

# CITY OF SULTAN



## SHORELINE MASTER PROGRAM

FINAL ADOPTED  
July 17, 2008



## **City of Sultan Shoreline Master Program**

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## City of Sultan Shoreline Master Program

# 1

## Introduction

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### THE WASHINGTON STATE SHORELINE MANAGEMENT ACT

The goal of the Washington State Shoreline Management Act (SMA) is “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines,” and the Act recognizes that “shorelines are among the most valuable and fragile” of the state’s resources.<sup>1</sup>

The primary purpose of the Act is to provide for the management and protection of the state’s shoreline resources by planning for their reasonable and appropriate use.

The Shoreline Management Act establishes a balance of authority between local and state government. Cities and counties are the primary regulators of development along their shorelines. However, the state (through the Department of Ecology) has authority to review and approve local master programs and shoreline development permit decisions.

Ecology also reviews shoreline development permit decisions and must approve, condition or deny shoreline variances and shoreline conditional use permits following their approval by local government. All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, and the Shoreline Management Act and this Master Program.

### Legislative Findings and Washington Shoreline Management Act Policies

According to the Revised Code of Washington (RCW) 90.58.020, the Washington State Legislature reached the following conclusions justifying its adoption of the Washington Shoreline Management Act: the shorelines of the state are among the most valuable and fragile of the state’s natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation.

In addition, the legislature determined that ever-increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state. The legislature further found that much of the shorelines of the state and uplands adjacent thereto are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state which, at the same time, shall be consistent with public interest.

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<sup>1</sup> RCW 90.58.



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Therefore, there is a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

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

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### Where Does the Shoreline Management Act Apply?

The Shoreline Management Act applies to more than 20,000 miles of shorelines in the state. This includes 2,300 miles of lake shores, 16,000 miles of streams, and 2,400 miles of marine shores. Shorelines are defined as:

1. all marine waters;
2. streams with a mean annual flow of 20 cubic feet per second or greater;
3. lakes 20 acres or larger;
4. upland areas called "shorelands" which are 200 feet landward from the edge of these waters; and
5. the following areas when they are associated with one of the above;
6. wetlands and river deltas; and
7. some or all of the 100 year floodplain, including all wetlands within the entire floodplain.

### "Shorelines," "Shorelines of the State," and "Shorelines of Statewide Significance"

The Shoreline Management Act differentiates between "shorelines," "shorelines of the state," and "shorelines of statewide significance." "Shorelines of the state" is the term used to include both "shorelines," and "shorelines of statewide significance." "Shorelines" and "shorelines of statewide significance" are described below.

#### *Shorelines of Statewide Significance*

The Shoreline Management Act designates certain shoreline areas as "shorelines of statewide significance." West of the Cascade Mountains, the shorelines that are so designated are defined as



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“natural rivers or segments thereof” that have a mean annual flow of one thousand (1,000) cubic feet per second (cfs) or more and the shorelands associated with those waters.<sup>2,3</sup>

The legislature identified and designated the waters possessing these levels of flow as shorelines of statewide significance in WAC 173-18. The Skykomish River in Sultan has mean annual flow upstream of the City equal to or greater than 1000 cfs and is therefore designated as a “shoreline of statewide significance.” Shorelines of statewide significance and the special management policies that apply to them are discussed further in *Chapter 3: Shorelines of Statewide Significance*.

### *Shorelines*

The Shoreline Management Act defines “shorelines” to mean all of the waters of the state, including reservoirs, and their associated shorelands, together with the lands underlying them. Not included in this definition are shorelines of statewide significance, shorelines on streams having a mean annual flow of less than twenty cubic feet per second or shorelines on lakes less than twenty acres in size. In Sultan, the Sultan and Wallace Rivers are designated as “shorelines” because their mean annual flow upstream of the City of Sultan is equal to or greater than 20 cfs. Although Winters and Wagleys creeks flows are less than 20 cfs, the portions of both creeks that fall within the designated floodways of the Sultan and Skykomish Rivers, respectively, are within the City’s shoreline jurisdiction.

### **The Shoreline Jurisdiction in Sultan**

Shoreline jurisdiction within the City of Sultan includes the Skykomish River, the Sultan River and the Wallace River and all lands that are located within 200 feet of the floodway edge or ordinary high water mark (OHWM), whichever is further landward, and any associated wetlands.

For management purposes, under the Shoreline Master Program, the shoreline is divided into distinct shoreline environments for which specific allowed uses and activities are identified, and specific development standards are established. These environments are determined based on the findings of the shoreline inventory (discussed in more detail in *Chapter 5: Shoreline Environments*).

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## **Purposes of the Shoreline Master Program**

The Shoreline Management Act defines a Master Program as a “comprehensive use plan for a described area.” The shoreline planning process differs from the more traditional planning process in that the emphasis is on protecting the shoreline environment through management of uses, rather than trying to maximize development potential.

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<sup>2</sup> RCW 90.58.030.

<sup>3</sup> “Shorelands” are defined as those lands that extend landward for two hundred feet from the ordinary high water mark, and include floodways and the associated floodplain that is within two hundred feet of that floodway, and all wetlands associated with the waters regulated under the Shoreline Management Act. A jurisdiction may choose to include all or part of its one-hundred-year-flood plain within its shoreline jurisdiction, as long as that includes, as a minimum, the floodway and the adjacent land within two hundred feet (RCW 90.58.030).



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The purposes of the Sultan Shoreline Master Program are:

1. To carry out the responsibilities imposed on the City of Sultan by the Washington State Shoreline Management Act (RCW 90.58).
2. To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the City of Sultan.
3. To further, by adoption, the policies of RCW 90.58, and the goals of this Master Program, both described in this document.

### **The City's Role in Implementing the Shoreline Management Act**

In order to protect the public interest in the preservation of the shorelines of the state, the Shoreline Management Act establishes a planning program coordinated between the state and local jurisdictions to address the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following<sup>4</sup>:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines regulated by the Act. This inventory provides the foundation for development of a system that classifies the shoreline into distinct environments. These environments provide the framework for implementing shoreline policies and regulatory measures.
2. Preparation of a "master program" to determine the future of the shorelines. These "master programs" contain the policies and regulations that direct development and use of shorelines along rivers and larger streams, along lakes over 20 acres, and along marine waterfronts. The future of the shorelines is defined through the goals developed for the following land and water use elements:
3. Economic development
4. Public access
5. Circulation
6. Recreation
7. Shoreline use
8. Conservation
9. Historical/cultural protection
10. Floodplain management

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<sup>4</sup> New Shoreline Master Program Guidelines have been proposed and are currently being reviewed. The Draft Sultan Shoreline Master Program, including the Shoreline Inventory, has been developed with the expectation that the new Guidelines will be adopted.



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11. The City is encouraged to adopt goals for any other elements, which, because of present uses or future needs, are deemed appropriate and necessary to implement the intent of the Shoreline Management Act. In addition, policy statements are developed to provide a bridge between the goals of the master program and the use activity regulations developed to address different types of development along the shoreline. Master program regulations are developed and adopted, as appropriate, for various types of shoreline development, including the following:
12. Agriculture
13. Aquaculture
14. Forest management
15. Commercial development
16. Marinas
17. Outdoor advertising and signs
18. Residential development
19. Utilities
20. Ports and water related industries
21. Shoreline modifications (bulkheads, breakwaters, jetties and groins)
22. Landfills
23. Solid waste disposal
24. Dredging
25. Shoreline protection
26. Road and railroad design
27. Piers
28. Recreation
29. Development of a permit system to further the goals and policies of both the Act and the master program.

Local governments have the prime responsibility for initiating the planning program and administering the regulatory requirements. The City of Sultan must develop a Shoreline Master Program that is consistent with the guidance and intent provided in the Shoreline Management Act.





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The role of the Department of Ecology is to provide technical support, to review and approve the Shoreline Master Program, and to provide review of locally approved shoreline permit requests to ensure their compliance with the Shoreline Management Act and the adopted Master Program.

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### The Shoreline Master Program and the Comprehensive Plan

Shoreline management is most effective and efficient when accomplished within the context of comprehensive planning. The Growth Management Act defines shoreline master program policies as a part of the local comprehensive Plan:

*For shorelines of the state, the goals and policies of the Shoreline Management Act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations. (RCW 36.70A.480(1))*

Cities that plan under the Growth Management Act are required, under RCW 36.70A, to ensure that there is mutual and internal consistency between the comprehensive plan elements and implementing development regulations (including master programs). This requirement also requires consistency between the shoreline master program and the future land use plan, specifically demonstrating that there is consistency regarding the:

- (1) Ability of physical aspects of the plan to coexist on the available land.*
- (2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency). (RCW 365-195-500)*

In addition, the Growth Management Act also calls for coordination and consistency of comprehensive plans among local jurisdictions:

*. . . The comprehensive plan of each county or city that is adopted pursuant to (... the Growth Management Act) shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to chapter (Growth Management plans) of other counties or cities with which the county or city has, in part, common borders or related regional issues. (RCW 36.70A.100)*

Consistency is discussed further in Chapter 5: *Shoreline Environments*.





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### THE SULTAN SHORELINE MASTER PROGRAM

#### Snohomish County Shoreline Master Program

The City adopted the Snohomish County Shoreline Master Program in 1995, which was developed by the County in 1974 (and subsequently amended). At that time, the shoreline inventory data that was available was considerably more limited, in addition to being less detailed in the designation of shoreline environments relative to today's requirements. Furthermore, the Snohomish County Master Program was developed prior to the listing of several species of fish present in Sultan waters under the Endangered Species Act and it was developed by Snohomish County with unknown participation by the citizens and local government of Sultan.

