sediment supply, delivery and sorting throughout the nearshore marine drift cells (MRC, 2011).

3.2.4 Snohomish County Surface Water Management

The Surface Water Management (SWM) Division of Snohomish County Public Works is responsible for management of urban drainage, river flooding and erosion, water quality, and community outreach and education. SWM has a Habitat and Rivers Capital Improvement Program that prioritizes projects for funding approval by the Snohomish County Council. The Six-Year Detailed Capital Improvement Program – 2008 through 2013 identifies 90 projects, including 75 site-specific projects. Additional restoration projects identified in the County's 2010 Shoreline Restoration Element could be incorporated into a future SWM Habitat and Rivers CIP 6-Year Detailed Improvement Program (SWM, 2011; Snohomish County, 2010).

3.3 Regional Organizations

3.3.1 Puget Sound Partnership

To address needs and health of the Puget Sound, the Puget Sound Partnership was formed in 2007 by Governor Gregoire. Under direction of the Legislature, the Puget Sound Action Agenda was developed in 2008 providing direction as a roadmap for local governments in priorities and types of projects that should be undertaken to restore Puget Sound. The Partnership has developed short- and long-term funding strategies for implementing the Action Agenda to assist local governments in their restoration efforts. The Action Agenda is being updated in 2011 (PSP, 2011).

3.3.2 Puget Sound Nearshore Ecosystem Restoration Project (PSNERP)

The Puget Sound Nearshore Ecosystem Restoration Project (PSNERP) was formally initiated as a General Investigation (GI) Feasibility Study in September 2001, through a cost-share agreement between the U.S. Army Corps of Engineers and the State of Washington, represented by the Washington Department of Fish and Wildlife. This agreement describes the joint interests and responsibilities to complete a feasibility study to: "…evaluate significant ecosystem degradation in the Puget Sound Basin; to formulate, evaluate, and screen potential solutions to these problems; and to recommend a series of actions and projects that have a federal interest and are supported by a local entity willing to provide the necessary items of local cooperation." (PSNERP, 2011)

The purpose of the project is to identify significant ecosystem problems in Washington State's Puget Sound basin, evaluate potential solutions, and restore and preserve critical nearshore habitat. The project is a cooperative effort among government organizations, tribes, industries, and environmental organizations to preserve and restore the health of the Sound's nearshore. PSNERP's goal is to evaluate the factors that are causing the habitat to decline and pollution to occur in the Puget Sound basin; to formulate, evaluate, and screen potential solutions to these problems; and to recommend a series of actions and projects.

3.3.3 Shared Strategy for Puget Sound: Draft Puget Sound Salmon Recovery Plan

Motivated by the Endangered Species Act listings of the Chinook salmon, summer chum, and bull trout, the Shared Strategy for the Puget Sound (Shared Strategy) involves local stakeholders and policy makers in protection and restoration of salmon runs across the Puget Sound. Shared Strategy developed the Puget Sound Salmon Recovery Plan in 2007 to respond to the Act's requirements and to incorporate

local watershed plans for salmon recovery. Shared Strategy priority actions recommended for nearshore habitat (such as the Deer Creek estuary and Point Wells) are to protect remaining feeder bluffs that supply sediment sources; protect and restore marine riparian vegetation, and enhance stream mouths to create pocket estuaries (Shared Strategy, undated). On January 1, 2008, the regional salmon recovery functions of the Shared Strategy became the responsibility of the Puget Sound Partnership.

3.3.4 Water Resource Inventory Area (WRIA) 8 Forum: Chinook Salmon Conservation Plan

The Town is a participating local agency in WRIA 8 watershed planning. In 2005, 27 local governments ratified the Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan (WRIA 8, 2005). Watershed-wide priorities include: protecting forests, reducing impervious surfaces, managing stormwater flows, protecting and improving water quality, conserving water, and protecting and restoring vegetation along streambanks.

3.3.5 Cascade Land Conservancy

The Cascade Land Conservancy (CLC) seeks to conserve urban and rural natural spaces within the Central Puget Sound region. The CLC conservation strategies have included securing lands along streams, rivers, estuaries, and other natural areas through purchase and donation, conservation easements, and ownership agreements. Shoreline bluffs in Woodway may provide conservation opportunities for CLC. In addition, the Green Cities Program consists of public-private partnerships between CLC, municipal agencies, and citizens to develop civic-based stewardship programs for forested parklands and other green infrastructure (CLC, 2011).

3.3.6 Audubon Society

Audubon Society staff and volunteers work for the protection, restoration and preservation of natural habitat for birds and other wildlife. The Puget Sound Seabird Survey is a regional citizen science survey organized by Seattle Audubon where volunteers to gather data on wintering seabird populations at 50 sites in King, Pierce, Snohomish, and Thurston Counties (Seattle Audubon, 2011). The Pilchuck Audubon chapter serves Snohomish County and Camano Island, and runs a native plant demonstration garden in Edmonds (Pilchuck Audubon, 2011).

3.3.7 People for Puget Sound

People for Puget Sound is a citizens' group established in 1991 to protect and restore the health of Puget Sound land and waters through public education, policy, and restoration work. People for Puget Sound manages restoration sites across the Sound through volunteer involvement and training opportunities to lead site restoration volunteers as a Sound Steward (PPS, 2011).

3.3.8 Stewardship Partners

Stewardship Partners is a 501(c) 3 non-profit organization that helps private landowners restore and preserve the natural landscapes of Washington State. Major projects include the promotion of low impact development techniques and rain gardens. Stewardship Partners runs free rain garden workshops in communities around the Puget Sound region, in partnership with Washington State University, to teach homeowners how to build their own rain gardens, helping minimize stormwater

runoff impacts by absorbing rainwater from downspouts, driveways, and sidewalks (Stewardship Partners, 2011).

3.3.9 Sound Transit

To allow for more frequent trips by the Sounder commuter train, Sound Transit reached an agreement with BNSF to build a second track along sections of the BNSF railway between Everett and Seattle. To mitigate impacts on nearshore marine habitats resulting from the project, Sound Transit has undertaken several restoration projects in Woodway. These include:

- Woodway Reserve: Invasive species removal at Woodway Reserve was completed in 2008;

- Woodway Tidal Lagoon: Clearing the culverts in the intertidal lagoons along the Woodway/Edmonds corridor. Project will provide access for fish and other marine organisms into the south lagoon. This work will compensate for the habitat that will be lost due to the placement of the new railroad bed and will be done during construction of the track improvements.

- Deer Creek Restoration and Culvert Replacement: The removal of abandoned blocked culverts upstream of the BNSF railroad will enlarge the wetted channel, improve instream habitat and increase the potential for fish habitat utilization in this section of Deer Creek. The project was completed in 2011.

4.0 RESTORATION GOALS, PRIORITIES, SITES, PROJECTS, AND PROGRAMS

This restoration plan seeks to establish a basic framework for improving the quality and sustainability of Woodway's shoreline resources over time. The following SMA concepts should guide identification, evaluation and prioritization of restoration opportunities:

1) Restoration or enhancement should support the overarching goal that local shoreline master programs "serve to improve the overall condition of habitat and resources within the shoreline area…"(WAC 173-26-201[2][c]); and
2) Restoration should be designed to address areas where shoreline ecological functions have been impaired as a result of past development activities.

This chapter first describes the shoreline restoration goals for the Town of Woodway, then lists and prioritizes potential restoration programs to address, to the extent possible, the degraded shoreline functions identified in the Inventory and Characterization Report (see Section 2.5).

4.1 Restoration Goals

The Town's restoration goals include the following:

- Partner with other agencies and organizations to restore ecological functions including salmonid habitat in Puget Sound.
- Continue to work with the state, county, WRIA 8, and other governmental and non-governmental organizations to explore how local governments can contribute to the preservation of ecological processes and shoreline functions.
- Work with the BNFS Railway to clean up beach and remove debris from past use and construction activities.
- Work with the BNSF Railway, Corps of Engineers, Puget Sound Partnership, neighboring jurisdictions, and other interested parties to restore the natural input of sediment and organic material to Puget Sound and to potentially implement a beach nourishment program.
- Improve and maintain the water quality and hydrology of the Town's Puget Sound shoreline.

4.2 Programmatic Actions and Management Opportunities

There are several programmatic actions the Town can take to improve ecological functions both within the shoreline and in upstream areas where human activities influence shoreline functions.

Public Education and Landowner Incentives

- Encourage and provide incentives for low impact development practices for private property owners.

- Educate residents and businesses in the Town about methods to reduce erosion (such as revegetation with native plant species) and limit the use of chemicals (fertilizers, pesticides).

Stormwater Management

- Continue to implement the Comprehensive Stormwater Management Plan.

- Retrofit existing public stormwater systems using low impact development strategies, as funding allows.

Ecological Management

- Protect and restore tributaries to Puget Sound which provide riparian habitat and deliver woody debris and sediment. In the town of woodway, actions could include upgrading culverts under the BNSF railway to allow for fish passage and enhanced wildlife habitat.

- Promote shoreline habitat enhancement at Point Wells as part of any proposed development; encourage removal of armoring and replacement with "soft" shoreline protection methods.

- Participate in regional restoration efforts (Sound Transit, WRIA 8, Puget Sound Partnership, etc.).

- Adopt a policy to encourage BNSF to remove railroad debris from nearshore areas (e.g., debris left behind on the beach when landslides cause rail car derailment).

4.3 Restoration Priorities

Consistent with the regulatory objectives listed in Section 1.2, establishing priorities should be informed by and support regional efforts. The Town should consider the following priorities in its shoreline restoration efforts:

- Participation in regional efforts to restore Puget Sound shoreline functions, particularly sediment and organic matter input;

- Clean-up of debris from the beach from past activities.

- Restoration of publicly owned properties including parks and open spaces;

- Restoration of stream mouth estuaries;

- Replacement or improvement of existing stream culverts.

- Promotion of restoration efforts as a part of any Point Wells redevelopment.

5.0 IMPLEMENTATION STRATEGIES AND POTENTIAL FUNDING SOURCES

5.1 Potential Funding Sources

A variety of outside funding sources are available for restoration projects in the Puget Sound basin. Funding opportunities have generally increased since the implementation of Governor Gregoire's Puget Sound Initiative in 2005, though the process by which organizations are able to obtain funds is typically quite competitive. Sources listed here do not represent an exhaustive list of potential funding opportunities, but are meant to provide an overview of the types of opportunities available.

Washington Department of Fish & Wildlife (WDFW)
600 Capitol Way North
Olympia, WA 98501-1091
360-902-2806.
http://wdfw.wa.gov/volunter/vol-7.htm

Grant programs administered by WDFW are described below.

- *Aquatic Lands Enhancement Account (ALEA) Volunteer Cooperative Projects Program*: The WDFW accepts grant applications from individuals and volunteer groups conducting local projects to benefit fish and wildlife. Grants have ranged from $300 to $75,000 in past years to help volunteers pay for materials necessary for projects approved by the agency. Funding cannot be used for wages or benefits. Examples of past projects include habitat restoration, improving access to fish and wildlife areas for disabled people, fish and wildlife research, public education and fish-rearing projects that can benefit the public.
- *Landowner Incentive Program*: The Landowner Incentive Program (LIP) is a competitive grant program designed to provide financial assistance to private landowners for the protection, enhancement or restoration of habitat to benefit species at risk on privately owned lands. At risk species depend on specific ecosystems for survival. These ecosystems include riparian areas, wetlands, oak woodlands, prairies and grasslands, shrub steppe and nearshore environments. Through Washington's LIP, individual landowners are eligible to apply for up to $50,000 in assistance. In addition, $50,000 is typically set aside for small grants. Any individual applying for these small grant funds may apply for up to $5,000. A 25% non-federal contribution is required, which may include cash and/or in-kind (labor, machinery, materials) contribution.

measurable benefits for fish and their habitat. SRFB distributes funds through two grant programs: SRFB grants, and Family Forest Fish Passage Program grants. The grants from SRFB range from $10,000 to nearly $900,000. They have been awarded to organizations in 28 counties for work ranging from planting trees along streams to cool the water for salmon, to replacing culverts that prevent salmon from migrating to spawning habitat, to restoring entire floodplains.

Depending on the grant program, eligible applicants may include municipal subdivisions (cities, towns, counties, and special districts such as port, conservation, utility, park and recreation, and school), tribal governments, state agencies, nonprofit organizations, regional fisheries enhancement groups, and private landowners. To be considered for funding, projects must be operated and maintained in perpetuity for the purposes for which funding is sought. All projects require lead entity approval and must be a high priority in the lead entity strategy or regional recovery plan.

Grants are awarded by the Salmon Recovery Funding Board based on a public, competitive process that weighs the merits of proposed projects against established program criteria.

NOAA Restoration Center
Community-based Restoration Program

Northwest Region
Jennifer Steger, Director
Jennifer.Steger@noaa.gov
http://www.nmfs.noaa.gov/

The NOAA Community-based Restoration Program (CRP) is a financial and technical assistance program that helps communities implement restoration projects. Specific opportunities are listed below.