#### 2002-2007 Shoreline Master Program Update

In 2002, the City received funding through the Coastal Zone Management program offered through the Washington Department of Ecology and in July 2002, began work on Phase I of a two-phase project. The City notified the community of the opportunity to participate in the development of the City's Shoreline Master Program and invited them to attend Planning Commission meetings and provide comment. A public open house to present the Planning Commission's work on the Shoreline Master Program was held on June 28, 2004, followed by a public hearing on October 18, 2005. After completing final revisions to the draft Master Program, the Planning Commission voted to recommend to the Sultan City Council adoption of the final Planning Commission draft of the Shoreline Master Program.

The City Council reviewed the Planning Commission's draft Master Program and held another public hearing on April 13, 2006. The City Council passed Ordinance 915-07 on July 12, 2007 indicating intent to adopt the Shoreline Master Program. The Master Program was forwarded to the Department of Ecology for their final review and comment. The Department of Ecology approved the Shoreline Master Program on May 30, 2008. The effective date of the City of Sultan Shoreline Master Program is July 17, 2008. The City published notice of Ecology's final action on August 28, 2008. The 60-day appeal period ended on October 27, 2008. There were no appeals filed.

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### How the Shoreline Master Program is Used

The City of Sultan Shoreline Master Program is both a planning and a regulatory document that outlines goals and policies for the shorelines of the City and establishes regulations for development occurring specifically in that area. The shoreline development regulations are contained within the Shoreline Master Program, and have been reviewed for consistency with other development regulations in the Sultan Municipal Code. In general, the most restrictive regulations should apply to the shorelines.

In order to preserve and enhance the shorelines of the City of Sultan it is important that all development proposals relating to the shoreline area be evaluated in terms of the City's Shoreline Master Program, and that the City shoreline **Administrator** be consulted. (In Sultan, the Administrator function is filled by the Planning Director.) Some developments may be exempt from regulation, while others may need to stay within established guidelines, or may require a Shoreline Conditional Use Permit or Shoreline Variance.



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**ALL proposals must comply with the policies and regulations established by the state Shoreline Management Act as expressed through this local Shoreline Master Program adopted by the City of Sultan.**

The Shoreline Management Act (SMA) defines for local jurisdictions the content and goals that should be represented in the Shoreline master programs developed by each community. Within these guidelines, it is left to each community to develop the specific regulations appropriate to that community. Under the SMA, all shorelines of the state meeting the criteria established receive a given shoreline environmental designation. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment. Sultan has designated five shoreline environments: Urban Center, Shoreline Residential, Urban Conservancy, Natural, and Aquatic. These environments are described in *Chapter 5: Shoreline Environments*.

### **How is the Shoreline Master Program is Applied to Development?**

The Sultan Shoreline Master Program addresses a broad range of uses that could be proposed in the shoreline area. This thoroughness is intended to ensure that the Sultan shoreline area is protected from activities and uses that, if unmonitored, could be developed inappropriately and could cause damage to the ecological system of the shoreline, or cause the degradation of the aesthetic values of the shoreline that the community enjoys. The Shoreline Master Program provides the regulatory parameters within which development may occur, or it states that the community considers a certain type of use or activity is unacceptable within the City's shoreline jurisdiction, or it states that a use or activity may be considered (if a Shoreline Conditional Use Permit is applied for), but that the community should be able to ensure that the development is carried out in such a way that the public's interest in protecting the shoreline is retained.

### **When is a Permit Required?**

The Shoreline Master Program regulates "development," and further defines what is considered "substantial development" and would, therefore, require a Shoreline Substantial Development Permit (SSDP), unless exempt. Some development may require a Shoreline Conditional Use Permit or a Shoreline Variance from the provisions of the Master Program. Review under the State Environmental Policy Act (SEPA) may also be required.

**"Development,"** as defined under the Shoreline Management Act of 1971 is:

*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 of the state subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3d)).*

This definition indicates that the "development" regulated by the Shoreline Management Act includes not only those activities that most people recognize as "development" (for example, improving a road surface or building a structure), but also those activities that citizens may do around their own home (for example, grading an area of riverfront to enhance their personal view of the river).



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While the impact of these potential “developments” may seem inconsequential at first glance, they may have unwanted and damaging affects on the river ecology, the property of others and the shoreline aesthetics.

Projects that are identified as “developments” and not “substantial developments” do not require a shoreline Substantial Development Permit. However, they must still comply with all applicable regulations in the Shoreline Master Program. In addition, some developments may require a Conditional Use or a Variance from the Shoreline Master Program’s provisions, even if they do not meet the definition of a “substantial development.”

“**Substantial development**” is any “development” of which the total cost or fair market value exceeds five thousand dollars (\$5,000), or any development that materially interferes with the normal public use of the water or shorelines of the state. Under the Shoreline Management Act, some types of development are exempt from the requirement to apply for and receive a permit before beginning work.<sup>5</sup> These exemptions are listed in *Chapter 7: Administration*. A project that is exempt from permit requirements must still comply with all applicable regulations in the City’s Shoreline Master Program.

The City Shoreline Administrator responsible for enforcing and implementing the Shoreline Master Program can help identify if a project is classified as a development or a substantial development, determine if a permit is necessary or if a project is exempt from permit requirements, and identify which regulations in the SMP may apply to the proposed project. The City Shoreline Administrator can also provide information on the permit application process and how the SMP process relates to, and can coordinate with, the State Environmental Policy Act (SEPA) process. The permitting process can be divided into three phases: pre-application, submittal, and review (these are discussed in greater detail in *Chapter 7: Administration*).

### *The Shoreline Permit and Permit Process*

Requests for a shoreline Substantial Development Permit, Variance, or a Conditional Use require review by the City of Sultan Hearing Examiner (per Sultan Municipal Code, Chapter 16.120 SMC, Ordinance 630 § 2, 1995 in Appendix C). There may be instances where a Conditional Use or Variance may be approved without the need for a Substantial Development Permit. The Hearing Examiner will hold a public hearing on the proposal and approve, approve with conditions, or deny the application. This decision can be appealed to the Sultan City Council. Appeals of the City Council decision go to the State Shoreline Hearings Board. Requests for Conditional Uses and Variances require final approval by the State of Washington Department of Ecology. A description of exempt projects, and shoreline application procedures and criteria are discussed in *Chapter 7: Administration*.

A description and map of the area within the jurisdiction of this Shoreline Management Program are presented in *Chapter 5: Shoreline Environment*.

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<sup>5</sup> Per RCW 90.58.030(3)(e), Definitions and concepts: Substantial development.



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### Relationship of this Shoreline Master Program to Other Plans, Regulations, and Requirements

In addition to compliance with the provisions of the Shoreline Management Act, the Sultan Shoreline Master Program must be consistent with local plans and policy documents, specifically, the Sultan Comprehensive Plan and the City's critical area regulations.

Appendices A & B of this document include incorporated ordinances that are included to meet State of Washington Shoreline Master Program Guidelines (Ch 173-26 WAC).

Appendices C & D of this document are to be considered referenced ordinances, since they are not intended to address State SMP guidance requirements.

The City's Shoreline Master Program must also be consistent with the regulations developed by the City to implement its plans, such as the zoning code and subdivision code, as well as regulations relating to building construction and safety.

Submitting to the permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, county, state, regional, or federal statutes or regulations, which may also be applicable to such development or use.

Examples of activities that may require permits, review, or approval from other agencies are listed in the following table. Some of the activities listed below are unlikely to occur within the Sultan shoreline jurisdiction. The following list of permits is provided, however, as additional information about regulatory requirements that exist for various land use activities that may occur in the Sultan area.

| Agency  | Authority/Jurisdiction  | Types of Activity Requiring Permit   | Permit   |
|---|---|--|--|
| <b>Federal Emergency Management Agency (FEMA)</b> | CFR 44, Part 60<br><br>This Ordinance applies to the areas designated as flood zones on FEMA's Federal Insurance Rate Map. The adopted FEMA ordinance enables City residents to acquire federal flood insurance and allows Sultan to be eligible to receive Federal Flood Disaster Funds. | All construction within and uses of the floodplain must meet the standards established in the Sultan Municipal Code, Chapter 17.08.  | Review for compliance with FEMA guidelines is conducted through enforcement of the Sultan Flood Damage Prevention Regulations. |
| <b>Army Corps of Engineers</b>                    | Sect. 10 of Federal River & Harbor Act<br><br>Jurisdiction extends to Ordinary High Water Mark of the navigable waters of the US  | Structures or work in these waters, including marinas, piers, wharves, floats, intake pipes, outfall pipes, pilings, bulkheads, boat ramps, dredging, dolphins, fills, overhead transmission lines, etc. | Section 10 Permit  |



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| Agency  | Authority/Jurisdiction   | Types of Activity Requiring Permit   | Permit  |
|---|--|--|---|
|   | Sect. 404 of Clean Waters Act<br>Jurisdiction extends to Ordinary High Water Mark of all waters of the US and includes all adjacent wetlands | Discharge of dredged materials, fills, grading, ditch sidecasting, groins, breakwaters, road fills, beach nourishment, riprap, jetties, etc.   | Section 404 Permit<br>(some limited activities are covered by nationwide general permits) |
| <b>Washington Department of Agriculture</b>                   | Varies   | Use of pesticides by any means other than hand pumped device - varied restrictions apply depending on the ownership of the property receiving the pesticide, the type of pesticide, etc. | Varies  |
| <b>Washington State Department of Fish and Wildlife (DFW)</b> | RCW 75.20.100-160.<br>All fresh or salt water in the state   | Work, construction, development, or other activities that will change the natural flow or bed of any fresh or salt water in the state.   | Hydraulic Project Approval (HPA)  |
| <b>Washington State Department of Natural Resources (DNR)</b> | RCW 79.90.<br>Navigable water bodies, including certain lakes, rivers, and streams. These waters are owned by the State of Washington.       | Construction, filling, dredging, drilling, mining, road construction, utility installation, etc., within the beds or shorelines of these waters.   | Aquatic Lands Lease and/or Authorization.   |
|   | RCW 76.09.<br>Waterbodies near forest activities   | Forest activities relating to growing, harvesting or processing timber, road construction and maintenance, brush clearing, slash disposal.   | Forest Practice Approval  |
| <b>Washington State Department of Ecology (DOE)</b>           | Section 401, Clean Water Act   | Any activity that might result in a discharge of dredge or fill material into water or wetlands, or excavation in water or wetlands that requires a federal permit.                      | Water Quality Certification   |
|   | RCW 90 (various chapters)  | Withdrawal of surface or ground water.   | Water Use Permit;<br>Certificate of Water Right   |
|   | RCW 43.21C<br>Determined by the scope of the project. See also: City of Sultan, SEPA.  | SEPA is a process that provides a way to analyze and address the environmental impacts of a project and is geared to mesh with already existing permits, approvals, and/or licenses.     | State Environmental Policy Act (SEPA) Review  |
|   | Water Pollution Control Act (RCW 90.48)  | Act prohibits discharges of polluting matter to any waters of the state, including wetlands. A permit is required for any project potentially impacting state waters.                    | Various permits, including NPDES, Municipal Wastewater, and Septic permits.               |



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| Agency         | Authority/Jurisdiction  | Types of Activity Requiring Permit  | Permit  |
|----------------|---|---|---|
| City of Sultan | Sultan Shoreline Master Program - SMP jurisdiction and environment designations are shown in Chapter 5.                                       | Development within the shoreline jurisdiction of Sultan.  | Shoreline Substantial Development Permit  |
|                |   |   | Shoreline Conditional Use Permit  |
|                |   |   | Shoreline Variance  |
|                | Sultan Municipal Code, Chapter 15   | Development over 120 square feet. See Building Code   | Building Permit   |
|                | Sultan Municipal Code, Chapter 17.08, Ordinance 808-03 (Appendix A) is intended to carry out FEMA requirements within the 100-year floodplain | All development activity, including buildings, mining, filling, dredging, grading, paving, excavations, drilling operations, and storage of equipment or materials. | Floodplain Development Permit - review for compliance with this ordinance is conducted as a part of the development review and building permit process. |
|                | Title 16, Unified Development Code  | Development within the City of Sultan   | Zoning Variance   |
|                |   |   | Zoning Conditional Use  |
|                |   |   | Zone Change   |
|                | Title 16, Unified Development Code  | Development in a Critical Area (Streams, Wetlands, Fish and Wildlife Habitat, Flood Hazard Areas, Geologically Hazard Areas)  | Critical Areas Regulations  |
|                | Sultan Municipal Code, Chapter 17.04, Ordinance 714-00 (Appendix A) contains the Sultan State Environmental Policy Act (SEPA) Policies        | All activity meeting the threshold identified in RCW 43.21C and WAC Chapter 197-11.   | State Environmental Policy Act (SEPA) Review  |
|                | Sultan Municipal Code, Chapter 16.92, Ordinance 630 § 2, 1995 –(Appendix D) Stormwater Management Performance Standards                       | Development of more than 3,000 SF of impervious surface area.   | Stormwater Management Permit  |

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

Other activities that could occur along the shoreline (starting bonfires, disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approval not identified here. **Questions about permits, licenses, or review may be directed to the City of Sultan Planning Department at 360-793-2231.**



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### TITLE

This document shall be known and may be cited as the **Sultan Shoreline Master Program**. This document may refer to itself as “this Master Program.”





## City of Sultan Shoreline Master Program

# 2

## Shoreline Inventory

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### INTRODUCTION

As a foundation for the development of the goals policies and regulations in the City's Shoreline Master Program, the City conducted an inventory and assessment of natural and built conditions along the shorelines of Sultan.

This inventory, the Shoreline Characterization, identifies existing conditions and provides an analysis that evaluates the components that make up the ecological health of the shoreline jurisdiction and identifies areas with potential for conservation and restoration of ecological functions.

This chapter excerpts portions of that inventory and analysis. Please consult Appendix E: Shoreline Characterization for a full discussion of the complex issues associated with the Sultan shoreline.

#### Study Area Boundary

Under the State Shoreline Management Act, the City's shoreline jurisdiction includes areas within the City limits that are 200 feet landward of the floodway or ordinary high water mark of waters that have been designated as "shorelines of statewide significance" or "shorelines of the state" or their "associated wetlands."<sup>1</sup>

The City of Sultan is located in Snohomish County, situated on the northern bank of the Skykomish River between River Mile<sup>2</sup> (RM) 34.4 near the mouth of the Sultan River and RM 35.7 near the mouth of the Wallace River (Figure 1). The City of Sultan encompasses approximately 1,916 acres, or about three square miles. U.S. Highway 2 (US 2) and the Burlington Northern Santa Fe (BNSF) Railroad corridors run east-west through southern portions of the City. The City's urban growth area (UGA) contains an additional 550 acres, or approximately 0.86 square miles comprised of residential development and undeveloped areas.

The study area for the Sultan Shoreline Characterization includes all land currently within the City's shoreline jurisdiction. These areas include lands within the City limits adjacent to the Skykomish River, Sultan River and Wallace River.

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<sup>1</sup> These terms are discussed in more detail in Chapter I: *Introduction*, and in the definitions section.

<sup>2</sup> As defined by the distance upstream from the confluence with the Snohomish River.



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Land adjacent to the Sultan River within the City's UGA is also generally described. Table 1 indicates the total length of each river, and the total length of each river segment within the City's shoreline jurisdiction.

Table 1. Rivers within Sultan Shoreline Jurisdiction

| River                      | Total River Length | Length within Sultan's Shoreline Jurisdiction                   |
|----------------------------|--------------------|---|
| Skykomish River (mainstem) | 50 miles           | 1.4 miles   |
| Sultan River               | 30.4 miles         | 1.3 miles (within City limits)<br>1.6 miles (within City's UGA) |
| Wallace River              | 15.1 miles         | 0.3 miles   |

Source: (Williams, et al., 1975)

The Sultan and Wallace Rivers are designated as "shoreslines of the state" because their mean annual flow upstream of the City of Sultan is equal to or greater than 20 cfs.

Although Winters and Wagleys creeks flows are less than 20 cfs, those portions of both creeks that fall within designated floodways of the Sultan and Skykomish Rivers respectively are within the City's shoreline jurisdiction. The Skykomish River is designated as a "shoreline of statewide significance" because its mean annual flow upstream of the City is equal to or greater than 1000 cfs.

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### Inventory

For the purposes of categorizing distinct segments of the City's shorelines for planning purposes, the City's shoreline jurisdiction was classified into four relatively homogeneous segments.

The City's UGA shoreline was addressed in an additional segment. These segments were grouped to correspond with the level of ecological functions provided by each segment for salmonids (including but not limited to streambank vegetation, potential spawning areas, and off-channel habitat).



## City of Sultan Shoreline Master Program

Table 2. Shoreline Planning Segments

| Segment | River   | Approximate Length (feet) | Approximate River Mile | Approximate Acreage |
|---------|---|---------------------------|------------------------|---------------------|
| A       | Sultan River (East Bank – from north of River Park to City Limits)  | 6,336                     | 0.1 to 1.3             | 185                 |
|         | Sultan River (West Bank – from west of the wastewater treatment plant to the City limits)                               | 1,056                     | 0.3 to 0.5             |                     |
| B       | Sultan River (East Bank – confluence with Skykomish and River Park)   | 528                       | 0 to 0.1               | 13                  |
|         | Sultan River (West Bank – from confluence with Skykomish including Sportsman's Park and the wastewater treatment plant) | 1,584                     | 0 to 0.3               |                     |
| C       | Skykomish River (North Bank within City Limits – from confluence with Sultan River to confluence with Wallace River)    | 7,392                     | 34.3 to 35.7           | 68                  |
|         | Wallace River (confluence with Skykomish within City Limits)  | 1,584                     | 0 to 0.3               |                     |
| D       | Wallace River (Some portions – from Cemetery Park to 339th Ave. SE)   | 2,640                     | 0.3 to 0.8             | 3                   |
| E       | Sultan River (City Limits to UGA Boundary – East Bank )   | 8,448                     | 1.3 to 2.9             | 89                  |

Runoff alternatives will be addressed by a Surface Water Management Plan currently being developed by the City. The downtown area of the City is served by combined stormwater and sanitary sewer conveyance. High-flow periods during storms can result in combined flows of wastewater and stormwater and the discharges of untreated sewage through stormwater outfalls into the Sultan and Skykomish Rivers.