- *NOAA CRP 3-Year Partnership Grants*: These grants fund national and regional habitat restoration partnerships for up to 3 years that provide sub awards for individual grass-roots restoration projects. Typical awards range from $100,000 to $2,000,000.
- *NOAA CRP Project Grants*: These grants fund grass-roots marine and coastal habitat restoration projects that will benefit anadromous fish species, commercial and recreational resources, and endangered and threatened species. Typical awards range from $30,000 to $250,000.
- *American Sportfishing Association's FishAmerica Foundation Grants*: Since 1998, NOAA CRP has partnered with the FishAmerica Foundation to provide funding for fisheries habitat restoration projects nationwide. Grants will fund marine and anadromous fish habitat restoration projects that benefit recreationally fished species. Typical awards range from $5,000 to $50,000.
- *National Fish & Wildlife Foundation/National Association of Counties Coastal Counties Restoration Initiative*: In partnership with NOAA CRP, this grant program funds innovative, high quality county-led or supported projects that support wetland, riparian and coastal habitat restoration projects. Typical awards range from $25,000 to $100,000.

Washington State Department of Ecology

Post Office Box 47600
Olympia, Washington 98504-7600
jrus461@ecy.wa.gov
www.ecy.wa.gov/programs/wq/plants/grants/index.html

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Washington State Department of Ecology

Post Office Box 47600
Olympia, Washington 98504-7600
jrus461@ecy.wa.gov
www.ecy.wa.gov/programs/wq/plants/grants/index.html

Grant programs administered by Washington State Department of Ecology are described below.

- Water Quality Program: The Department of Ecology's Water Quality Program administers three major funding programs that provide low-interest loans and grants for projects that protect and improve water quality in Washington State. Ecology acts in partnership with state agencies, local governments, and Indian tribes by providing financial and administrative support for their water quality efforts. As much as possible, Ecology manages the three programs as one; there is one funding cycle, application form, and offer list. The three programs are: The Centennial Clean Water Fund, The State Revolving Loan Fund (SRF), and The Section 319 Nonpoint Source Grants Program (Section 319). Local governments, Native American tribes, special purpose districts, and non-profit groups are eligible for funding. Grants and loans are available for point source and nonpoint source projects. This includes, but is not limited to, treatment facilities, stream and salmon habitat restoration, and water quality monitoring.

- Coastal Protection Fund: This account is funded primarily by oil spill penalties levied against responsible parties. Restoration efforts undertaken with these funds are diverse and include fish barrier removal, and environmental education projects.

- Coastal Zone Management Administration/Implementation Awards: This program assists states in implementing and enhancing Coastal Zone Management (CZM) programs that have been approved by the Secretary of Commerce. Funds are available for projects in areas such as coastal wetlands management and protection, natural hazards management, public access improvements, reduction of marine debris, assessment of impacts of coastal growth and development, special area management planning, regional management issues, and demonstration projects with potential to improve coastal zone management.

Washington State Department of Natural Resources (DNR)
Aquatic Lands Restoration Funding
Aquatic Resources Division
360-902-1100
Fax 360-902-1786
ard@dnr.wa.gov
http://www.dnr.wa.gov/ResearchScience/Topics/AquaticClean-UpRestoration/Pages/aqr_aquatic_clean_restoration.aspx.
DNR is encouraged that revitalizing the health of Puget Sound and other aquatic lands has become a high priority for the Governor and the people of the state. DNR provides funding for removal of creosote piles, removal of derelict vessels and other clean up in the nearshore environment. Funding typically awarded to restoration projects between 2004 and 2007 ranged from $8,000 to $35,000.

Washington Department of Transportation (WSDOT)
City Fish Passage Grant Program
Cliff Hall
(360) 705-7499
hallcli@wsdot.wa.gov

The City Fish Passage Barrier Removal and Habitat Restoration Grant Program provides $2 million to be used towards City fish passage barrier removal projects, with complimenting habitat restoration and stormwater components. The intent of the City Fish Passage Barrier Removal and Habitat Restoration Grant program is to integrate clean water with salmon restoration efforts and compliments the WSDOT ESA response. Grant funding may vary from year to year; check with the Program Manager at WSDOT for more detailed information.

Estuary and Salmon Restoration Program
Washington Department of Fish and Wildlife
600 Capital Way N.
Olympia, WA 98501
ESRP@dfw.wa.gov

The Estuary and Salmon Restoration Program (ESRP) is a protection and restoration funding opportunity to support the transition from opportunistic project funding to strategic and sustained nearshore ecosystem restoration in Puget Sound. The ESRP uses state capital funds and NOAA Restoration Center resources to fund restoration and protection projects that benefit salmon and the nearshore environment in Puget Sound. Projects are selected for their ability to provide long-term protection or restoration of ecosystem processes. ESRP provides phased funding to incrementally support large and complex projects. Projects that rank well through a regional competition are considered for annual funding.

Environmental Protection Agency (EPA)
Region 10: Pacific Northwest
Grants Administration Unit
Bob Phillips
phillips.bob@epa.gov
(206) 553-6367

The Environmental Protection Agency funds a variety of projects that aim to safeguard the natural environment and protect human health. Potential opportunities specific to watershed protection and restoration are listed below.

- *The Clean Water State Revolving Fund Program*: Under this program, EPA provides grants or "seed money" to all 50 states plus Puerto Rico to capitalize state loan funds. The states, in turn, make loans to communities, individuals, and others for high-priority water-quality activities. Projects funded by the low-interest loans may include wetlands protection and restoration, estuary management efforts – including wildlife habitat restoration – and development of streambank buffer zones.
- *Nonpoint Source Implementation Grant (319) Program*: Clean Water Act Section 319(h) funds are provided only to designated state and tribal agencies to implement their approved nonpoint

source management programs. State and tribal nonpoint source programs include a variety of components, including technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and regulatory programs. Each year, EPA awards Section 319(h) funds to states in accordance with a state-by-state allocation formula that EPA has developed in consultation with the states.

- *Wetland Protection, Restoration, and Stewardship Discretionary Funding*: This program provides support for studies and activities related to implementation of Section 404 of the Clean Water Act for both wetlands and sediment management. Projects can support regulatory, planning, restoration or outreach issues. Typical grant awards range from $5,000 to $20,000.

U.S. Fish & Wildlife Service (USFWS)

Nell Fuller
911 NE 11th Avenue
Portland, OR 97232-4181
(503) 231-2014
Nell_Fuller@fws.gov

Grant programs administered by USFWS are described below.

- *Partners for Fish and Wildlife Program*: This program provides technical and financial assistance to private landowners and Tribes who are willing to work with USFWS and other partners on a voluntary basis to help meet the habitat needs of Federal Trust Species. The Partners Program can assist with projects in all habitat types which conserve or restore native vegetation, hydrology, and soils associated with imperiled ecosystems such as longleaf pine, bottomland hardwoods, tropical forests, native prairies, marshes, rivers and streams, or ecosystems that otherwise provide an important habitat requisite for a rare, declining or protected species. The typical grant award is approximately $25,000.
- *Puget Sound Program*: The Puget Sound Program was established to protect, restore, and enhance the natural resources of Washington's coastal ecosystems. USFWS works closely with the U.S. Environmental Protection Agency's National Estuary Program, and their State partner, the Puget Sound Water Quality Action Team to conserve fish and wildlife and their habitats in Puget Sound, an "estuary of national significance." Partnerships with other agencies, Native American Tribes, citizens, and organizations are emphasized.
- *National Fish Passage Program*: Each year the Service solicits and inputs select fish passage projects into the Fisheries Operational Needs System database. Projects are prioritized and selected based upon the benefits to species and the geographical area. Typical projects include barrier culvert removal or replacement with a fish passable culvert or bridge, and re-opening oxbow and off channel habitats. Typical funding amounts range from $30,000 to $110,000 with a minimum 25% cost share requested.
- *Cooperative Endangered Species Conservation Fund*: Grants offered through the Cooperative Endangered Species Conservation Fund support participation in a wide array of voluntary conservation projects for candidate, proposed and listed species. These funds may in turn be awarded to private landowners and groups for conservation projects.
- *North American Wetlands Conservation Act Grants Program*: The North American Wetlands Conservation Act of 1989 provides matching grants to organizations and individuals who have developed partnerships to carry out wetlands conservation projects in the United States,

Canada, and Mexico for the benefit of wetlands-associated migratory birds and other wildlife. The Standard Grants Program supports projects in Canada, the United States, and Mexico that involve long-term protection, restoration, and/or enhancement of wetlands and associated uplands habitats. The Small Grants Program operates only in the United States; it supports the same type of projects and adheres to the same selection criteria and administrative guidelines as the U.S. Standard Grants Program. However, project activities are usually smaller in scope and involve fewer project dollars. Grant requests may not exceed $75,000, and funding priority is given to grantees or partners new to the Act's Grants Program.

U.S. Army Corps of Engineers
Basinwide Restoration New Starts General Investigation
Bruce Sexauer
P.O. Box 3755
Seattle, WA 98134
(206) 764-6959

Funding for projects related to coastal ecosystems, fish and wildlife, flood management, land management and planning, outdoor recreation, general restoration, riparian areas, water quality, and wetlands is provided through this program at a 65:35 cost share. Studies on the same topics are funded at a 50:50 cost share.

Interagency Committee for Outdoor Recreation
Washington Wildlife Recreation Program
1111 Washington St. SE
PO Box 40917
Olympia, WA 98504
360-902-3000, info@iac.wa.gov

The WWRP provides funds for the acquisition and development of recreation and conservation lands. WWRP funds are administered by account and category. The Habitat Conservation Account includes critical habitat, natural areas, and urban wildlife categories. The Outdoor Recreation Account includes local parks, state parks, trails, and water access categories. Letters of intent are usually due March 1 of each year. Applications are usually due May 1.

5.2 Voluntary Restoration on Private Lands

Much of the shoreline area in Woodway and Point Wells lies within private properties; therefore, public outreach and voluntary restoration actions are a key component of the success of this plan. Private property owners often serve as the best stewards for their land and will voluntarily enhance or restore conditions. As stated in Chapter 1, the Shoreline Restoration Plan is a non-regulatory and voluntary program undertaken by the Town and environmental partners willing to improve habitat and existing conditions within the shoreline jurisdiction.

Voluntary actions may include citizens assisting a public agency or stewardship group with plantings, habitat improvement or shoreline ecology on public lands such as parks or open space. Voluntary actions may also include restoration undertaken on private properties by land owners to improve habitat, water quality or stabilize streams. This section addresses the types of actions that a private property owner can undertake to restore conditions in the shoreline jurisdiction.

Voluntary restoration on private properties may range from minor projects that do not require permitting in and of themselves (such as removal of ivy) to larger-scale improvements that require permit approval (such as grading, culvert removal, or streambank stabilization).

The following web sites provide information for shoreline land owners for voluntary restoration actions:

Washington Department of Fish and Wildlife Backyard Wildlife Sanctuary Program (http://wdfw.wa.gov/living/backyard/)

National Wildlife Federation Garden for Wildlife Program (http://www.nwf.org/Get-Outside/Outdoor-Activities/Garden-for-Wildlife.aspx)

Shoreline preservation or restoration actions that can be implemented on private property are listed below. These actions typically do not require special equipment or expertise but can have significant benefits to shoreline functions, especially if undertaken by a community or group of landowners.

1. **Protect and preserve existing native vegetation, especially native trees.**

Native trees and shrubs in the shoreline provide shade, shelter and food necessary for both terrestrial and aquatic species. Native vegetation along stream or bluffs stabilize banks, reduce erosion and filter pollutants from runoff. Protection of existing vegetation preserves those important habitat functions in the shoreline.

2. **Remove invasive non-native plants and install native trees and shrubs.**

Invasive non-native plants like Himalayan blackberry, Japanese Knotweed, English ivy, reed canarygrass, morning glory, holly, and butterfly bush can occupy habitat in the riparian zone along rivers, streams and lakes. These plants limit the habitat for native bird and wildlife species which do not typically use these plants. Often, invasive plants are fast-growing and shallow rooted, and make slopes and stream banks susceptible to erosion.

3. **Remove debris, refuse and derelict structures from the shoreline.**

Removing man-made debris from the shorelines helps keep shorelines free of harmful substances and materials. Removal of tires, railroad debris and other man-made debris can improve the health of the shoreline for fish and wildlife as well as the long-term quality of water.

4. **Reduce use of fertilizers and pesticides.**

Minimizing use of fertilizers and pesticides within 200 feet of shorelines will improve water quality.

5.3 Constraints to Implementation

There are a number of potential complicating factors between the preparation of a shoreline restoration plan and on-the-ground implementation of its programs and projects. Some of these challenges are briefly summarized below:

- Lack of funding: Designing, carrying out, and monitoring the success of restoration efforts can be an expensive undertaking, particularly at larger (e.g., watershed or reach) scales. In general, funding for restoration is limited and competition for funds extensive.
- BNSF Railway presence: The BNSF railroad is an important transportation corridor that is likely to remain in place for the foreseeable future. The presence of the railway limits opportunities to restore natural shoreline processes in the Town.
- Scale of issues: Restoration of shoreline functions will involve efforts across the Central Puget Sound watershed. To a certain extent, complete solutions to these issues are beyond the control of the Town's SMP. However, as described in Chapter 3, numerous organizations are already undertaking large-scale restoration projects in the watershed, providing opportunities for Woodway to both participate in and learn from these projects.
- Climate change: Rising temperatures and water levels have the potential to dramatically alter the Puget Sound shoreline processes and functions over time. Depending on the scale of change and time period over which changes occur, restoration priorities could shift substantially within a relatively short period of time. Future restoration should be designed to consider future water elevations in shoreline areas of Woodway.

6.0 TIMELINES, BENCHMARKS, AND MEASURING EFFECTIVENESS

In the context of the SMP update, restoration planning is a long-term effort. The SMP guidelines include the general goal that local master programs "include planning elements that, when implemented, serve to improve the overall condition of habitat and resources within the shoreline area" (WAC 173-26-201(c)). The guidelines for restoration planning state that local programs should "…appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals" (WAC 173-26-201(2)(f)).

As a long-range policy plan, it is difficult to establish meaningful timelines and measurable benchmarks in the SMP by which to evaluate the effectiveness of restoration planning or actions. Nonetheless, the legislature has provided an overall timeframe for future amendments to the SMP. In 2003, Substitute Senate Bill 6012 amended the Shoreline Management Act (RCW 90.58.080) to establish an amendment schedule for all jurisdictions in the state. Once the Town of Woodway updates its SMP, the Town is required to review, and amend if necessary, its SMP once every seven years (RCW 90.58.080(4)). During this review period, the Town could document progress toward achieving shoreline restoration goals. The review may include:

- Re-evaluating adopted restoration goals, objectives, and policies;
- Summarizing both planning efforts (including application for and securing grant funds) and on-the-ground actions undertaken in the interim to meet those goals; and
- Revising the SMP restoration planning element to reflect changes in priorities or objectives.

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APPENDIX C:
TOWN OF WOODWAY CRITICAL AREAS ORDINANCE

Chapter 16.10
ENVIRONMENTALLY CRITICAL AREAS

Sections:

16.10.010 Purpose and intent.

A. The Town Council finds that the Town contains certain areas that can be identified and characterized as environmentally sensitive or critical. Such areas within the Town include wetlands, streams, fish and wildlife habitat, geologic hazards, aquifer recharge and wellhead protection areas, and associated environmentally critical area buffers.

B. The Town finds that unregulated development patterns may in some cases result in natural disasters that threaten public health and safety, and that by preventing development on certain environmentally critical areas, the Town can better maintain public health, safety, and welfare by avoiding natural disasters such as slides and flooding that threaten life and property. In addition, through the prevention of disturbances to environmentally critical areas and their buffers that may result in degradation, erosion, or damages to protective vegetation, and by preserving features that provide for clean water, fisheries habitat including near-shore habitat, and wildlife habitat, the Town can help maintain a positive ecological balance that provides for the immediate and long-term public welfare. This chapter is intended to preserve the Town's important environmental features while allowing development to occur if compatible with and in consideration of these environmentally critical areas.

C. The classification and designation of these environmentally critical areas is intended to ensure the conservation and protection of environmentally critical areas from loss or degradation, and to restrict land uses and development that are incompatible with environmentally critical areas. It is the intent of this chapter to designate and protect environmentally critical areas.

D. The Town finds that these essential environmentally critical areas perform a variety of valuable and beneficial biological and physical functions that benefit the Town and its residents. The Town further finds that the functions of environmentally critical areas include the following:

1. Wetland Areas. Wetlands and their associated buffers help to maintain water quality; store and convey stormwater and floodwater; recharge groundwater; provide important fish and wildlife habitat; and provide valuable functions for recreation, education, scientific study, and aesthetic appreciation.

a. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for fish and wildlife; protect wetland resources from harmful intrusion; and generally preserve the ecological integrity of the wetland area.

2. Stream Areas. Streams and their associated buffers provide important fish and wildlife habitat and corridors; help to maintain water quality; store and convey stormwater and floodwater; recharge groundwater; and serve a valuable function for recreation, education, scientific study, and aesthetic appreciation.

3. Fish and Wildlife Habitat Areas. Identification, preservation and protection of fish and wildlife habitat areas provide opportunities for food, cover, nesting, breeding, and movement for fish and wildlife within the Town; maintain and promote diversity of species and habitat within the Town; coordinate habitat protection with elements of the Town's established open space corridors wherever possible; help to maintain air and water quality; control erosion; serve a valuable function for recreation, education, scientific study, and aesthetic appreciation; and contribute to the established character of the Town.

4. Geologic Hazard Areas. Geologic hazard areas include lands that are affected by natural processes that make them susceptible to landslides, seismic activity, and severe erosion, especially bluff and ravine areas.

5. Aquifer Recharge and Wellhead Protection Areas. Aquifer recharge and wellhead protection areas provide a source of potable water and contribute to stream discharge during periods of low water flow. Aquifer recharge and wellhead protection areas have been identified that are susceptible to contamination through potential infiltration of pollutants through the soil to groundwater.

a. The primary purpose of aquifer recharge and wellhead protection area regulations is to protect critical aquifer recharge and wellhead protection areas by avoiding land use activities that pose the potential for aquifer contamination; and to minimize impacts to significant recharge areas and to surface water habitat that is dependent on groundwater recharge through the application of strict performance standards.

E. This chapter of the Woodway Municipal Code contains standards, guidelines, criteria, and requirements intended to identify, analyze, preserve, and mitigate potential impacts to the Town's environmentally critical areas and to enhance and restore degraded resources, such as wetlands, streams and fish and wildlife habitat, where possible. The standards, guidelines, and criteria have been established using "best available science." The intent of these regulations is to avoid impacts to environmentally critical areas. In appropriate circumstances, impacts to specified environmentally critical areas resulting from regulated activities may be minimized, rectified, reduced, and/or compensated for, consistent with the requirements of this chapter and best available science.

1. It is the further intent of this chapter to:

a. Provide standards, guidelines, and criteria to guide application of these environmentally critical areas goals and policies when considered with other goals and policies of the Woodway Municipal Code and comprehensive plan including those pertaining to natural features and environmental protection;

b. Serve as a basis for exercise of the Town's substantive authority under the State Environmental Policy Act (SEPA) and the Town's SEPA rules (Chapter 16.04);

c. Comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and implementing rules; and

d. Coordinate environmental review and permitting of proposals to avoid duplication and delay. (Ord. 09-503 § 1(Exh. A(part)): Ord. 00-387 § 1(part), 2000)

16.10.020 Definitions.

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

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

"Applicant" means the person, party, firm, corporation, or other entity that proposes any activity that could affect a wetland, stream, fish and wildlife habitat, or other critical area.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs (Chapter 173-160 WAC).

"Aquifer recharge area" means areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(2).

"Aquifer susceptibility" means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

"Aquifer vulnerability" is the combined effect of susceptibility to contamination and the presence of potential contaminants.

"Artificially created wetland" means wetlands created through purposeful human action from non-wetland sites, such as irrigation and drainage, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.

"Best available science," in the context of environmentally critical areas protection, means a valid scientific process that produces reliable information useful in understanding the consequences of a local government's regulatory decisions consistent with the criteria in WAC 365-195-905.

"Best management practices" means conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
2. 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 habitat;
3. Control site runoff, spillage, leaks, sludge, or water disposal, or drainage from raw material.

"Buffer (buffer zone)" means the area adjacent to the outer boundaries of critical areas including wetlands, habitat conservation areas such as streams and marine shorelines, and/or landslide hazard areas that separates and protects critical areas from adverse impacts associated with adjacent land uses.

"Clearing" means the removal of timber, brush, grass, ground cover, or other vegetative matter from a site that exposes the earth's surface of the site.

"Creation" means the producing or forming of a wetland or stream through artificial means from an upland (dry) site.

"Critical habitat" or "critical fish and wildlife habitat" means habitat areas associated with threatened, endangered, or environmentally critical species of plants, fish, or wildlife and which, if altered, could reduce the likelihood that the species will maintain and reproduce over the long term. Such areas are documented with reference to lists, categories, and definitions of species promulgated by the Washington Department of Fish and Wildlife (nongame data system special animal species) as identified in WAC 232-12-011 or 232-12-014 and in the priority habitat species lists compiled in compliance with WAC 365-190-080; or by rules and regulations adopted currently or hereafter by the U.S. Fish and Wildlife Service. Critical habitat also includes the following types of areas:

1. Regionally rare native fish and fish and wildlife habitat (i.e., one of five or fewer examples of the habitat type within the county);
2. Category I wetlands as defined in these regulations;
3. Documented commercial and/or recreational shellfish beds managed by the Washington Department of Fisheries;
4. Class I streams as defined in these regulations;
5. State nature area preserves or natural resource conservation areas identified by state law and managed by the Department of Natural Resources; and
6. Naturally occurring ponds stocked with game fish by government or tribal entities; and naturally occurring ponds of greater than one acre and less than twenty acres in area with cover of submerged aquatic vegetation, shrubs, or trees not exceeding fifty percent of the area of surface water, and whose maximum depth does not exceed 6.6 feet.

Critical habitat does not include artificially created habitat and/or habitat created by purposeful human action, including but not limited to landscape amenities, detention facilities, grass-lined swales, and open space areas.

"Department" means the Town Department of Planning.

"Development" means any activity that requires federal, state, or local approval for the use or modification of land or its resources. These activities include, but are not limited to: subdivisions and short subdivisions; binding site plans; planned unit developments; variances; shoreline substantial development; clearing activity; fill and grade work; activity conditionally allowed; building or construction; revocable encroachment permits; and septic approval.

"Earth" or "earth material" means naturally occurring rock, soil, stone, sediment, or a combination thereof.

"Emergency activities" are those activities that require immediate action within a time too short to allow full compliance with this chapter due to an unanticipated and imminent threat to public health, safety, or the environment. Emergency construction does not include development of new permanent protective structures where none previously existed. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this chapter. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

"Enhancement" means:

1. For wetlands, the improvement of an existing viable wetland or buffer, such as by increasing plant diversity, increasing fish and wildlife habitat, installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species; or
2. For streams and fish and wildlife habitat, the improvement of an existing habitat or an existing stream or associated buffer such as by modifying the channel or substrate, increasing riparian plant density or structural diversity, installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species.

"Erosion" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.

"Excavation" means the mechanical removal of earth material.

"Exotic" means any species of plant or animal that is foreign (i.e., not native to the Puget Sound area).

"Fill" or "fill material" means a deposit of earth material placed by human or mechanical (machine) means.

"Filling" means the act of transporting or placing (by any manner or mechanism) fill materials from, to, or on any soil surface, sediment surface, or other fill materials.

"Fish and wildlife habitat areas" are areas important for maintaining species in suitable habitats within their natural geographic distribution so that isolated populations are not created.

"Fish and wildlife report" means a report prepared by a qualified consultant who evaluated plant communities and fish and wildlife functions and values on a site, consistent with the format and requirements established by this chapter.

"Geologically hazardous areas" means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, pose unacceptable risks to public health and safety and may not be suited to commercial, residential, or industrial development.

"Grading" means any excavating, filling, clearing, leveling, or contouring of the ground surface by human or mechanical means.

"Ground water" means all water that exists beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates, or otherwise moves (Chapter 90.44 RCW).

"Habitat" or "fish and wildlife habitat" means areas that provide food, protective cover, nesting, breeding, or movement for fish and wildlife.

"Habitat buffer" means an area surrounding a defined fish and wildlife habitat or wetland that reduces adverse impacts to habitat/wetland functions from adjacent development or other activities or uses; the area between a fish and wildlife habitat or wetland and the upland that serves as a transition zone.

"Habitat management" means management of land to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.

"Habitat map" means maps of plant cover types/communities used to indicate the potential presence of fish and wildlife species.

"Hydric soil" means 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 Washington State Wetland Identification and Delineation Manual (RCW 36.70A.175).

"Hydrophytic vegetation" means 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.

"Hydraulic project approval" (HPA) means a permit issued by the State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

"Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle compared to natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow compared to natural conditions prior to development. Common impervious surfaces may include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of storm water. Impervious surfaces do not include surfaces created through proven low impact development techniques.

"Infiltration" means the downward entry of water into the immediate surface of soil.

"In-kind mitigation" means replacement of environmentally critical areas with substitute environmentally critical areas whose characteristics closely approximate those destroyed or degraded by a regulated activity.

"Intentionally created streams" means streams created through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals.

"Isolated wetland" means wetlands that are not hydrologically connected to other surface water features, either by aboveground flows or shallow subsurface water features.

"Lake" means a naturally or artificially created body of deep (generally greater than 6.6 feet) open water that persists throughout the year. A lake is larger than a pond, greater than one acre in size, equal to or greater than 6.6 feet in depth, and has less than thirty percent aerial coverage by trees, shrubs, or persistent emergent vegetation. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark with the stream where the stream enters the lake.

"Mitigation" means and includes:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations pursuant to activities undertaken during the life of the action;
5. Compensating for the impact by replacing or providing substitute resources or environments.

While monitoring without additional actions is not considered mitigation for the purposes of these regulations, it may be a part of a comprehensive mitigation program.

"Monitoring" means evaluating the impacts of development proposals over time on the biological, hydrological, pedological, and geological elements of such systems and/or assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

"Native vegetation" means vegetation that is indigenous to the area in question.

"No net loss" means the maintenance of the aggregate total of the Town's environmentally critical area functions and values as achieved through a case-by-case review of development proposals. Each project shall be evaluated based on its ability to meet the no net loss goal.

"Ordinary high water mark" means that mark that will be found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In any area where neither can be found, the top of the channel bank shall be substituted.

"Out-of-kind mitigation" means replacement of environmentally critical areas with substitute environmentally critical areas whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

"Outside edge of the buffer" means the edge of the buffer that is the farthest distance from the critical area being protected by the buffer.

"Permanent erosion control" means continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity, or pollutants after development, construction, or restoration.