### Shoreline Modifications

The shoreline modifications (i.e., structural alterations of the river's natural bank, such as levees, dikes, floodwalls, riprap, bulkheads, docks, piers or other in-water structures) present along Sultan rivers include bulkheads in residentially developed areas along the Skykomish River, riprap along the Skykomish River, and pilings supporting the US 2 and BNSF bridges near the confluence of the Sultan and Skykomish Rivers.

### Existing and Potential Public Access Sites

The City of Sultan, Sultan School District, and Washington Department of Fish and Wildlife have developed a variety of park, recreation, and open space facilities within the City, many of which provide access to the shoreline jurisdiction. These resource areas include wildlife conservancies and natural areas as well as trails, boat ramps and other recreational areas.



## City of Sultan Shoreline Master Program

### Critical Areas and Special Status Species

A range of sources provide information on the location of various critical areas within the Sultan shoreline jurisdiction. The Shoreline Characterization Report contains information on critical areas such as frequently flooded areas, stream areas, wetland areas, and steep slope areas.

Information on special status fish and wildlife species and habitat areas was obtained from several sources. Special status species are species that are listed or proposed for listing under the State or Federal Endangered Species Act, identified by WDFW as state Priority Species, or identified by the U.S. Fish and Wildlife Service (USFWS) as Species of Concern. The following special status species may occur within the vicinity of the City:

- Wintering bald eagles (*Haliaeetus leucocephalus*)
- Bull Trout (*Salvelinus confluentus*)
- Chinook Salmon (*Oncorhynchus tshawytscha*)
- Long-eared Myotis (Bat) (*Myotis evotis*)
- Long-legged Myotis (Bat) (*Myotis volans*)
- Olive-sided Flycatcher (*Contopus cooperi*)
- Pacific Lamprey (*Lampetria tridentata*)
- Peregrine Falcon (*Falco peregrinus*)
- River Lamprey (*Lampetria ayresii*)
- Western Gray Squirrel (*Sciurus griseus*)
- Western Toad (*Bufo boreas*)

### Floodplains and Channel Migration Zones

Floodplains are a substantial feature in the City, extending through much of the City's shoreline jurisdiction, as well as beyond the shoreline to other portions of the City, including the central business district. The City is highly flood-prone, having the highest number of flood insurance policies of all Snohomish County cities and towns; the seventh highest number of claims of all Washington State cities and towns; and the sixteenth highest number of claims of the 286 jurisdictions that participate in the National Flood Insurance Program in Washington State.



## **City of Sultan Shoreline Master Program**

### **Other Areas of Potential Interest**

Priority habitats, rapidly developing waterfronts, eroding shorelines, or other degraded sites with potential for ecological restoration were identified through document research and during a field reconnaissance of the study area in February 2003.

### **Opportunity Areas**

Opportunity areas are those areas within the shoreline jurisdiction that may be appropriate for protection and /or restoration, including elements such as wetlands, habitat, riparian (streamside) vegetation, and river banks modified by riprap or bulkheads. Opportunity areas were identified through a literature review as well as a field reconnaissance of the study area in February 2003. These areas and their characteristics are described in more detail in the Shoreline Characterization Report.



# 3

## Shorelines of Statewide Significance

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### INTRODUCTION

The Shoreline Management Act designates that certain shoreline areas are “shorelines of statewide significance.” West of the Cascade Mountains, the shorelines that are so designated are defined as “natural rivers or segments thereof” that have a mean annual flow of one thousand (1,000) cubic feet per second (cfs) or more and the shorelands associated with those waters<sup>1,2</sup>.

The legislature identified and designated the waters possessing these levels of flow as shorelines of statewide significance in WAC 173-18. The Skykomish River in Sultan meets this criterion because its mean annual flow upstream of the City is equal to or greater than 1000 cfs, therefore the Skykomish River is designated as a “shoreline of statewide significance.”

The Shoreline Management Act determined that the interests of all of the people of the state shall be considered in the management of shorelines of statewide significance. Because the shorelines of the Skykomish River are a major resource from which all people in the state derive benefit, the Master Program gives preference to uses that favor public and long range goals. Accordingly, this Master Program gives preference to uses and development that meet the principles outlined below, listed in order of preference:

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 benefits

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<sup>1</sup> RCW 90.58.030.

<sup>2</sup> “Shorelands” are defined as those lands that extend landward for two hundred feet from the ordinary high water mark, and include floodways and the associated floodplain that is within two hundred feet of that floodway, and all wetlands associated with the waters regulated under the Shoreline Management Act. A jurisdiction may choose to include all or part of its one-hundred-year-floodplain within its shoreline jurisdiction, as long as that includes, as a minimum, the floodway and the adjacent land within two hundred feet (RCW 90.58.030).



## City of Sultan Shoreline Master Program

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 on the shorelines
7. Provide for any other element as defined in the Shoreline Management Act deemed appropriate or necessary

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### Strategy for Emphasizing the Shorelines of Statewide Significance Principles in Sultan Master Program

Consistent with goals and policies identified in the City's Comprehensive Plan, the Sultan Master Program gives preference to these statewide goals by establishing policies and regulations for the following:

1. Riparian Management Zones
2. Floodplain Management
3. Fish and Wildlife Habitat Protection
4. Public Access and Recreational Opportunities

In the implementation of these policies, 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. Uses shall be preferred that are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent on use of the state's shorelines.

Alteration of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences, parks and other improvements facilitating public access to shorelines of the state, and industrial and commercial developments that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

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

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### RIPARIAN MANAGEMENT ZONES

The purpose of a riparian management zone is to preserve the natural character of Sultan's riverine system and to protect the resources and ecology of the shoreline. The reason for this extra level of protection and control is to provide a recreational open space system for the City of Sultan and to enhance wildlife and fishery resources.





## City of Sultan Shoreline Master Program

The shoreline along the Skykomish River is lined with a mixture of native and non-native trees and shrubs and is developed in a mixture of single-family and multi-family residential, commercial, and parks and recreation uses. Portions of the shoreline are undeveloped.

Some shoreline areas have relatively intact vegetative communities, while in other areas the shoreline vegetation is very limited, or has been completely cleared. Retaining the native vegetation that exists along the shoreline will enhance the river-oriented experience both on the water and along the banks.

Boaters currently use the river for fishing and others float the river in rafts, kayaks, and inner tubes. Tall trees and dense vegetation create a natural experience that complements the recreational activity and is much valued. The Sultan Comprehensive Plan's objectives for parks, recreation, and open space are supported, and an individual's river-oriented recreation experience is enhanced if the riverbank appears natural (vegetated).

Retaining the natural character of the shoreline is also important to fish and wildlife. Overhanging vegetation provides protective cover to fish and tends to attract insects on which fish feed. Rivers devoid of vegetative cover have correspondingly low fish populations. In addition, when vegetation is removed it is not always possible for fish to move to another part of the stream. Fish are territorial and will defend their place in the shade. Shade is also very important in keeping water temperatures within tolerable limits for fish in the summer. Additional information on habitat conditions and opportunities for enhancing the Sultan shoreline to protect habitat areas is provided in the shoreline inventory, provided in *Appendix E: Shoreline Characterization*.

Riparian vegetation is also critical to terrestrial wildlife. In general, wildlife values are maximized where dense and diverse vegetation along the rivers provides innumerable niches for many creatures. In fact, the diversity of native floral species along riverbanks in Western Washington allows for a diversity and stability in animal communities. Sometimes, vegetation along stream banks provides the only shelter and migrational routes for small mammals and other terrestrial species. The Sultan Master Program recognizes the importance of native plants in protecting and encouraging shoreline habitat areas.

To protect the riparian vegetation, the Master Program requires development setbacks and places stringent controls on the removal or disruption of vegetation within these setbacks, as well as recommends property owner incentives aimed at achieving improved habitat. Riparian management zone policies and regulations are presented in *Chapter 6: Shoreline Policies and Regulations*.

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## FLOODPLAIN MANAGEMENT

The Master Program establishes policies and direction for floodplain management. Floodplain management will provide long-term benefits to the City of Sultan. Floodplains are a substantial feature in the City and extend throughout much of the City's shoreline jurisdiction, as well as beyond the shoreline to other developed portions of the City.

Floodplain management is directed toward the reduction of the damaging effects of floods by maintaining and enhancing natural floodplain values and by making effective use of related water and land resources within the floodplain. It is an attempt to make optimal use of the floodplain, while recognizing the need



## City of Sultan Shoreline Master Program

for economic development, recreation, open space, and other possible uses. Floodplain management policies and regulations are presented in *Chapter 6: Shoreline Policies and Regulations*.

Floodplain management can reduce the risk to life and property as well as lower public expenditures for flood protection and relief. Floodplain management can also enhance natural floodplain values. These values include the protection of water resources by moderating flood velocities, improving water quality, and allowing for groundwater recharge. Living resource values also benefit from floodplain management. Fish and wildlife and plant resources and habitat can be enhanced by periodic flooding and, in some cases, the primary source of water in floodplain wetlands is derived from such flooding. Floodplains also provide cultural values through the scenic views that lie within the river valleys.

The Master Program requires careful evaluation of proposed shoreline development to determine what influence, if any, the development will have on flood events. Shoreline developments must demonstrate that there will be no unacceptable increase in the incidence of flooding, either downstream or upstream of the proposed site. In addition, the Master Program provides protection of wetlands that reduce flooding by providing temporary storage of floodwater, thus reducing downstream volumes and velocities.