"Pond" means a naturally existing body of standing water, which exists on a year-round basis and occurs in a depression of land or expanded portion of a stream.

"Priority species" or "priority fish and wildlife species" means fish and wildlife species of concern due to their population status and sensitivity to habitat alteration, as identified by the Washington Department of Fish and Wildlife.

"Qualified professional consultant" means a professionally trained and/or certified fish and wildlife or stream biologist, ecologist, or other professional with expertise in the scientific disciplines necessary to identify, evaluate, and manage habitat and streams. This term also means a professionally trained and/or certified geotechnical engineer with expertise in the engineering and behavior of earth materials.

"Qualified wetland specialist" means a professionally trained and/or certified wetlands biologist or wetlands ecologist.

"Recharge" means the process involved in the absorption and addition of water from the unsaturated zone to ground water.

"Regulated activity" means activities occurring in or near and/or potentially affecting environmentally critical areas or buffers that are subject to the provisions of this chapter. Regulated activities generally include but are not limited to any filling, dredging, dumping or stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing, or harvesting.

"Rehabilitation" means the establishment of a viable environmentally critical area from a previously filled or degraded environmentally critical area.

"Restoration" means the reestablishment of a viable environmentally critical area from a previously filled or degraded environmentally critical areas wetland site.

"Riparian corridor" or "riparian zone" means the area adjacent to a water body (stream, lake, or marine water) that contains vegetation that influences the aquatic ecosystem, near-shore area, and/or fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production). Riparian areas include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide sites for foraging, breeding, and nesting; cover to escape predators or weather; and corridors that connect different parts of a watershed for dispersal and migration.

"Site" means any parcel or combination of contiguous parcels where a project is being proposed.

"Slope" means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

"Stream beds" are areas where surface water produces a defined channel or bed. A defined channel or bed is an area that 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 do not include intentionally created streams, including irrigation and drainage ditches, grass-lined swales, and canals, except manmade streams that have been created as mitigation or that provide critical habitat for fish.

"Stream buffer area" means a naturally vegetated and undisturbed, enhanced, or revegetated zone surrounding a natural, restored, or newly created stream that is an integral part of a stream ecosystem, and protects a stream from adverse impacts to the integrity and value of a stream.

"Stream report" means a report prepared by a qualified consultant that evaluates stream functions and values, consistent with the format and requirements established by this chapter.

"Structural diversity" means the relative degree of diversity or complexity of vegetation in a habitat area as indicated by the stratification or layering of different plant species; the spacing or pattern of vegetation.

"Structure" means 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.

"Substrate" means the soil, sediment, decomposing organic matter, or combination of those located on the bottom surface of the wetland.

"Temporary erosion control" means on-site control measures that are needed to control conveyance or deposition of earth, turbidity, or pollutants during development, construction, or restoration.

"Wetland" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, retention 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. However, wetlands include those artificial wetlands intentionally created to mitigate wetland impacts.

"Wetland delineation" means a procedure performed by a wetland specialist to determine the area of a wetland and to define the boundary between a wetland and adjacent uplands.

"Wetland determination" means a report prepared by a qualified wetland specialist to determine the area of a wetland and to define the boundary between a wetland and adjacent uplands.

"Wetland functions and values" means the beneficial biological, physical, and other purposes generally served by wetlands, including but not limited to helping to maintain water quality, storing and conveying stormwater and floodwater, recharging groundwater, providing fish and wildlife habitat, and serving as areas for recreation, education, scientific study, and aesthetic enjoyment. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.340)

16.10.030 Applicability--Regulated activities.

A. The applicability of this chapter is triggered by submittal of an application for a development permit to the Town, including but not limited to application for a building permit, clearing and grading, tree removal, zoning, subdivision, and special use.

B. The provisions of this chapter shall apply to any activity which otherwise requires a permit or approval from the Town, that has a potential to impact an environmentally critical area or its established buffer unless otherwise exempt. Such activities include but are not limited to:

1. Removing, excavating, grading, disturbing, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind;
2. Destroying or altering vegetation through clearing, grading, harvesting, shading, or planting vegetation that would detrimentally alter the character or function of an environmentally critical area or its established buffer;
3. Dumping, discharging, or filling with any material;
4. Draining, flooding, or disturbing the water level or water table;
5. Driving pilings or placing obstructions;
6. Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure that results in disturbance of an environmentally critical area or its established buffer, or the addition of any impervious surface coverage to a site;
7. Activities that result in significant changes in physical or chemical characteristics of water sources, including, but not limited to, water temperature, quantity, and pollutants; and
8. Any other activity that has a potential to significantly adversely impact an environmentally critical area or established buffer not otherwise exempt from the provisions of this chapter.

C. To avoid duplication, the following permits and approvals shall be subject to and coordinated with the requirements of this chapter: clearing and grading; tree removal; subdivision or short subdivision; building permit; rezone; shoreline substantial development; shoreline conditional use permit; variance; planned unit development and binding site plan review; special use; and any other permits leading to the development or alteration of land.

D. Proponents of non-project actions, including but not limited to legislative zone changes, annexations, and the adoption of plans and programs, may be required to perform any studies or evaluations required by this chapter using methodologies and at a level of detail appropriate to the action proposed, as part of the non-project action review. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.020)

16.10.040 Procedural provisions.

A. Interpretation and Conflicts. Any question regarding interpretation of these regulations shall be resolved pursuant to the procedures set forth in Section 14.04.020.

B. Penalties and Enforcement. Compliance with these regulations and penalties for their violation shall be enforced pursuant to the procedures set forth in Chapter 14.56.

C. Appeals from Permit Decisions. Appeals from permit decisions shall be governed by the procedures set forth in Chapter 2.60. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.320)

16.10.050 Exemptions.

Notwithstanding the procedural exemptions provided by this section, an exempt activity occurring in or near an environmentally critical area shall meet the purpose and intent of Section 16.10.010 and the proponent shall consider on-site alternatives that avoid or minimize significant adverse impacts.

A. The following activities shall be exempt from the procedural requirements of this chapter:

1. Activities involving artificially created wetlands or streams intentionally created from non-wetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features; except wetlands, streams, ditches or swales created as mitigation or replacement or that provide critical habitat for salmonid fishes;
2. Activities occurring in areas of forty percent slope or greater when the forty percent slope area has a vertical elevation change of not more than fifteen feet may be exempted based upon Town review of a soils report prepared by a state licensed geologist or geotechnical engineer which demonstrates that no significant adverse impact will result from the activity;
3. Normal and routine maintenance, operation, and reconstruction of existing roads, streets, utilities, and associated rights-of-way and structures; provided, that reconstruction of any facilities may not increase the impervious area or reduce stormwater conveyance;
4. Normal maintenance and repair, reconstruction, or remodeling of residential, institutional, or commercial structures, or legal pre-existing and on-going uses of the site; provided, that reconstruction or remodeling of any structures may not increase the previous approved building footprint;
5. Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, fish and wildlife studies, and similar tests and investigations; provided, that any disturbance of the environmentally critical area shall be the minimum necessary to carry out the work or studies;
6. Educational activities, scientific research, and outdoor recreational activities that will not have an adverse effect on the environmentally critical area, including but not limited to interpretive field trips, bird-watching, and use of trails for horseback riding, bicycling, and hiking;
7. Alterations in response to emergencies which threaten the public health, safety, and welfare or which pose an imminent risk of damage to private property as long as any alteration undertaken pursuant to this subsection is reported to the Town immediately. Only the minimum intervention necessary to reduce the risk to public health, safety, or welfare and/or the imminent risk of damage to private property shall be authorized by this exemption. The Town shall confirm that an emergency exists and determine what, if any, additional applications and/or measures shall be required to protect the environment, consistent with the provisions of this chapter, and to repair any damage to a pre-existing resource;
8. Normal and routine maintenance and operation of existing landscaping and gardens including maintenance of view corridors along marine bluffs; provided, that no chemicals or fertilizers may be used in wetlands or streams, or their buffers, or in high significance/high susceptibility aquifer recharge areas; and provided, that no vegetation removal occurs in any landslide prone areas. Maintenance and operation of any landscaping or gardens shall not contribute to soil erosion and shall comply with all other regulations in this chapter, or other applicable Town codes;
9. Construction of trails, according to the following criteria: constructed of permeable or semi-permeable materials, designed to minimize impact on the environmentally critical area, located within the outer half of the environmentally critical buffer area, and of a maximum trail surface width of five feet;
10. Minor activities, such as the installation of a fence or fence posts not mentioned above and determined by the Town Engineer and/or Town Planner to have minimal impacts to an environmentally critical area;
11. Installation, construction, replacement, repair, or alteration of utilities and their associated facilities, lines, pipes, mains, equipment, or appurtenances in improved Town road rights-of-way;
12. Activities associated with or carried out in accordance with federal, state, and local regulations and requirements governing provision of construction, maintenance, repair, operation, and protection of public water supply and distribution facilities.

B. With the exception of subsections (A)(7), (8), (9), and (10) of this section, and normal maintenance and repair of residential and commercial structures as in subsection (A)(4) of this section, no property owner or other entity shall undertake exempt activities prior to providing ten days' notice to the Town. In case of any question as to whether a particular activity is exempt from the procedural requirements of this section, the Town's determination shall prevail and shall be confirmed in writing within ten days of receipt of the owner's or applicant's letter. Those activities falling under subsection (A)(7) of this section shall provide telephone or written communication to the Town within forty-eight hours of the activity notifying that such emergency activity was taken. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 01-412 § 1 (Exh. 1 (part)), 2001; Ord. 00-387 § 1(part), 2000. Formerly 16.10.030)

16.10.060 Conforming and nonconforming structures.

A. Otherwise conforming structures, located in an environmentally critical area buffer but not in an environmentally critical area, which are destroyed through an act of nature, fire, or other nonintentional, accidental means shall be allowed to be reconstructed to the configuration that existed prior to the damage within twelve months. Reconstruction of the structure shall not further encroach into the buffer area or increase the building footprint. Mitigation provisions consistent with the standards of this chapter may be required.

B. If a nonconforming structure located within an environmentally critical area is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged; provided, that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained, and the restoration is completed within two years of permit issuance. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.070 Reasonable use provision.

A. The standards and regulations of this chapter are not intended, and shall not be construed or applied in a manner, to deny all reasonable economic use of private property. If an applicant demonstrates to the satisfaction of the hearing examiner (Chapter 2.56) that strict application of these standards would deny all reasonable economic use of its property, development may be permitted subject to appropriate conditions.

B. An applicant for relief from strict application of these standards shall demonstrate the following:

1. No reasonable use with less impact on the environmentally critical area and the buffer is feasible and reasonable; and
2. There is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, change in use, reductions in density, application of the buffer width variance and buffer averaging provisions, and similar factors; and
3. The proposed activities, as conditioned, will result in the minimum possible impacts to affected environmentally critical areas; and
4. All reasonable mitigation measures have been implemented or assured; and
5. The inability to derive reasonable economic use is not the result of the applicant's actions.

C. Permits that require reasonable use consideration will require notice and hearings consistent with the process included in Title 14A. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.330)

16.10.080 Environmentally critical areas maps.

A. The approximate location and extent of environmentally critical areas within the Town's planning area are shown on the environmentally critical areas maps adopted as part of this chapter. These maps shall be used as a general guide only for the assistance of property owners and other interested parties; boundaries are generalized. The actual type, extent and boundaries of environmentally sensitive areas shall be determined in the field by a qualified consultant according to the procedures, definitions and criteria established by this chapter. In the event of any conflict between the environmentally critical area location or designation shown on the Town's maps and the criteria or standards of this section, the criteria and standards shall prevail. The Town shall strive to continuously update these maps, as new information becomes available, in order to ensure accuracy.

B. Mapping of Geologically Hazardous Areas. The approximate location and extent of geologically hazardous areas are shown on the environmentally critical areas maps. In addition, resources providing information on the location and extent of geologically hazardous areas in the Town include:

1. Washington Department of Ecology Coastal Zone Atlas (for marine bluffs);
2. U.S. Geological Survey geologic maps, landslide hazard maps, and seismic hazard maps;
3. Washington State Department of Natural Resources seismic hazard maps for Western Washington;
4. Washington State Department of Natural Resources slope stability maps;
5. National Oceanic and Atmospheric Administration tsunami hazard maps; and
6. Federal Emergency Management Administration flood insurance maps.

C. The critical areas inventory and the resources cited above are to be used as a guide for the Town, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.040)

16.10.090 Surface water study areas.

Several areas within the Town are characterized by seasonal surface water inundation and/or have been designated for stormwater easements. These areas are included on the ESA maps as "Surface Water Study Areas." They are not designated as environmentally critical areas; however, due to the presence of surface water, these areas may include areas that may be designated as environmentally critical. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.045)

16.10.100 Relationship to other regulations.

A. These environmentally critical area regulations shall apply as an overlay and in addition to zoning, land use and other regulations established by the Town. In the event of any conflict between these regulations and any other regulations of the Town, the regulations which provide greater protection to the environmentally critical areas shall apply.

B. Areas characterized by particular environmentally critical areas may also be subject to other regulations established by this chapter due to the overlap or multiple functions of some environmentally critical areas. Wetlands, for example, may be defined and regulated according to the wetland, fish and wildlife habitat, and stream area provisions of this chapter. In the event of any conflict between regulations for particular environmentally critical areas in this chapter, the regulations which provide greater protection to environmentally critical areas shall apply. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.050)

16.10.110 Proposed development.

Development proposed in environmentally critical areas shall incorporate and reflect the performance standards contained in Sections 16.10.200, 16.10.330, 16.10.430, 16.10.530, 16.10.630, 16.10.640, and 16.10.720. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.220)

16.10.120 Permit process and application requirements.

A. Preapplication Conference. All applicants are encouraged to meet with the Town prior to submitting an application subject to this section. The purpose of this meeting shall be to discuss the Town's environmentally critical area requirements, processes and procedures; to review any conceptual site plans prepared by the applicant; to identify potential impacts to environmentally sensitive areas and appropriate mitigation measures; and to generally inform the applicant of any federal or state regulations applicable to the subject environmentally critical area. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the Town.

B. Application Requirements.

1. Exemptions. The Town requires that all landowners requesting a permit for development, who will be working within an environmentally critical area, even if the work may be determined to be exempt, fill out an environmentally critical area worksheet and register for an environmentally critical area exemption permit. There is no fee for an environmentally critical area exemption permit.

2. Environmentally Critical Areas Report Contents. Reports and studies required to be submitted by this chapter shall contain the information indicated in this chapter applicable to each environmentally sensitive area.

C. Consultant Qualifications and Town Review.

1. All reports and studies required of the applicant by this chapter shall be prepared by a qualified consultant as that term is defined in this chapter. The Town may, at its discretion, retain a qualified consultant to review and confirm the applicant's reports, studies and plans. Consultant costs for this review shall be the responsibility of the applicant. Advance deposits shall be collected to cover estimated costs.

2. Best Available Science. The critical areas report shall use scientifically valid methods and studies in the analysis of critical areas data and field reconnaissance and reference the source of science used. The critical areas report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this title.

D. Permit Process. This chapter does not create a requirement to obtain a separate environmentally critical areas permit for development proposals. The Town shall consolidate and integrate the review and processing of environmentally critical areas aspects of proposals with other land use and environmental considerations and approvals. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.060)

16.10.130 Classification and rating of environmentally critical areas.

To promote consistent application of the standards and requirements of this chapter, environmentally critical areas within the Town shall be rated or classified according to their characteristics, functions and values, and/or their sensitivity to disturbance based on consideration of the following factors:

A. Maps adopted pursuant to this chapter;

B. Application of the criteria contained in these regulations; and

C. Consideration of the technical reports submitted by qualified consultants in connection with applications subject to these regulations. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 07-485 § 2, 2008; Ord. 00-387 § 1(part), 2000. Formerly 16.10.070)

16.10.140 Buffer areas.

A. The establishment of buffer areas shall be required for all development proposals and activities in or adjacent to environmentally critical areas. The purpose of the buffer shall be to protect the integrity, function, value and resource of the subject environmentally sensitive area, and/or to protect life, property and resources from risks associated with development on unstable or environmentally critical lands. Buffers shall consist of an undisturbed area of native vegetation established to achieve the purpose of the buffer. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved planting plan. Buffers shall be protected during construction by placement of a temporary barricade outside the buffer area, on-site notice for construction crews of the presence of the environmentally critical area, and implementation of appropriate erosion and sedimentation controls, including review and approval of a temporary erosion and sedimentation control plan ("TESC"). Permanent field markings, restrictive covenants and/or dedication of conservation easements may be required to preserve and protect buffer areas.

B. Required buffer widths shall reflect the sensitivity of the particular environmentally critical area and resource or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the environmentally critical area. Buffers or setbacks shall be measured as follows:

1. Wetland Buffers. Horizontally in all directions from the wetland edge as delineated and marked in the field using the current version of the adopted wetland manual, as per Section 16.10.020.

2. Stream Buffers. Horizontally landward from the ordinary high water mark, as determined using State Department of Ecology guidelines.

3. Critical Landslide Hazard Area Buffers (High Hazard and Very High Hazard). From the top and toe and, where applicable, from the point where the top meets the toe. Building setbacks, per Section 14.08.300, shall be measured to the nearest point of the outside edge of the designated buffer. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 07-485 § 3, 2008; Ord. 00-387 § 1(part), 2000. Formerly 16.10.080)

16.10.150 Buffer width variances.

Required buffers shall not deny all reasonable use of property. A variance from buffer width requirements may be granted by the Town subject to the variance criteria set forth in Chapter 14.50 and upon a showing by the applicant that:

A. Such buffer width variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and

B. There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties in the same zoning district, and which support the granting of a variance from the buffer width requirements; and

C. The granting of such buffer width variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and

D. The granting of the buffer width variance will not impact the subject environmentally critical area; and

E. The granting of a request for buffer width variance may include requirements to prepare and implement a buffer enhancement plan, or to otherwise enhance, restore or replace environmentally critical areas and their buffers consistent with the standards of this chapter. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.130)

16.10.160 Alteration or development of environmentally critical areas--Standards and criteria.

Alteration and development of environmentally critical areas within the Town may only be permitted subject to the standards and criteria of this chapter. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.140)

16.10.170 General mitigation standards.

All impacts to environmentally critical areas and/or their buffers shall be mitigated. Mitigation actions by an applicant or property owner shall occur in the following sequence:

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

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

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

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

E. Compensating for the impact by replacing or providing substitute resources or environments. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1 (part), 2000. Formerly 16.10.150)

16.10.180 Other appropriate mitigation actions.

Where impacts cannot be avoided, and the applicant has exhausted feasible design alternatives, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards and criteria of this chapter. In an individual case, these actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and/or implementation of the performance standards listed in this chapter. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.160)

16.10.190 Mitigation standards, criteria and plan requirements.

A. Mitigation Performance Standards. Significant adverse impacts to environmentally critical area functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in Section 16.10.170. Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:

1. All feasible and reasonable measures will be taken to reduce impacts and losses to the environmentally critical area, or to avoid impacts where avoidance is required by these regulations; and

2. The restored, created or enhanced environmentally critical area or buffer will demonstrate similar functions, values and characteristics as the environmentally critical area or buffer area it replaces; and

3. In the case of wetlands, streams and critical habitat, no overall net loss will occur in wetland or stream functions and values.

B. Location and Timing of Mitigation.

1. Mitigation shall occur in the most ecologically beneficial location, whether that is on site or off site. In addition, mitigation may be allowed through an approved mitigation bank.

2. On-site, in-kind mitigation shall be provided except when the applicant demonstrates, and the Town concurs, that greater functional and habitat value can be achieved through on-site, out-of-kind mitigation.

3. Only when it is determined by the Town that subsection (B)(2) of this section is inappropriate and impractical shall off-site, out-of-kind mitigation be considered.

4. When wetland or stream mitigation is permitted by these regulations on site or off site, the mitigation project shall occur near an adequate water supply (river, stream, groundwater) with a hydrologic connection to the environmentally critical area to ensure successful development or restoration. The proposed restoration project shall demonstrate no adverse impacts to the hydrologic source.

5. Any agreed-upon mitigation proposal shall be completed concurrently with project construction, unless a phased schedule, that assures completion prior to occupancy, has been approved by the Town. Phased construction shall require bonding consistent with review and approval by the Town.

6. Wetland acreage replacement ratios shall be as specified in Section 16.10.320(E).

7. Restored or created streams, where permitted by these regulations, shall be an equivalent or higher stream value or function than the altered stream. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.230)

16.10.200 Performance standards for mitigation planning.

The performance standards in Sections 16.10.330, 16.10.430, 16.10.530, 16.10.630, and 16.10.720 and the applicable standards contained in Sections 16.10.110, 16.10.160 through 16.10.190, 16.10.320, 16.10.420, 16.10.520, 16.10.620, and 16.10.710 shall be incorporated into mitigation plans submitted to the Town for impacts to environmentally critical areas. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.240)

16.10.210 Approved mitigation projects--Signature.

On completion of construction, any approved mitigation project must be signed off by the applicant's qualified consultant and approved by the Town. Approval by the Town will indicate that the construction has been completed as planned. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.290)

16.10.220 Approved mitigation projects--Contingency planning.

Approved mitigation projects shall implement the monitoring and contingency planning requirements of Sections 16.10.230, 16.10.340, 16.10.540, and 16.10.650. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.300)

16.10.230 Mitigation monitoring and maintenance--General standards.

A. The Town shall have the authority to require that compensatory mitigation projects be monitored annually for at least five years to establish that performance standards have been met. Required monitoring reports shall be submitted annually during the monitoring period to document milestones, successes, problems, and contingency actions of the compensatory mitigation. The Town may reduce the monitoring timeframe to three years for minor mitigation projects involving critical area or buffer revegetation or vegetation enhancement, but not for projects involving wetland creation, wetland restoration, stream restoration, or other activities that require manipulation of soils or water. All mitigation areas shall be maintained and managed to prevent degradation and ensure protection of critical area functions and values subject to field verification by the Town.

1. The Town shall have the authority to extend the monitoring period, require corrective measures, and/or require additional monitoring reports beyond the initial monitoring period for any project that does not meet the performance standards identified in the mitigation plan, or does not provide adequate replacement for the functions and values of the impacted critical area.

2. Mitigation sites shall be permanently protected by a deed restriction or other protective covenant specified by the Town.

B. Mitigation Assurance. The applicant and his/her representatives shall demonstrate sufficient scientific expertise and capability to implement the mitigation, monitor the site, and make corrections if the project fails to meet projected goals. The Town may require the following to ensure that the mitigation is fully functional:

1. The applicant shall post a mitigation surety in the amount of one hundred twenty-five percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The surety shall be based on an itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring, and other costs.

2. The surety shall be in the form of an assignment of funds or other means approved by the Town.

3. Surety authorized by this section shall remain in effect until the Town determines, in writing, that the standards bonded for have been met. Surety shall generally be held by the Town for a period of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary. Surety for construction may be reduced after initial completion in an amount not to exceed the cost of monitoring plus not less than twenty-five percent of the construction cost.

4. Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, or monitoring.

5. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, or monitoring.

6. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default and the Town may demand payment of any financial guarantees or require other action authorized by Town code or any other law.

7. Any funds recovered pursuant to this section shall be used to complete the required mitigation. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.300 Classification and rating of wetlands.

Wetlands shall be identified in accordance with the Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94). All areas within the Town meeting the criteria in the Washington State Wetlands Identification and Delineation Manual, regardless of any formal identification, are hereby designated critical areas and shall be subject to the provisions of this chapter.

A. The approximate location and extent of known or suspected wetlands are shown on the Town's adopted critical area maps as contained within the environmental element of the comprehensive plan. These maps shall be used as a guide for the Town, applicants, and/or property owners, and may be updated as new wetlands are identified. The exact location of a wetland boundary shall be determined through field investigation by a qualified professional applying the Washington State Wetlands Identification and Delineation Manual methods and procedures.

B. Wetlands shall be rated and regulated according to the categories defined by the Washington Department of Ecology Wetland Rating System for Western Washington (Ecology Publication No. 04-06-014). This document contains the methods for determining the wetland category based on the following criteria:

1. "Category I wetlands" are rare and irreplaceable in terms of their function and value to Woodway's natural aquatic systems. All wetlands with one or more of the following criteria shall be considered a Category I wetland:

a. Wetlands that are designated as natural heritage wetlands by the Washington State Department of Natural Resources;

b. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, and mature forested wetlands;

c. Wetlands that provide a very high level of functions as evidenced by a score of seventy points or more on the Western Washington Wetland Rating System form.

2. "Category II wetlands" are ecologically important and provide high levels of function. A wetland is considered a Category II wetland if it meets the following criteria:

a. Wetlands that do not meet the criteria of Category I wetlands; and

b. Wetlands performing significant wildlife habitat and/or hydrologic functions, which cannot be replicated through creation or restoration as determined by a critical area report; or

c. Wetlands with significant functions and values as indicated by a score of fifty-one to sixty-nine points on the Western Washington Wetland Rating System form.

3. "Category III wetlands" provide a moderate level of functions. They are typically more disturbed, smaller, and/or more isolated in the landscape than Category I or II wetlands. Category III wetlands include all wetlands that score thirty to fifty points on the Western Washington Wetland Rating System form.

4. "Category IV wetlands" provide the lowest level of function, but still provide important functions, as demonstrated by a score of less than thirty points on the Western Washington Wetland Rating System form.

C. All wetlands shall be regulated and subject to the provisions of this chapter regardless of size, except that Category IV wetlands less than one thousand square feet shall be exempt from this chapter if a critical area report prepared pursuant to this chapter demonstrates all of the following:

1. The wetland does not provide suitable habitat for amphibian species; and

2. The wetland does not possess unique characteristics that would be difficult to replicate through standard mitigation practices. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.310 Wetland buffers.

A. Wetland buffer areas shall be established for all development proposals and activities adjacent to wetlands to protect the integrity, function, and value of the wetland. The department shall determine appropriate buffer widths based upon the approved critical area report. Wetland buffers shall be measured perpendicular to the wetland edge as marked in the field and shall not include wetlands. Except as otherwise permitted by this chapter, buffers shall consist of an undisturbed area of native vegetation.

B. The standard buffer widths required by this chapter shall presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the existing vegetation is inadequate, then the buffer width shall be increased or the buffer planted or enhanced to maintain or improve the buffer functions. The following standard buffer width requirements are established as the minimum buffer width:

1. Standard Buffers. The following table describes the standard buffers for all wetlands that do not meet the criteria in subsection (B)(2) of this section. These are wetlands of all categories that receive a score of less than thirty points for wildlife habitat function on the Wetland Rating Form Questions H1 and H2 in the Washington State Wetland Rating System for Western Washington--Revised (Hruby, T. 2004) (Washington State Department of Ecology Publication No. 04-06-025).