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### FISH AND WILDLIFE HABITAT PROTECTION

In addition to establishing riparian management zones for the enhancement of fish and wildlife, this Master Program provides policies and regulations for wetland protection. Wetlands associated with streams and drainages that run into the Skykomish, Sultan, and Wallace Rivers can serve as critical habitat for fish populations. Wetlands also provide wildlife habitat, especially for waterfowl. Wetlands provide food, protection from predators, and nesting and rearing areas. Loss of wetlands drastically reduces the critical habitat required by these species.

In addition to migrating waterfowl and shorebirds, many species in the Sultan area depend upon wetlands for food, shelter, breeding and nesting sites, and water, including peregrine falcons and wintering bald eagles. In addition to birds, mammals, including deer, raccoon, opossum, beaver, muskrats, and other small rodents utilize wetlands for all or part of their life cycle.

In addition to providing food resources for organisms foraging within a wetland, wetlands can also export food to adjacent ecosystems. This function is termed "food chain support." Typically, food chain support involves the passive movement of food items due to water movements or the actual migration of organisms from wetlands to other environments. Food chain support involves aquatic organisms as well as insects, amphibians, birds, or small mammals.



## City of Sultan Shoreline Master Program

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### PUBLIC ACCESS AND RECREATION

The Master Program requires public access to the shoreline as a condition of approval for many types of development. The authority to require public access derives from the Public Trust Doctrine, which gives individual states the responsibility to hold certain natural resources in trust for the people.<sup>3</sup> The beds and waters of navigable rivers fall into this category. Public access to these public trust areas is a priority in the state and is a goal to be achieved through local shoreline planning. Within the City's shoreline jurisdiction, these resource areas include wildlife conservancies and natural areas as well as trails, boat ramps, and other recreational areas.

The Master Program policies and regulations recognize the special advantage that Sultan has to provide and protect such public access, open space, and recreational amenities to its residents. While land uses adjacent to the river have changed significantly over the last few decades, there is a great deal of natural quality to the riverbank remaining.

At this time, the predominant land uses along the shorelines of the Skykomish River is residential or undeveloped. Similarly, land uses within the UGA along the east bank of the Sultan River are also predominantly residential or undeveloped. Along the Sultan River and portions of the Wallace River within the City's shoreline jurisdiction, predominant land uses are parks, open space, and recreational areas.

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<sup>3</sup> "The Public Trust Doctrine (PTD) is a principle based in English Common Law that the state holds domain and sovereignty over all shorelands and navigable water, and administers this right to maintain the public's right to fishing and navigation (and possibly more, depending upon the state) above all other claims of use and ownership. In other words, the state can sell the land, but can not sell the public's right to access the tidelands (land beneath the high tide mark)." *Public Trust Doctrine in Washington State* by Jill Sheldon, Deputy Director, Center for Environmental Law & Policy.



# 4

## Shoreline Elements – Goals

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### INTRODUCTION

As required by the Shoreline Management Act in RCW 90.58.100, the following elements have been considered in the preparation of this Master Program for the City of Sultan: Economic Development, Public Access, Recreation, Circulation, Shoreline Use, Conservation, Historical/Cultural Resources, and Floodplain Management. The goals and objectives established for these elements provide the basis for policies and regulations included under the general and specific use requirements of this Master Program.

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### ECONOMIC DEVELOPMENT ELEMENT

- Goal** Provide for economically productive uses that are particularly dependent on their shoreline location or use.
- Objective** Plan for economic activity that is water-dependent, water-related, or that provides an opportunity for a substantial number of people to enjoy the shoreline (water-enjoyment).

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### PUBLIC ACCESS ELEMENT

- Goal** Increase public access to publicly-owned areas of the shoreline, and preserve and enhance shoreline views.
- Objective** To provide for public access to publicly owned shoreline areas, except where deemed inappropriate due to safety hazards, inherent security problems, environmental impacts, or conflicts with adjacent uses.
- Objective** Preserve and enhance shoreline views.

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### RECREATIONAL ELEMENT

- Goal** Provide for the preservation and enlargement of public and private recreational opportunities and recreational facilities along the shoreline, including but not limited to, parks and recreational areas, wherever appropriate.



## City of Sultan Shoreline Master Program

**Objective** To develop public and private recreation opportunities that are compatible with adjacent uses and that protect the shoreline environment.

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### CIRCULATION ELEMENT

**Goal** Provide for a safe and adequate circulation system including existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities within the shoreline jurisdiction that benefits permitted uses without degrading the environment or aesthetic values of the area.

**Objective** To ensure that uses permitted in shorelines areas are designed and conducted in such a manner that any interference with the public's use of the water and shoreline is minimized, as much as is practical.

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### SHORELINE USE ELEMENT

**Goal** Ensure that the overall design of land use patterns will locate activity and development in areas of the shoreline that will be compatible with adjacent uses and will be sensitive to existing shoreline environments, habitat, and ecological systems.

**Objective** To promote the best possible pattern of land and water uses consistent with the Shoreline Management Act of 1971, the City of Sultan Comprehensive Plan, the City of Sultan Comprehensive Flood Hazard Management Plan, and the Sultan Zoning Code.

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### CONSERVATION ELEMENT

**Goal** Preserve, protect, and restore<sup>1</sup> the natural resources of the shoreline, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection.

**Objective** Through the use of best available science develop and implement siting criteria, design standards, and best management practices that will ensure the long term enhancement of unique shoreline features, natural resources, and fish and wildlife habitat.

**Objective** To designate and develop areas where there is an opportunity to restore, enhance, and conserve the natural shoreline for the benefit of fish and wildlife habitat.

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<sup>1</sup> The Shoreline Management Act (RCW 98.58.100 (2)f) states that a shoreline master program shall include: "A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection." The shoreline guidelines suggest that one goal of an SMP shall be the "Protection and restoration of the ecological functions of shoreline natural resources."



## City of Sultan Shoreline Master Program

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### HISTORICAL/CULTURAL ELEMENT

- Goal** Identify, preserve, protect, and restore shoreline areas, buildings, and sites having historical, cultural, educational, or scientific values.
- Objective** To ensure the recognition, protection, and restoration of shoreline areas that have historical and or cultural value to the City of Sultan and create a unique “sense of place” for public facilities, recreation areas in the shoreline jurisdiction.
- Objective** To ensure the recognition, protection, and restoration of shoreline areas that have educational or scientific values to the City of Sultan.

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### FLOOD HAZARD MANAGEMENT

- Goal** Protect the City of Sultan from losses and damage created by flooding.
- Objective** To seek regional solutions to flooding problems through coordinated planning with state and federal agencies, other appropriate interests, and the public.
- Objective** To ensure that flood hazard protection projects have a positive environmental benefit that emphasizes long-term solutions over short-term solutions.

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### RESTORATION ELEMENT

- Goal** To protect and improve water quality, reduce the impacts of flooding events; and preserve natural areas, vegetation, and preserve and restore habitat functions.
- Objective** The degraded processes of the Sultan Shoreline will be restored to the extent that a net improvement to the shoreline ecosystem is obtained to benefit water quality, vegetation, and the residents of Sultan.



# 5

## Shoreline Environments

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### INTRODUCTION TO SHORELINE ENVIRONMENTS

The basic intent of a shoreline environment designation is to encourage development that will enhance the present or desired character of a shoreline. To accomplish this, segments of shoreline are given an environment designation based on existing development patterns, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through this Master Program and the Sultan Comprehensive Plan, and consistent with the provisions of the shoreline guidelines.

Environment designations are categories that reflect the type of development that has or should take place in a given area. The Shoreline Master Program Guidelines recommend classifying shoreline environments using the following categories: “high intensity,” “shoreline residential,” “urban conservancy,” “rural conservancy,” “natural,” and “aquatic.”

These categories represent a relative range of development, from high to low intensity land use:

"High intensity" is appropriate for areas of high intensity water-oriented commercial, transportation, and industrial development.

"Shoreline residential" is intended to accommodate residential development, and appropriate public access and recreational uses consistent with other elements of shoreline management.

"Urban conservancy" is a designation designed to protect and restore the ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed areas.

"Rural conservancy" is intended for areas that protect ecological functions and conserve existing natural resources and that support, or have the capability to support, agricultural and recreational uses.

"Natural" is intended to protect shorelines that remain relatively free of human influence or that include intact or minimally degraded shoreline functions that cannot support human use.

And finally, “Aquatic” is a designation intended to protect, restore, and manage the areas waterward of the ordinary high water mark.

Additionally, local governments may establish an alternative environment designation(s), provided that it is consistent with the purposes and policies of the Shoreline Management Act and the Guidelines, including WAC 173-26211(5).





## City of Sultan Shoreline Master Program

For each environment designation that is applied locally, there are management policies that are specific to that designation. Management policies are used as the basis for determining uses and activities that can be permitted in each environment designation. Specific development standards are also established, which specify how and where permitted development can take place within each shoreline environment.

### **The Need for Consistency**

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The Shoreline Management Act requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the local shoreline master program. Conversely, local comprehensive plans provide the underlying framework within which master program provisions should fit. The Growth Management Act requires that shoreline master program policies be incorporated as an element of the comprehensive plan, and that all elements be internally consistent. In addition, under the Growth Management Act, all development regulations must be consistent with the comprehensive plan.

The Shoreline Guidelines identify three criteria for use in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

- (a) Provisions not precluding one another.

Comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

- (b) Use compatibility.

Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water oriented uses, especially water dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.

- (c) Sufficient infrastructure.

Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.