Wetland Category	Criteria	Standard Buffer
I	Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by a total score of 70 points or more on the Ecology wetland rating form. These are wetland communities of infrequent occurrence that often provide documented habitat for critical, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.	200 ft
II	Category II wetlands have significant value based on their function as indicated by a total score of between 51 and 69 points on the Ecology wetland rating forms. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.	150 ft
III	Category III wetlands have important resource value as indicated by a total score of between 30 and 50 points on the Ecology rating forms.	90 ft
IV	Category IV wetlands are wetlands of limited resource value as indicated by a total score of less than 30 points on the Ecology wetland rating forms. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.	50 ft

2. Additional Buffers for Wetlands with High Habitat Function. Wetlands that provide high wildlife habitat function shall require wider buffers than the standards indicated in subsection (B)(1) of this section. For Category I, II, or III wetlands that score thirty or more points for wildlife habitat function on the Wetland Rating Form Questions H1 and H2 in the Washington State Wetland Rating System for Western Washington--Revised (Hruby, T. 2004) (Washington State Department of Ecology Publication No. 04-06-025), the standard buffer shall be increased for each habitat function point over thirty as shown in the table below:

	Buffer Width (ft) for High Habitat Function (Habitat Pts > 30)						
Wetland Category	**30**	**31**	**32**	**33**	**34**	**35**	**36**
I	220	230	240	250	260	270	280

II	170	180	190	200	210	220	230
III	100	110	120	130	140	150	160
IV	Buffer width is 50 ft						

C. The Town shall have the authority to average buffer widths on a case-by-case basis where a qualified professional demonstrates to the Town's satisfaction that all the following criteria are met:

1. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer;
2. The buffer averaging does not reduce the functions or values of the wetland;
3. The portion of the buffer reduced through buffer averaging is less than twenty-five percent of the total buffer length on a project site;
4. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation; and
5. The buffer width is not reduced to less than fifty percent of the standard width, except that no buffer dimension shall be less than twenty-five feet.

D. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to any site clearing and construction. The buffer boundary markers shall be clearly visible, durable, and permanently affixed to the ground. Site clearing shall not commence until the applicant has submitted written notice to the Department that buffer requirements of this chapter are met. Field marking shall remain until all construction and clearing phases are completed and final approval has been granted by the Town.

E. Structures shall be set back a minimum of ten feet from the buffer edge such that construction activities and outdoor living areas do not infringe upon the required buffer edge.

F. Impervious surfaces shall not be constructed in wetland buffers except as expressly provided for in this chapter.

G. The Director shall have the authority to reduce the width of the standard buffer on a case-by-case basis if all of the following criteria are met:

1. The buffer is adjacent to a critical area that is being significantly restored through a Town-approved mitigation plan that has regional benefit to critical area functions as determined by the Director.
2. A critical area report has been submitted to the Town that demonstrates the reduced buffer will protect the functions and value of the critical area being restored.
3. The reduced buffer shall be clearly described in any applicable SEPA, MDNS, or EIS document and shall be subject to review and comment by the public agencies with jurisdiction. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.090)

16.10.320 Alteration of wetlands--Performance standards.

A. All activities and uses shall be prohibited in wetlands and wetland buffers except as expressly provided for in this chapter. All feasible and reasonable measures shall be taken to avoid and minimize impacts to wetlands and buffers. These actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and implementation of the performance standards contained in this chapter. Alteration of wetlands shall be permitted only in accordance with an approved critical area report and mitigation plan. The burden of proof shall be on the applicant.

B. All significant adverse impacts to wetland functions and values and to associated buffers shall be avoided. Where such impacts cannot be avoided, the applicant shall implement appropriate compensatory mitigation according to the provisions of Sections 16.10.230, 16.10.340, 16.10.540, and 16.10.650.

C. Alteration of Category I wetlands is prohibited.

D. Alteration of Category II, III, and IV wetlands may be permitted in accordance with an approved critical area report and mitigation plan, and only when the applicant demonstrates that:

1. The basic project purpose cannot reasonably be accomplished without the wetland alteration; and
2. There are no reasonable or practical alternatives to the alteration, including without limitation on-site design or acquisition of additional area.

E. Wetland Replacement Ratios.

1. Where wetland alterations are permitted by the Town, the applicant shall restore or create areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to acreage, function, type, location, timing factors, and projected success of restoration or creation.
2. When creating or enhancing wetlands, the following acreage replacement ratios shall be used:

Wetland Category	Wetland Creation Replacement Ratio (Area)	Wetland Enhancement Ratio (Area)
Category I	6:1	16:1
Category II	3:1	12:1
Category III	2:1	8:1
Category IV	1.5:1	6:1

3. Enhanced wetlands shall have higher wetland values and functions than the altered wetland. The values and functions transferred shall be of equal or greater quality to assure no net loss of wetland values and functions.
4. Enhanced and created wetlands shall be appropriately classified and buffered.
5. When mitigation involves restoration of former wetlands, the replacement ratios shall be as follows:

Wetland Category	Wetland Restoration Replacement Ratio (Area)
Category I	4:1
Category II	2:1
Category III	2.5:1
Category IV	1.5:1

(Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.170)

16.10.330 Wetland mitigation performance standards.

A. Grading plans shall meet the following standards:

1. Existing and proposed on-site elevations and grades shall be shown in both plan and cross-section view at a contour interval of one foot or less.
2. Grading plans shall depict site access, staging, and stockpiling areas.
3. Stockpiling should be confined to upland areas and contract specifications should limit stockpiling of earthen materials to durations in accordance with Town clearing and grading standards, unless otherwise approved by the Town.
4. Plans shall be stamped by a licensed engineer.

B. The planting plan shall address the following design standards:

1. A planting plan shall be submitted to the Town for review and approval. The wetland mitigation design and planting plans shall use a hydrogemorphic (HGM) type and water regime that are appropriate within the landscape setting of the project. Plants indigenous to the region (not introduced or foreign species) shall be used.
2. Plants adaptable to a broad range of water depths shall be used.
3. Plants should be commercially available or available from local sources.
4. Plant species high in food and cover value for fish and wildlife shall be used.
5. Mostly perennial species should be planted.
6. Committing significant areas of the site to species that have questionable potential for successful establishment shall be avoided.
7. Plant selection must be approved by a qualified consultant.
8. Plans shall be stamped by a state-registered landscape architect.
9. Planting instructions shall be submitted which describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock.
10. Controlled release fertilizer shall be applied (if required) at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process).
11. An irrigation system shall be installed, if necessary, for the initial establishment period.

C. Wetland design and construction shall be consistent with Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans, as amended, and the following:

1. All construction specifications and methods shall be approved by a qualified consultant and the Town.

2. Construction management shall be provided by a qualified consultant. On-going work on site shall be inspected by the Town. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.250)

16.10.340 Wetland mitigation monitoring and maintenance.

A. All wetland mitigation projects shall be monitored in accordance with Sections 16.10.230, 16.10.340, 16.10.540, and 16.10.650 for a period necessary to establish that performance standards have been met. The Town shall have the authority to extend the monitoring period for up to ten years and require additional monitoring reports when any of the following conditions apply:

1. The project does not meet the performance standards identified in the mitigation plan.
2. The project does not provide adequate replacement for the functions and values of the impacted critical area.
3. The project involves establishment of forested plant communities, which require longer time for establishment.

B. Monitoring reports shall be submitted annually for the first three years following construction and at the completion of years five, seven, and ten if applicable to document milestones, successes, problems, and contingency actions of the compensatory mitigation. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.400 Classification and rating of streams.

Streams shall be designated Class I, Class II, Class III, and Class IV according to the criteria in this section. When more than one stream class is present in alternating segments on the property in question, it will be classified according to the stream class that is more restrictive.

A. "Class I streams" are those streams identified as shorelines of the state under the Snohomish County shoreline master program, adopted by reference by the Town, as amended and as defined in Chapter 90.58 RCW.

B. "Class II streams" are those natural streams that are not classified as Class I streams and are either perennial or intermittent and have one of the following characteristics:

1. Salmonid fish use;
2. Potential for salmonid fish use or benefit; or
3. Significant recreational value.

C. "Class III streams" are those natural streams with perennial (year-round) or intermittent flow and are not used by salmonid fish and have no potential to be used by salmonid fish, but which contribute water to streams or water bodies used by threatened or endangered species.

D. "Class IV streams" are those streams and natural drainage swales with perennial or intermittent flow with channel width less than two feet taken at the ordinary high water mark, that are not used by salmonid fish and which are not hydrologically connected to water bodies used by threatened or endangered species.

E. "Intentionally created streams" are those manmade streams purposefully created, and do not include streams created as mitigation. Purposeful creation must be demonstrated to the Town through documentation, photographs, statements, and/or other evidence. Intentionally created streams may include irrigation and drainage ditches, grass-lined swales, and canals. Intentionally created streams are excluded from regulation under this section, except manmade streams that provide or contribute to critical habitat for anadromous fish and/or threatened or endangered species. (Ord. 09-503 § 1 (Exh. A (part)), 2009)

16.10.410 Stream buffers.

A. The following buffers are established for streams:

Stream Class	Standard Buffer Width (feet)	Minimum Buffer Width (feet)
Class I	250	150
Class II	100	75
Class III	75	25
Class IV	50	25
Lakes and ponds	50	25 (see Section 16.10.510(B))

B. The standard buffer width will be established unless the applicant can demonstrate one or both of the following:

1. The proposed use and/or activities are considered low impact, and meet the following conditions:
   a. The site layout includes no parking, outdoor storage or use of any kind of machinery between building and buffer;
   b. Use does not involve usage or storage of chemicals;
   c. Passive areas are located adjacent to buffer; and
   d. Stream and buffer protections are incorporated into the site design; these may include use of landscaping features, berms, fences, water quality protections and other measures which preserve the character and function of the stream and its buffer.
2. Stream and buffer enhancement is implemented through the review and adoption of an approved buffer enhancement plan (BEP). The buffer enhancement plan should include but is not limited to the following applicable provisions:
   a. Removal of fish barriers to restore accessibility to anadromous fish;
   b. Enhancement of fish habitat using log structures incorporated as part of a fish habitat enhancement plan;
   c. Enhancement of fish and wildlife habitat structures that are likely to be used by fish and wildlife, including wood duck houses, bat boxes, nesting platforms, snags, rootwads/stumps, birdhouses, and/or heron nesting areas;
   d. Planting native vegetation within the buffer area, especially vegetation that would increase value for fish and wildlife, increase stream bank or slope stability, improve water quality, or provide aesthetic/recreational value;
   e. Create a surface channel where a stream was previously culverted or piped;
   f. Remove or modify existing stream culverts (such as at road crossings) to improve fish passage and flow capabilities;
   g. Upgrade and enhance retention/detention facilities or other drainage facilities.

C. No structures or improvements shall be permitted within the stream buffer area, except as provided in Section 16.10.420.

D. The Town may extend the width of the buffer on the basis of site-specific analysis when necessary to comply with a basin plan adopted by the Town in accordance with county or regional plans to preserve endangered or threatened species.

E. Stream buffer widths may be modified by averaging buffer widths as set forth herein.

1. Buffer width averaging shall be allowed only where the applicant demonstrates to the Town that the stream contains variations in sensitivity due to existing physical characteristics, that lower intensity land uses would be located adjacent to areas where buffer width is reduced, and that the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging. Buffer averaging shall not result in the buffer width being reduced by more than twenty-five percent of the required buffer as set forth in the table in subsection A of this section and in no case may the buffer be less than twenty-five feet in width.
2. A buffer enhancement plan (BEP) may be required if buffer averaging is proposed.

F. When a development permit is required, a regulated stream and its associated buffer shall be placed either in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the Town. In this case, the location and limitations associated with the stream and its buffer shall be shown on the face of the deed or plat applicable to the property and shall be recorded with Snohomish County.

G. When a development permit is required, buffers shall be permanently marked by green metal fence posts in a manner acceptable to the Town with one-inch by two-foot rebar buried beside each post. The number of post/rebar markers shall be sufficient to indicate the boundary of the buffer and the minimum shall be two. The approximate location of the posts based on measurements shall be shown on a site plan that shall be recorded with Snohomish County. It shall be the responsibility of the property owner to maintain, and if necessary reestablish, these permanent markers. (Ord. 09-503 § 1 (Exh. A (part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.100)

16.10.420 Alteration of streams and stream buffers.

A. Relocation of a Class I or II stream to facilitate general site design, driveway access, or building location will not be allowed. Relocation of a class III or IV stream may take place only as part of an approved mitigation or rehabilitation plan that will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream.

B. Stream crossings may be allowed, where necessary, provided such crossings shall only occur as near to perpendicular with the water body as possible. Roads shall not run parallel to the water body unless specific mitigation measures are incorporated to prevent impacts to the stream and riparian habitat.

C. Road bridges shall be designed in accordance with the WDFW Design of Road Culverts for Fish Passage (May 2003) and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings 2001, or as updated.

D. Bridges shall be used to cross Class I streams.

E. Culverts are allowable only in Class II, III and IV streams and when a hydraulic project approval has been issued and found to be consistent with the Design of Road Culverts for Fish Passage (May 2003) by WDFW.

F. The Town may require that a stream be removed from a culvert as a condition of approval or the culvert reconstructed to the standards of this chapter, unless the culvert is not detrimental to fish habitat or water quality or removal and/or replacement is deemed detrimental to fish or fish and wildlife habitat or water quality.

G. Clearing and grading within stream and buffer areas shall require the issuance of a clearing and grading permit issued by the Town and shall comply with the following performance standards:

1. Allowed only during the dry season (typically April/May through September or as designated by the Town).
2. Appropriate erosion and sediment control measures shall be used, and when possible the soil duff layer shall remain undisturbed.
3. Where feasible, disturbed topsoil shall be redistributed to other areas of the site; provided, that this shall not constitute unauthorized fill. Areas shall be revegetated as needed to stabilize the site.
4. The moisture-holding capacity of the topsoil shall be maintained by minimizing soil compaction or by reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

H. Stream bank stabilization and protection may be permitted subject to the following:

1. Natural hydraulic processes will be maintained to the maximum extent practicable. The activity will not result in increased erosion and will not alter the size or distribution of stream substrate, or eliminate or reduce sediment supply from feeder bluffs.
2. Stream protection shall comply with state hydraulic project approval requirements.
3. No adverse impact to fish or wildlife habitat areas or associated wetlands will occur.
4. No alteration of juvenile fish migration corridors will occur.
5. No net loss of riparian habitat function will occur.
6. Nonstructural measures, such as placing or relocating the development further from the stream bank, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
7. Stabilization is achieved through bioengineering or soft armoring techniques in accordance with an applicable hydraulic permit issued by WDFW.

I. Stormwater management facilities, such as infiltration trenches, but not detention and treatment ponds or vaults, may be allowed within the outer fifty percent of the standard buffer, provided:

1. There is no other feasible location for the stormwater conveyance with less impact on critical areas or buffer;
2. The stormwater facility is designed according to Town standards and the discharge water meets state and local water quality standards;
3. Vegetation shall be maintained and if necessary added adjacent to all stormwater conveyance channels to reduce erosion, filter out sediments, and provide shade.

J. Stormwater conveyance or discharge facilities such as dispersion trenches and outfalls may encroach into the inner fifty percent of the buffer on a case-by-case basis when the Town determines that due to topographic or other physical constraints there are no other feasible locations for these facilities in the outer buffer area.

K. On-site sewage disposal systems may be permitted when accessory to an approved residential structure for which there is no nearby public sanitary sewer system to connect to and when operated and maintained in accordance with other Town provisions; provided, that adverse effects on water quality and slope stability are avoided.

L. Structures other than access roads, bridges, culverts, stormwater conveyance and management facilities, bank stabilization, and on-site sewage systems shall not be allowed in streams or stream buffers except as follows:

1. When the structure is part of an approved stream rehabilitation or mitigation plan; or
2. For construction of new roads and utilities, and accessory structures, when no feasible alternative location exists; or
3. Construction of trails, according to the following criteria:
   a. Constructed of permeable or semipermeable materials; or
   b. Designed to minimize impact on the stream system; or
   c. Of a maximum trail surface width of five feet (see Section 16.10.050(A)(9)), and located within the outer half of the buffer, i.e., the portion of the buffer that is farther away from the stream; or
4. Construction of footbridges; or
5. Construction of interpretive facilities and informational signs.

M. On-site sewage disposal systems may be permitted when accessory to an approved residential structure for which it is not feasible to connect to a public sanitary sewer system and when operated and maintained in accordance with other Town provisions; provided, that adverse effects on water quality and slope stability are avoided. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.180)

16.10.430 Stream mitigation performance standards.

A. Grading plans shall meet the following standards:

1. Existing and proposed on-site elevations and grades shall be shown in both plan and cross-section view at a contour interval of one foot or less.
2. Grading plans shall depict site access, staging, and stockpiling areas.
3. Stockpiling should be confined to upland areas and contract specifications should limit stockpiling of earthen materials to durations in accordance with Town clearing and grading standards, unless otherwise approved by the Town.
4. Plans shall be stamped by a licensed engineer.

B. The planting plan shall address the following design standards:

1. A planting plan shall be submitted to the Town for review and approval. Plants indigenous to the region (not introduced or foreign species) shall be used.
2. Plants adaptable to a broad range of water depths shall be used.
3. Plants should be commercially available or available from local sources.
4. Plant species high in food and cover value for fish and wildlife shall be used.
5. Mostly perennial species should be planted.
6. Committing significant areas of the site to species that have questionable potential for successful establishment shall be avoided.
7. Plant selection must be approved by a qualified consultant.
8. Plans shall be stamped by a state-registered landscape architect.
9. Planting instructions shall be submitted which describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock.
10. Controlled release fertilizer shall be applied (if required) at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process).
11. An irrigation system shall be installed, if necessary, for the initial establishment period. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.500 Classification and rating of fish and wildlife habitats.

Fish and wildlife habitat classification includes those areas that meet any of the following criteria:

A. The documented presence of species proposed or listed by the federal government or state of Washington as endangered, threatened, environmentally critical, monitor or priority;

B. State priority habitats and areas associated with state priority species;

C. Commercial and recreational shellfish areas;

D. Kelp and eelgrass beds;

E. Surf smelt, Pacific herring, and Pacific sand lance spawning areas;

F. Naturally occurring ponds under twenty acres in size;

G. Naturally occurring lakes over twenty acres and other waters of the state, including marine waters, and waters planted with game fish by a government or tribal entity;

H. Natural area preserves and natural resource conservation areas;

I. Heron rookeries or raptor nesting trees;

J. Category I and II wetlands and their buffers as defined in these regulations;

K. Class I and II streams and their buffers, as defined in these regulations;

L. Priority species and habitats as identified in the Town comprehensive plan;

M. Areas of previously undisturbed native vegetation and/or stands of significant trees that provide a corridor between any of the critical fish and wildlife habitat areas listed in this section. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.510 Fish and wildlife habitat area buffers.

A. Buffer widths for critical habitat areas shall be based on consideration of the following factors: species recommendations of the Washington State Department of Fish and Wildlife; recommendations contained in the fish and wildlife study submitted by a qualified consultant; and the nature and intensity of land uses and activities occurring on the site and on adjacent sites.

B. Lakes and ponds shall have a standard buffer of fifty feet. The Town may reduce the buffer to twenty-five feet when doing so will not adversely affect the functions and values of the lake or pond.

C. Low impact uses and activities which are consistent with the purpose and function of the critical habitat buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat area. Examples of uses and activities which may be permitted in appropriate cases include pervious or semi-pervious trails, viewing platforms, stormwater management facilities such as grass-lined swales, and utility easements; provided, that any impacts to the buffer resulting from permitted facilities shall be mitigated.

D. Critical habitat areas and their associated buffers shall be placed either in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the Town. The location and limitations associated with the critical habitat and its buffer shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the Snohomish County department of records and elections. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.110)

16.10.520 Alteration of fish and wildlife habitat areas.

Alterations to fish and wildlife habitat areas shall be prohibited, except as allowed in Section 16.10.070, Reasonable use provision. No habitat alteration will be allowed that will result in a take of a state or federally listed threatened or endangered species. Any alteration permitted subject to the reasonable use provisions shall be required to meet the performance and mitigation standards of these regulations. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.190)

16.10.530 Fish and wildlife habitat area mitigation performance standards.

A. Relevant performance standards from Sections 16.10.330 and 16.10.430, as determined by the Town, shall be incorporated into habitat area mitigation plans.

B. The following additional mitigation measures shall be reflected in mitigation planning:

1. Consider habitat in site planning and design and ensure that no habitat alteration will be allowed that will result in a take of a state or federally listed threatened or endangered species;
2. Locate buildings and structures in a manner that preserves and avoids all adverse impacts to important habitat areas;
3. Integrate retained habitat into open space and landscaping;
4. Consolidate habitat and vegetated open space in contiguous blocks;
5. Locate habitat contiguous to other habitat open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas;
6. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers;
7. Emphasize heterogeneity and structural diversity of vegetation in landscaping;
8. Preserve significant trees, preferably in groups, consistent with the tree preservation ordinance and with achieving the objectives of these standards. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.260)

16.10.540 Fish and wildlife habitat area mitigation monitoring and maintenance.

The Town shall have authority to require annual monitoring of mitigation activities and submittal of annual monitoring reports in accordance with Sections 16.10.230, 16.10.340, 16.10.540, and 16.10.650 to ensure and document that the goals and objectives of the mitigation are met. The frequency and duration of the monitoring shall be based on the specific needs of the project as determined by the Town. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.600 Classification and rating of geologic hazard areas.

Geologic hazard areas shall be classified according to the criteria in this section.

A. Critical Erosion Hazard Areas. Critical erosion hazard areas are lands or areas underlain by soils identified by the U.S. Department of Agriculture Soil Conservation Service (SCS) as having severe or very severe erosion hazards.

B. Landslide Hazard Areas. Landslide hazard areas are classified as moderate, high, and very high. High and very high are considered critical landslide hazard areas and require a buffer in accordance with Section 16.10.140. Definitions of classifications are as follows:

1. Moderate Hazard. Areas with slopes between fifteen percent and forty percent and that are underlain by soils that consist largely of sand, gravel, or glacial till;
2. High Hazard. Areas with slopes between fifteen percent and forty percent that are underlain by soils consisting largely of silt and clay or by soils that have sand over clay;
3. Very High Hazard. Areas with slopes steeper than fifteen percent with zones of emergent water (e.g., springs or groundwater seepage), areas of landslide deposits regardless of slope, and all areas sloping forty percent or steeper.
4. A slope is delineated by establishing its toe and top (as defined in Figure 1 of this section) and is measured by averaging the inclination over at least 10 feet of vertical relief or twenty-five feet of horizontal distance. Benches, steps, and variations in gradient shall be incorporated into a larger slope if they do not meet criteria defining toe and/or top depicted in Figure 1 of this section (see also Figure 2 at the end of this section). If the toe or top of a slope is located off of a subject property, then the location of the toe or top shall be delineated two hundred horizontal feet from the property boundary or at its natural location, whichever is closer to the subject parcel (see Figure 2 at the end of this section).

C. Seismic Hazard Areas. Seismic hazard areas are lands that, due to a combination of soil and groundwater conditions, are subject to severe risk of ground shaking, subsidence, or liquefaction of soils during earthquakes. These areas are typically underlain by soft or loose saturated soils (such as alluvium), or have a shallow groundwater table.

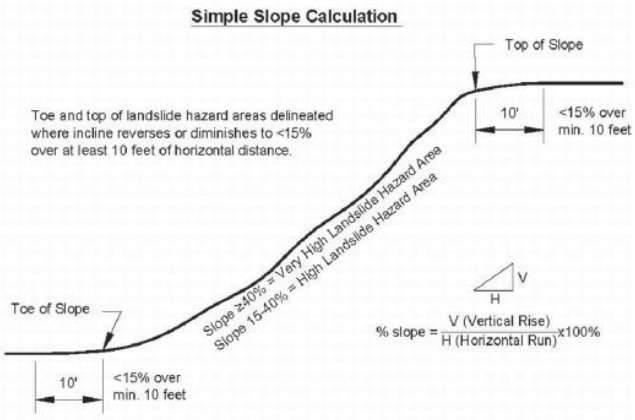

Figure 1

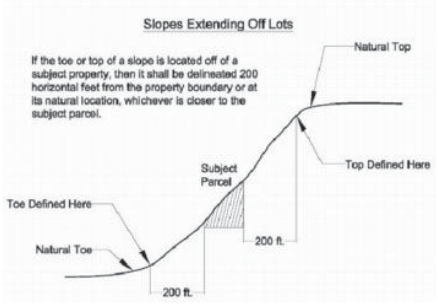

Figure 2

(Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.610 Geologic hazard area buffers.

A. Required buffer widths for geologic hazard areas shall reflect the sensitivity of the hazard area and the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the area. In determining the appropriate buffer width, the Town shall consider the recommendations contained in a geotechnical report required by these regulations and prepared by a licensed geotechnical engineer retained by the applicant.

B. For high hazard and very high hazard landslide areas, the standard buffer shall be fifty feet from all edges of the landslide hazard area or the horizontal distance equal to the height of the landslide hazard area, whichever is greater. Larger buffers may be required as needed to eliminate or minimize the risk to people and property based on a geotechnical report prepared by a qualified professional.

C. Landslide hazard area buffers may be reduced to a minimum of fifteen feet when technical studies demonstrate that the reduction will not increase the risk of the hazard to people or property on or off site.

D. Landslide hazard areas and their associated buffers shall be placed either in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the Town. The location and limitations associated with the critical landslide hazard and its buffer shall be shown on the face of the deed or plat applicable to the property and shall be recorded with Snohomish County.

E. For proposed subdivision plats, the total area contained within the designated hazard area and buffer shall be included in calculating the lot yield of the subject parcel; provided, that the created buildable lots meet the minimum lot area requirements of the applicable zoning district and Title 13, Subdivisions. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.120)

16.10.620 Alteration of geologic hazard areas.

A. The Town shall approve, condition, or deny proposals in a geologic hazard area as appropriate based upon the effective mitigation of risks posed to property, health, and safety. The objective of mitigation measures shall be to render a site containing a critical geologic hazard site as safe as one not containing such hazard. Conditions may include limitations of proposed uses, modification of density, alteration of site layout and other appropriate changes to the proposal. Where potential impacts cannot be effectively mitigated, or where the risk to public health, safety and welfare, public or private property, or important natural resources is significant notwithstanding mitigation, the proposal shall be denied.