## City of Sultan Shoreline Master Program

### City of Sultan Shoreline Environment Designations

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This Master Program establishes five shoreline environments for the City of Sultan. These shoreline environments shall include the shorelines of the City of Sultan, including shorelands, surface waters and bedlands.

These environments are derived from the Sultan Shoreline Characterization, the Shoreline Comprehensive Plan and the environments recommended by the Shoreline Guidelines and the Shoreline Management Act. The Shoreline Characterization provides an inventory of natural and built conditions in the City's shoreline jurisdiction. The conditions identified in the inventory have been compared with the recommended shoreline environments and the most appropriate environments selected. The five environments are:

1. Urban Center
2. Shoreline Residential
3. Urban Conservancy
4. Natural
5. Aquatic

Each shoreline environment description includes a definition and statement of purpose, followed by designation criteria, management policies, and development standards. Any undesignated shoreline area is automatically assigned a conservancy environment designation.

### Urban Center Environment

#### Purpose

The Urban Center Environment is intended to provide for high-intensity urban commercial development and associated structures in areas of existing urban development while protecting and restoring ecological functions. An additional purpose is to provide appropriate public access.

#### Designation Criteria

An Urban Center environment designation is appropriate for those shoreline areas that are physically separated from natural and aquatic environments (such as by a street, highway railroad or other structure), that currently support high-intensity uses related to commerce or transportation and are designated for commercial uses in the Sultan Comprehensive Plan. Waterfront areas should not be designated Urban Center.

#### Areas Designated

##### Description

The **Urban Center** designation is appropriate for a portion of the Sultan and Skykomish river shorelines, located in Segments B and C of the inventory, which is predominantly commercial and designated for future commercial use.



## City of Sultan Shoreline Master Program

| Inventory Segment   | Area Designated   | Shoreline Designation |
|---|---|-----------------------|
| <b>A SULTAN RIVER</b><br>(confluence with Skykomish River)  | Area east of First Street between Main Street and Alder Street  | Urban Center          |
| <b>B SKYKOMISH RIVER</b><br>(north bank from confluence with Wallace River to Confluence with Sultan River) | Area including and north of the BNSF and <u>HWY 2 right-of-way</u> and east from a point mid-block between First Street and Second Street | Urban Center          |

### Rationale

Urban Center designation is appropriate for areas of existing and planned commercial use that are physically separated from the river.

These two areas of shoreline designated as Urban Center are zoned Urban Center under the Sultan development regulations and are already dominated by a variety of commercial uses that are oriented toward Highway 2 and Sultan's Main Street.

These two areas are physically separated from the rivers by the BNSF railroad and Highway 2 to the south and by First Street to the west. The Urban Center designation is found in two segments. In the segment along the Highway 2 and BNSF corridor, development would only occur on the upland side of the right-of-way and there would not be a need for an additional building setback.

The segment along First Street is physically separated from the shoreline by a park and Snohomish County jurisdiction. There is potential for additional development, however by definition the area is located approximately 300 feet from the Sultan River and there would not be a need for an additional building setback.

### Management Policies

1. Full utilization of existing Urban Center areas should be achieved before further expansion of the Urban Center environment designation is allowed.
2. First priority of uses shall be given to water dependent, water related and water enjoyment uses; however second priority shall be given to non-water uses as the area does not have direct access to the city's shorelines.
3. 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 to comply with any relevant state and federal law.
4. Where feasible, visual and physical public access should be required as provided for in WAC 173-26-221(4)(d).
5. Aesthetic objectives should be implemented by means such as sign regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.



## City of Sultan Shoreline Master Program

### Shoreline Residential Environment

#### Purpose

The Shoreline Residential Environment is intended to accommodate residential development and associated structures that are consistent with the Shoreline Management Act. An additional purpose is to provide appropriate public access and recreation uses.

#### Designation Criteria

A Shoreline Residential environment designation is appropriate for those shoreline areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development.

#### Areas Designated

##### Description

The **Shoreline Residential** designation is appropriate for portions of the Sultan River and Skykomish River shorelines that are predominantly residential and designated for future residential use.

| Inventory Segment  | Area Designated   | Shoreline Designation |
|--|---|-----------------------|
| <b>A. SULTAN RIVER</b><br>(north of the confluence with the Skykomish River to the Sultan City Limits)       | West bank of Sultan River west of the wastewater treatment plan and south of Reese Park         | Shoreline Residential |
| <b>B. SKYKOMISH RIVER</b><br>(north bank from confluence with Wallace River to Confluence with Sultan River) | North bank of Skykomish River including and east of Fifth Street and south of BNSF right-of-way | Shoreline Residential |
| <b>C. UGA SULTAN RIVER</b><br>(east bank north of City Limits within UGA)                                    | East bank of Sultan River north of the Sultan City Limits, landward of the floodway.            | Shoreline Residential |

#### Rationale

The segments of shoreline designated as Shoreline Residential are predominately residential and are planned for low to moderate residential density.

#### Management Policies

1.

tandards for density or minimum frontage width, setbacks, and lot coverage limitations shall follow underlying zoning requirements for low to moderate residential. Buffers, shoreline stabilization, vegetation conservation, critical area protection, flood management, and water quality shall be set by the Sultan Municipal Code to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area,



## City of Sultan Shoreline Master Program

the level of infrastructure and services available, and other comprehensive planning considerations.

2. multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.
3. ccess, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
4. ommercial development is prohibited in the Shoreline Residential Environment, with the exception of limited home occupations and as a conditional use in underlying zoning.

### Urban Conservancy Environment

#### Purpose

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

#### Designation Criteria

Areas designated Urban Conservancy are those areas that are appropriate for and planned for development that is compatible with maintaining or restoring the ecological functions of the area, that are generally not suited for water-dependent uses if any of the following characteristics apply:

1. They are suitable for water-related or water-enjoyment uses;
2. They are open space, floodplain or other sensitive areas that should not be more intensively developed;
3. They have potential for ecological restoration;
4. They retain important ecological functions, even though partially developed; or
5. hey have the potential for development that is compatible with ecological restoration.



## City of Sultan Shoreline Master Program

### Areas Designated

#### Description

The **Urban Conservancy** designation is appropriate for segments of the shorelines that have some urban uses and have potential for restoration of ecological functions and enhanced public access.

| Inventory Segment   | Area Designated   | Shoreline Designation |
|---|---|-----------------------|
| <b>A SULTAN RIVER</b><br>(north of the confluence with the Skykomish River to the Sultan City Limits)       | East bank of Sultan River north of Alder Street and south of the City Limits lying landward of the floodway and shoreline associated wetlands   | Urban Conservancy     |
| <b>B SULTAN RIVER</b><br>(confluence with Skykomish River)  | West and east banks of the Sultan River east of Albion Street and west of First Street, not including that area of the river designated Aquatic | Urban Conservancy     |
| <b>C SKYKOMISH RIVER</b><br>(north bank from confluence with Wallace River to Confluence with Sultan River) | Area south of the BNSF right-of-way and west of Fifth Street, not including that area of the river designated Aquatic                           | Urban Conservancy     |
| <b>UGA SULTAN RIVER</b><br>(east bank north of City Limits within UGA)                                      | East bank of Sultan River north of the Sultan City Limits, inside of the floodway.  | Urban Conservancy     |

#### Rationale

The shorelines designated Urban Conservancy are areas of lower-intensity urban development, such as parks, that provide for public access and may be appropriate for ecological restoration.

### Management Policies

1. Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly, or over the long term, should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
2. Standards should be established or adopted for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy designation. These standards shall ensure that new development does not result in a net loss of ecological functions or further degrades other shoreline values. The subdivision of property that would support additional shoreline modification or significant vegetation removal in the foreseeable future is to be P.
3. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
4. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.



## City of Sultan Shoreline Master Program

### Natural Environment

#### Purpose

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

#### Designation Criteria

Any shoreline area exhibiting the following characteristics should be designated Natural:

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

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats.

“Ecologically intact shorelines,” as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural to totally degraded and contaminated, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments that could be lost or significantly reduced by human development.

#### Areas Designated

##### Description

The Natural environment designation is appropriate for much of the Sultan River within the City Limits. Most of this area is in public ownership as part of Osprey and Reese parks, both of which contain large areas of natural vegetation and wetlands.





## City of Sultan Shoreline Master Program

| Inventory Segment  | Area Designated  | Shoreline Designation |
|--|--|-----------------------|
| <b>A SULTAN RIVER</b><br>(confluence with Skykomish River) | Reese Park on the west side of the Sultan River<br><br>East bank the Sultan River from the Aquatic area east to the edge of the floodway or dense native vegetation and wetland plant communities, whichever is more inclusive, from Alder Street to the City Limits and including wetlands adjacent to Winters Creek that are within the Shoreline area | Natural               |
| <b>B Wallace River</b><br>(North Bank)                     | Cemetery Park on the North Side of the Skykomish River. A wide area of intact riparian forest with significant in-stream habitat. Includes two acres of wetlands.  | Natural               |

### Rationale

The shorelines designated Natural are generally, ecologically intact shorelines with few modifications or structures, and have a greater potential for restoration.

### Management Policies

1.
 

ny use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.
2.
 

he following new uses should not be allowed in the "natural" environment:

  - Commercial uses,
  - Agricultural uses,
  - Industrial uses,
  - Nonwater oriented recreation; or
  - Roads, utility corridors, and parking areas that can be located outside of shoreline areas designated as "natural."
3.
 

ingle family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions, and the use is consistent with the purpose of the environment.
4.
 

ommerical forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.