B. Very High Landslide Hazard Areas.

1. Development shall be prohibited in very high landslide hazards areas except for the installation and construction of:
   a. Public and private drainage conveyance facilities;
   b. Public streets;
   c. Utilities, excluding natural gas, petroleum, and other potentially hazardous utilities;
   d. Alterations within a very high landslide hazard area for the purposes of stabilization, when such hazard area poses risk to private property or existing development, as confirmed by the Town's qualified professional geotechnical engineer.

2. The Town shall refer the proposed project to the Town Council for review and approval. Proposals allowed by the above exceptions shall be reviewed based upon the nature of the proposal per the procedures and criteria in this chapter and the applicable sections of this code, i.e., clearing and grading (stormwater) projects shall be reviewed under the procedures of the stormwater chapter, structures shall be reviewed under the procedures of the building/zoning chapters, etc. All proposals for development or alterations within very high landslide hazard areas shall be subject to the criteria below:
   a. Stormwater conveyance pipes shall be permitted in geologic hazard areas only when the applicant demonstrates that no other practical alternative is available. The pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.
   b. The proposed street and/or utility is identified in a plan adopted by the Town Council, such as the comprehensive plan, capital facility plan, transportation improvement plan or other utility facility plan. As new or amended plans are prepared and adopted, streets and utilities shall be located to avoid impact to very high landslide hazard areas. Where no reasonable alternative to locating in very high landslide hazard areas exists, review and approval of the plan shall include a discussion of alternatives and rationale for planning streets and utilities in very high landslide hazard areas.
   c. Alternative locations which avoid impact to very high landslide hazard areas are evaluated and are determined to be functionally infeasible.
   d. There is a geotechnical evaluation to identify the risks of damage from the proposal, both on site and off site, to ascertain that the proposal will not increase the risk of occurrence of the potential geologic hazard; and to identify measures to eliminate or reduce risks, both on site and off site, which should be implemented as conditions of approval.
   e. Alterations within very high landslide hazard areas for purposes of slope stabilization shall only be allowed to the extent necessary to address existing conditions that pose risk to private property or existing development. Existing conditions that pose risk may include active or potential landsliding that results in loss of ground, endangerment of existing structures or utilities, or significant erosion. Slope stabilization within very high landslide hazard areas may not be used as a means of reducing landslide hazard buffers for new development as otherwise required by this chapter.
   f. When no alternative exists, the impact shall be minimized by limiting the magnitude of the proposed construction to the extent possible. Any impacts shall be rectified by repairing, rehabilitating, restoring, replacing, or providing substitute resources consistent with the mitigation and performance standards contained in Sections 16.10.190 and 16.10.200.

C. Moderate and High Landslide Hazards. Alterations proposed to moderate and high landslide hazards or their buffers shall be evaluated by a qualified professional through the preparation of the geotechnical report. However, for proposals that include no development, construction, or impervious surfaces, the Town, in its sole discretion, may waive the requirement for a geotechnical report. The recommendations contained within the geotechnical report shall be incorporated into the alteration of the landslide hazard area or their buffers.

D. The geotechnical engineer and/or geologist preparing the report shall provide assurances that the risk of damage from the proposal, both on site and off site, is minimal subject to the conditions set forth in the report, that the proposal will not increase the risk of occurrence of the potential landslide hazard, and that measures to eliminate or reduce risks have been incorporated into the report's recommendations.

E. Seismic Hazard Areas.

1. For one-story and two-story residential structures and accessory buildings, the applicant shall conduct an evaluation of site response and liquefaction potential based on the performance of similar structures under similar foundation conditions; and

2. For all other proposed structures, the applicant shall conduct an evaluation of site response and liquefaction potential including sufficient subsurface exploration to provide a site coefficient (S) for use in the static lateral force procedure described in the International Building Code.

F. When development is permitted in geologic hazard areas by these regulations, an applicant and/or its licensed geotechnical engineer shall provide assurances which include the following:

1. A letter under seal from a licensed geotechnical engineer shall be recorded with Snohomish County that states that, in the engineer's professional opinion, all needed surface and subsurface soil explorations have been completed, a thorough review has been made of public records, and all needed analysis has been completed such that if the engineer's recommendations are followed any recommended structure will be as safe on the site containing the critical geologic hazard as it would be on a site not containing such hazard and that the use of the site according to the engineer's recommendations will not increase the likelihood of damage to neighboring properties;

2. A legal statement shall be recorded and noted on the face of the deed and on any new plat, executed in a form satisfactory to the Town, which characterizes the site as being located in a geologic hazard area, and which states there may or may not be risks associated with development of such site, and which references the engineer's recorded letter required by the prior subsection; and

3. If deemed necessary by the Town, the posting of a bond, guarantee, or other assurance device reviewed and approved by the Town to cover the cost of monitoring, maintenance, and any necessary corrective actions.

G. Stormwater conveyance facilities may be allowed to encroach into geological hazard areas on a case-by-case basis and upon geotechnical evidence that there are no other practical locations for these facilities and that the installation of such facilities will not detrimentally affect adjacent properties or ecosystems. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.200)

16.10.630 Geologic hazard area performance standards.

A. Relevant performance standards from Sections 16.10.330, 16.10.430, and 16.10.530, as determined by the Town, shall be incorporated into mitigation plans.

B. The following additional performance standards shall be reflected in proposals within geologic hazard areas:

1. Geotechnical studies shall be prepared by a qualified professional. An environmentally critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist licensed in the state of Washington, with experience analyzing geologic, hydrologic, and ground water flow systems, and who has experience preparing reports for the relevant type of hazard. Critical areas studies and reports on geologically hazardous areas shall be subject to independent review;

2. Construction methods shall reduce or not adversely affect geologic hazards;

3. Site planning should minimize disruption of existing topography and natural vegetation;

4. Impervious surface coverage should be minimized;

5. Disturbed areas should be replanted as soon as feasible pursuant to an approved landscape plan;

6. Clearing and grading regulations as set forth by the Town shall be followed;

7. Use of retaining walls that allow maintenance of existing natural slope areas are preferred over graded slopes;

8. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;

9. Undevelopable geologic hazard areas larger than one-half acre shall be placed in a separate tract; provided, this requirement does not make the lot nonconforming;

10. A monitoring program, reviewed and approved by the Town, shall be prepared for construction activities permitted in geologic hazard areas;

11. Development shall not increase instability or create a hazard to the site or adjacent properties, or result in a significant increase in sedimentation or erosion;

12. The development will not increase or concentrate surface water discharge or sedimentation to adjacent sites beyond pre-development conditions;

13. The development will not decrease slope stability on the development site or on adjacent sites;

14. Structures and improvements shall be located, and clustered if appropriate, to preserve the most critical portion of the site and its natural landforms and vegetation;

15. All subdivision activity proposed in landslide and critical erosion hazard areas and associated buffers is subject to the following:

a. Land that is located wholly within an erosion or landslide hazard area or its buffer may not be subdivided. Land located partially within an erosion or landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the erosion or landslide hazard and its buffer;

b. Access roads and utilities may be permitted within the erosion or landslide hazard area and associated buffers if the director determines based on an approved critical area report and mitigation plan that the road will not increase the risk to adjacent sites and that no other feasible alternative exists;

16. Prohibited Development. On-site sewage disposal systems, including drain fields, shall be prohibited within landslide and erosion hazard areas and related buffers;

17. Public roads, bridges, utilities and trails shall be allowed when there are no feasible alternative locations and geotechnical analysis and design are provided that ensure the roadways, bridges, utility structures, and facilities will not be susceptible to damage from seismically induced ground deformation. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.270)

16.10.640 Geologic hazard area report--Required information.

A geologic hazard area report shall include, at a minimum, the following information:

A. Aerial extent of the proposed project or activity, including all lands within two hundred feet of such proposed project or activity.

B. Geologic Hazards Assessment. An environmentally critical areas report for a geologically hazardous area shall contain an assessment of geologic hazards including the following site- and proposal-related information at a minimum:

1. Site and Construction Plans. The report shall include a copy of the site plans for the proposal showing:

a. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, within two hundred feet of, or that are likely to impact the proposal;

b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;

c. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report; and

d. Clearing limits.

2. Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rocks of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

a. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;

b. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site-specific measurements, tests, investigations, or studies that support the identification of geologically hazardous areas; and

c. A description of the vulnerability of the site to seismic and other geologic events.

3. Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.

4. Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

C. Incorporation of Previous Study. Where a valid environmentally critical areas report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required environmentally critical areas report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

D. Mitigation of Long-Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the preexisting level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the preexisting conditions following abandonment of the activity. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.650 Geologic hazard area mitigation monitoring and maintenance.

The Town shall have authority to require annual monitoring of mitigation activities and submittal of annual monitoring reports in accordance with Sections 16.10.230, 16.10.340, 16.10.540, and 16.10.650 to ensure and document that the goals and objectives of the mitigation are met. The frequency and duration of the monitoring shall be based on the specific needs of the project as determined by the Town. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.700 Classification and rating of aquifer recharge and wellhead protection areas.

The classification of aquifer recharge and wellhead protection areas shall be based on the criteria established in WAC 365-190-080(2), including the categories of low, medium and high significance. Classification depends on the combined effects of hydrogeological susceptibility to contamination and contaminant loading potential, and presence of municipal water wellhead areas, as follows:

A. Low Significance/Low Susceptibility Recharge Areas. Upland areas underlain by soils consisting largely of silt, clay, or glacial till;

B. Medium Significance/Moderate Susceptibility Recharge Areas. Upland areas underlain by soils consisting largely of sand and gravel;

C. High Significance/High Susceptibility Recharge Areas. Wellhead protection areas and areas underlain by soils consisting largely of sand and gravel in which there is a predominantly downward or lateral component to groundwater flow, and which serve as a source of drinking water. (Ord. 09-503 § 1 (Exh. A(part)), 2009)

16.10.710 Alteration of aquifer recharge and wellhead protection areas.

A. The following land uses and activities shall be prohibited in critical (high significance/high susceptibility) aquifer recharge and wellhead protection areas:

1. Land uses and activities that involve the use, storage, transport, or disposal of significant quantities of chemicals, substances, or materials that are toxic, dangerous, or hazardous, as those terms are defined by state and federal regulations;
2. On-site community sewage disposal systems;
3. Underground storage of chemicals;
4. Petroleum pipelines;
5. Solid waste landfills;
6. Activities that substantially divert, alter, or reduce the flow of surface or ground waters, or otherwise adversely affect aquifer recharge;
7. Other activities that the Town determines would significantly degrade groundwater quality and/or reduce the recharge to aquifers currently or potentially used as a significant source of base flow to a regulated stream. The determination must be made based on credible scientific information.

B. Medium or Low Significance Recharge Areas. Development within medium or low significance aquifer recharge and wellhead protection areas, as those terms are defined in these regulations, shall implement the mitigation standards contained in Sections 16.10.190 through 16.10.220, 16.10.330, 16.10.430, 16.10.530, 16.10.630, and 16.10.720. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.210)

16.10.720 Aquifer recharge and wellhead protection area performance standards.

Any uses or activities located in aquifer recharge and wellhead protection areas of medium or high significance that involve the use, storage, transport, or disposal of significant quantities of chemicals, substances, or materials that are toxic, dangerous, or hazardous, as those terms are defined by state and federal regulations, shall comply with the following additional standards:

A. Development within aquifer recharge and wellhead protection areas of high significance, as that term is defined in these regulations, shall prepare a materials management plan for review and approval by the Town, which shall implement the following measures:

1. Development should be clustered and impervious surfaces limited where possible;
2. Underground storage of chemicals, substances, or materials that are toxic, hazardous, or dangerous is discouraged;
3. Any chemicals, substances, or materials that are toxic, hazardous, or dangerous shall be segregated and stored in receptacles or containers that meet state and federal standards;
4. Storage containers shall be located in a designated, secured area that is paved and able to contain leaks and spills, and surrounded by a dike;
5. Secondary containment devices shall be constructed around storage areas that are sufficient to prevent the spread of any spills, and a monitoring system shall be implemented;
6. A written operations plan shall be developed, including procedures for loading/unloading liquids and for training of employees in proper materials handling;
7. An emergency response/spill clean-up plan shall be prepared and employees properly trained in reacting to accidental spills;
8. Any aboveground storage tanks shall be located within a diked area on an impervious surface. The tanks shall include overfill protection systems and positive controls on outlets to prevent uncontrolled discharges;
9. No waste liquids or chemicals of any kind shall be discharged to storm sewers; and
10. All development shall implement best management practices (BMPs) for water quality, as approved by the Town, such as biofiltration swales and use of oil-water separators, and BMPs appropriate to the particular use proposed.

B. In addition to the management plan addressed in subsection A of this section, a hydrological report for aquifer recharge areas shall, at a minimum, include the following additional site and proposal related information:

1. Available information regarding geologic and hydrogeologic characteristics of the site, including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;
2. Groundwater depth, flow direction, and gradient based on available information;
3. Currently available data from wells;
4. Best management practices proposed to be used;
5. Ground water monitoring plan provisions;
6. Discussion of the effects of the proposed project on the ground water quality and quantity, including predictive evaluation of ground water withdrawal effects on nearby wells and surface water features and predictive evaluation of contaminant transport based on potential releases to ground water. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.280)