## City of Sultan Shoreline Master Program

5. scientific, historical, cultural, educational research uses, and low intensity water-oriented recreational access uses may be allowed, provided that no significant ecological impact on the area will result.
6. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions should not be allowed. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

### Aquatic Environment

#### 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 and floodway.

#### Designation Criteria

Lands waterward of the ordinary high-water mark should be designated Aquatic environment.

#### Areas Designated

##### Description

Portions of the Sultan, Skykomish and Wallace rivers waterward of the ordinary high water mark (OHWM) (and within the jurisdiction of this Master Program) are appropriate to be designated Aquatic.

##### Rationale

These areas are waterward of the ordinary high water mark.

#### Management Policies

1. New over-water structures should be allowed only for water-dependent uses, public access, or ecological restoration, or for transportation or utility crossing for which there is no feasible alternative.
2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
3. Multiple use of over-water facilities should be encouraged in order to reduce the impacts of shoreline development and increase effective use of water resources.



## City of Sultan Shoreline Master Program

4. 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.
5. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of the legislative findings, overarching policies, and shoreline use preferences that provide the foundation for the Shoreline Management Act (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.
6. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

### Shoreline Environments and Specific Shoreline Developments

Chapter 6 of this Master Program establishes policies and regulations for a range of selected types of shoreline developments and activities. For each of these developments or activities, a determination is made on whether it can be permitted by a Shoreline Substantial Development Permit, a Shoreline Conditional Use Permit, or whether it is prohibited in the different shoreline environments.

Shoreline Environment Requirements: Development Standards and Specific Shoreline Development Regulation

|                                     | SHORELINE ENVIRONMENT DESIGNATION |                       |                   |         |         |
|-------------------------------------|-----------------------------------|-----------------------|-------------------|---------|---------|
|                                     | Urban Center                      | Shoreline Residential | Urban Conservancy | Natural | Aquatic |
| Boating Facility                    |                                   |                       |                   |         |         |
| • Boat Launch Ramps                 | CU                                | CU                    | CU                | P       | CU      |
| • Docks                             | P                                 | P                     | P                 | P       | P       |
| • Dry Boat Storage                  | CU                                | CU                    | CU                | CU      | P       |
| • Marinas                           | P                                 | P                     | P                 | P       | P       |
| Clearing and Grading                | A                                 | A                     | CU                | CU      | P       |
| Commercial Development <sup>1</sup> |                                   |                       |                   |         |         |
| • Water-dependent                   | A                                 | P                     | CU                | P       | CU      |
| • Water-related                     | A                                 | P                     | CU                | P       | CU      |
| • Water-enjoyment                   | A                                 | P                     | CU                | P       | CU      |
| • Nonwater-oriented                 | A                                 | P                     | P                 | P       | P       |
| Dredging                            | P                                 | P                     | P                 | P       | CU      |
| Dredge Spoil Disposal               | P                                 | CU                    | CU                | CU      | CU      |
| Instream Structures                 | P                                 | P                     | P                 | P       | CU      |



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|  | SHORELINE ENVIRONMENT DESIGNATION |                       |                   |                 |         |
|--|-----------------------------------|-----------------------|-------------------|-----------------|---------|
|  | Urban Center                      | Shoreline Residential | Urban Conservancy | Natural         | Aquatic |
| Landfill <sup>2</sup>  | P                                 | P                     | P                 | P               | CU      |
| Parking <sup>3</sup>   | A                                 | CU                    | CU                | CU              | P       |
| Recreation Facilities <sup>4</sup>   | CU                                | CU                    | CU                | CU              | CU      |
| Residential Development <sup>5</sup>   | A                                 | A                     | CU                | CU              | P       |
| Shoreline Modification   |                                   |                       |                   |                 |         |
| • Bulkheads  | CU                                | CU                    | CU                | CU              | CU      |
| • Dikes and Levees   | CU                                | CU                    | CU                | CU              | CU      |
| • Revetments   | P                                 | CU                    | CU                | CU              | CU      |
| Signs <sup>6</sup>   | A                                 | CU                    | CU                | CU              | CU      |
| Stormwater Facilities  | A                                 | A/CU <sup>7</sup>     | CU                | CU              | P       |
| Transportation   | A                                 | A/CU <sup>7</sup>     | CU                | CU <sup>8</sup> | CU      |
| Utilities  | A                                 | A/CU <sup>7</sup>     | CU                | CU              | CU      |
| <p>A = Allowed</p> <p>CU = May be permitted (i.e., allowed) as a conditional use.</p> <p>P = Not an allowed use in this environment.</p> |                                   |                       |                   |                 |         |

### Notes

- Over-water development is P, except as provided for in Chapter 6.
- This activity can only be permitted in association with an approved shoreline development.
- This activity can only be permitted in association with an approved shoreline development; parking as a primary use, except in the Urban Center environment, is P.
- Waterward of the ordinary high water mark, no recreational buildings or structures shall be built, except water-dependent and/or water-enjoyment structures as follows: ramps, bridges, and viewing platforms.
- Over-water development is P.
- Signs shall comply with the specific requirements set forth in Chapter 6 and shall be permitted only in association with an approved shoreline development.
- Stormwater facilities, transportation facilities, and utility facilities are permitted when associated with a development that is consistent with the provisions of this Master Program, otherwise these uses are may be permitted as a conditional use when consistent with the provisions of this Master Program.
- Transportation only permitted when the road, parking or utility corridor cannot be located outside the Natural Environment per WAC 173-26-211(5)(a)(ii)(B)



## City of Sultan Shoreline Master Program

### Shoreline Development Standards

|                          | SHORELINE ENVIRONMENT DESIGNATION |                       |                   |           |         |
|--------------------------|-----------------------------------|-----------------------|-------------------|-----------|---------|
|                          | Urban Center                      | Shoreline Residential | Urban Conservancy | Natural   | Aquatic |
| Riparian Buffer Setback* | 50ft                              | 150 ft                | 150 ft            | 200 ft    | n/a     |
| Building Setback**       | 0 ft****                          | 20 ft                 | 20 ft             | 20 ft     | n/a     |
| Building Height Limit    | 50 ft                             | 30 ft                 | 30 ft             | 30 ft     | n/a     |
| <u>Density</u>           | n/a                               | 6 du/acre             | 6 du/acre         | 6 du/acre | n/a     |
| <u>Frontage Width</u>    | 20-100 ft                         | 40***-60 ft           | 40***-60 ft       | 60ft      | n/a     |
| Lot Coverage             | 90%                               | 35%                   | 35%               | 35%       | n/a     |

\*Riparian Buffer Setbacks function as a setback from the shoreline, and are to be measured from the OHWM. Outside of the shoreline jurisdiction Critical Area Regulation buffers apply as required by SMC 16.80.150.

\*\*Building Setbacks function as an additional setback for construction activities that is measured from the end of the riparian setback.

\*\*\*In PUDs only

\*\*\*\*The Urban Center Environment is physically separated from the shoreline. One segment is separated by the Highway 2/BNSF corridor right-of-way. The other segment is set back almost 300 feet and physically separated by a park, Snohomish County jurisdiction, and First Street.

### City of Sultan Shoreline Environment Designation Map

The City of Sultan Shoreline Environment Designations depicts the areas under the jurisdiction of this Master Program and graphically portrays the boundaries of the City's five environment designations. There shall be only one official copy of this map, which shall be kept by the Administrator. This official copy shall be available for public inspection at all times during normal business hours. Unofficial copies shall be included as part of all distributed copies of this Master Program.



# 6

## Shoreline Policies and Regulations

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### INTRODUCTION

Based upon the goals established in this Master Program (Chapter 4), the following policies and regulations apply to uses, developments and activities in the shoreline area of Sultan. The policies and regulations are divided into two categories to reflect how they apply to the overall shoreline jurisdiction and within the various shoreline environments:

1. *General Policies and Regulations*
2. *Specific Shoreline Use and Shoreline Modification Policies and Regulations*

### General Policies and Regulations

The General policies and regulations apply to all uses and activities that may occur within the shoreline jurisdiction *regardless of the Shoreline Master Program environment designation*. These policies and regulations provide the overall framework for the shoreline's management. These regulations are intended to be used in conjunction with the more specific use and activity policies and regulations in the Sultan Shoreline Master Program. General policies and regulations have been developed for the following:

1. Environmental Impacts
2. Environmentally Sensitive Areas: General
3. Environmentally Sensitive Areas: Floodplains
4. Environmentally Sensitive Areas: Wetlands
5. Public Access

In addition to the *General Policies and Regulations* listed in this chapter, all developments in the Skykomish River shoreline area must comply with the policies for shorelines of statewide significance. Those policies are listed in Chapter 3.



## City of Sultan Shoreline Master Program

### Specific Shoreline Use and Shoreline Modification Policies and Regulations

*Specific Shoreline Use* provisions are more detailed than those listed in *General Policies and Regulations*. The *Specific Shoreline Use* policies and regulations apply to specific use categories and provide a greater level of detail in addressing shoreline uses and their impacts. *Specific Shoreline Use* policies establish the shoreline management principles that apply to each use category and serve as a bridge between the various elements in the Shoreline Master Program goals (e.g., Circulation, Economic Development, Public Access, etc.) and the use regulations that follow. These regulations set physical development and management standards for development of that type of use.

This category also includes those activities that *modify* the configuration or qualities of the shoreline area. These activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. Typically, shoreline modification activities relate to construction of a physical element such as a dike, breakwater, dredged basins, landfill, etc., but they can include other actions such as clearing, grading, application of chemicals, etc. Shoreline modification activities usually are undertaken in support of or in preparation for a shoreline "use."

Policies and regulations that address shoreline modification activities are intended to prevent, reduce, and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Shoreline Management Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

Policies and regulations relating to shoreline specific shoreline uses and shoreline modification activities are classified as follows:

1. Boating Facilities
2. Clearing and Grading
3. Commercial Development
4. Dredging and Disposal of Dredge Spoils
5. Instream Structures
6. Landfill
7. Parking
8. Recreational Facilities
9. Residential Development
10. Shoreline Modification
  - a) Bulkheads



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b) Dikes and Levees

c) Revetments

11. Signs

12. Stormwater Management Facilities

13. Transportation

14. Unclassified Uses and Activities

15. Utilities

### **Potential Inconsistency Between Various Policies and Regulations**

*The regulations of this chapter are in addition to other adopted city regulations. Where the regulations in this shoreline master program conflict with others, the regulations that provide more protection to the shoreline area shall apply as determined by the city. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, and to protect the public's interest in the shorelines' recreational and aesthetic values.*





## City of Sultan Shoreline Master Program

# General Policies and Regulations

## I. ENVIRONMENTAL IMPACTS

The Shoreline Management Act (SMA) is concerned with the environmental impacts that both a use and activity may have on the fragile shorelines of the state. Issues addressed as environmental impacts include a range of problems that may degrade the shoreline and its waters with contaminants such as petroleum products, chemicals, metals, nutrients, solid or human waste, or soil sediments from erosion.

### Environmental Impact Policy

1. The adverse impacts of shoreline developments and activities on the natural environment, including critical areas and properly functioning conditions for proposed, threatened, and endangered species, and on the built environment should be minimized during all phases of development (e.g., design, construction, operation, and management).
2. Shoreline developments that protect and/or contribute to the long-term restoration of habitat for proposed, threatened, and endangered species are consistent with the fundamental goals of this Master Program. Shoreline developments that propose to enhance critical areas, other natural characteristics, resources of the shoreline, and provide public access and recreational opportunities to the shoreline are also consistent with the fundamental goals of this Master Program, and should be encouraged.

### General Environmental Impact Regulations

1. All shoreline development and activity shall comply with applicable plans, policies, regulations, and rules of local, regional, state, and federal agencies with jurisdiction.
2. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that mitigates adverse impacts to the environment. The preferred mitigation sequence (avoid, minimize, mitigate, compensate) shall follow that listed in WAC 173-26-201 (2)(e) (see "Mitigation," listed in the *Definitions* section of this Master Program).
3. All shoreline development and activity shall be located, designed, constructed and managed in a manner that assures no net loss.
4. All shoreline development shall be located, designed, constructed, and managed to protect the functions and values of critical areas consistent with the Sultan critical area regulations (Appendix B).
5. All shoreline development shall be located and designed to avoid or minimize the need for shoreline stabilization measures and flood protection works, such as bulkheads, revetments, dikes, levees, or substantial site regrades and dredging. Where measures and works are demonstrated to be necessary, biostabilization techniques shall be the preferred design option.



## City of Sultan Shoreline Master Program

- unless demonstrated to be infeasible, or where other alternatives will provide less impact to the shoreline environment.
6. All shoreline development and activity shall be located, designed, constructed, operated, and managed to minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel movement, erosion, and accretion to create no net loss of shoreline ecological function.
  7. All shoreline development and activity shall recognize the primacy of preserving the natural character of the Skykomish, Sultan, and Wallace Rivers so there is no net loss of ecological functions.
  8. In approving shoreline developments, the City of Sultan shall ensure that the development will maintain, enhance, or restore desirable shoreline features, as well as ensure no net loss of ecological functions. To this end, the City may adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, screening, and mitigation as deemed appropriate.
  9. In approving shoreline developments, the City of Sultan shall consider short and long term adverse environmental impacts. In addition, the City of Sultan shall consider the cumulative adverse impacts of the development, particularly the precedential effect of allowing one development, which could generate or attract additional development. Identified significant short term, long term, and cumulative adverse environmental impacts lacking appropriate mitigation shall be sufficient reason for permit denial.
  10. As a condition of approval, the City may require periodic monitoring for up to ten years from the date of completed development to ensure the success of required mitigation. Mitigation plans shall include at a minimum:
    - Inventory of the existing shoreline environment including the physical, chemical, and biological elements and provide an assessment of their condition.
    - A discussion of the project's impacts and their effect on the ecological functions necessary to support existing shoreline resources.
    - A discussion of any federal, state, or local special management recommendations which have been developed for wetland or species or habitats located on the site.
    - An assessment of habitat recommendations proposed by resource agencies and their applicability to the proposal.
    - A discussion of measure to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity. Mitigation plans shall include at a minimum: planting and soil specifications; success standards; and contingency plans.
    - A discussion of proposed measure which mitigates the impacts of the project and established success criteria.



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- An evaluation of the anticipated effectiveness of the proposed mitigation measures.
  - A discussion of proposed management practices which will protect fish and wildlife habitat after the project site has been fully developed, including proposed monitoring and maintenance programs.
  - Contingency plan if the mitigation fails to meet established success criteria.
  - Any additional information necessary to determine the impacts of a proposal and mitigation impacts.
11. Shoreline development shall not be permitted if it significantly impacts the natural character of the shoreline, natural resources, or public recreational use of the shoreline. "Significant" is used as defined in SEPA (WAC 197-11-794).
  12. Where provisions of this Master Program conflict with each other or with other laws, ordinances or programs, the more restrictive of the provisions shall apply.

### Earth

1. Gravel bars and other accretion shoreforms are valued for recreation and in some cases may provide fish spawning substrate. Therefore, developments that could disrupt these shoreforms shall be carefully evaluated and only allowed: when such disruption would not reduce shoreline ecological function; where there is a demonstrated public benefit; and where the Department of Fish and Wildlife determines there would be no significant impact to the fisheries resource.
2. Developments that alter the topography of the shoreline shall be carefully evaluated to determine if flood events will increase in frequency or severity either upstream or downstream of the site. Developments that alter the topography of the shoreline shall only be approved if flood events will not increase in frequency or severity as a result of the project.
3. Developments that alter the topography of the shoreline shall be carefully evaluated to determine if such alteration would impact natural habitat forming processes and reduce ecological functions. Mitigation shall be required for projects that would otherwise reduce ecological functions.
4. An erosion and sedimentation control program shall be submitted with a permit application that involves the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion and siltation of the Skykomish, Sultan or Wallace Rivers and their associated wetlands.
5. The proponent shall incorporate all known, available and reasonable methods of prevention, control and treatment (AKART) measures into the erosion and sedimentation control program. The Administrator shall determine what AKART measures are applicable for erosion and sedimentation control for projects in shorelines.



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6. Temporary and emergency control drainage measures, such as silt curtains, berms, and stormwater catch basins, shall be utilized during construction to prevent shoreline erosion and siltation of the waterbody.
7. All debris, overburden, and other waste materials from construction shall be disposed of in such manner as to prevent their entry into a waterbody.
8. All disposal sites for soils and materials resulting from the shoreline development shall be identified and approved before permit issuance.

### Air

1. The applicant shall identify any emissions from the proposed development that may result in degradation of shoreline air quality. Emissions shall include any compounds, chemicals, pollutants, odors, fugitive dust, or vehicle exhaust that will be released into the air.
2. The applicant shall indicate in what quantity emissions will be released into the air and how these emissions will be controlled or eliminated.

### Water

1. Shoreline development and activity shall maintain no net loss of ecological functions.
2. Shoreline development and activity shall avoid any further alteration of river currents or floodway capacity.
3. Shoreline development and activity shall minimize impacts to geohydraulic processes, surface water drainage, and groundwater recharge.
4. All practicable measures shall be taken to protect waterbodies and wetlands from all sources of pollution, including, but not limited to sedimentation and siltation, petrochemical use and spillage, discharges from failing on-site septic systems, and storage of wastes and spoils.
5. Adequate provisions to prevent water runoff from contaminating surface and groundwater shall be included in shoreline development design. The Shoreline Administrator shall specify the method of surface water control and maintenance program for shorelines.
6. For lawns and other vegetation maintained within shoreline jurisdiction, alternatives to the use of chemical fertilizers, herbicides, and pesticides shall be a preferred BMP. Where chemical fertilizer, herbicide, or pesticide use is necessary for protecting existing natural vegetation or establishing new vegetation in shoreline areas as part of an erosion control or mitigation plan, the use of time release fertilizer and herbicides shall be preferred over liquid or concentrate application.
7. The release of oil, chemical, or hazardous materials onto or into the water is prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of



## City of Sultan Shoreline Master Program

- such equipment shall be suspended until the deficiency has been satisfactorily corrected. During construction in shoreline areas, vehicle refueling and vehicle maintenance shall occur outside of shoreline areas.
8. The bulk storage of oil, fuel, chemical, or hazardous materials, on either a temporary or a permanent basis, shall be PROHIBITED, except for uses allowed under the underlying zoning in the Urban Center environment.
  9. All measures for the treatment of surface water runoff for the purpose of maintaining and/or enhancing water quality shall be conducted on-site. Only if on-site treatment is not possible off-site treatment facilities be considered.

### Plants and Animals

1. In general, this Master Program shall strive to protect and restore anadromous fish resources in the Skykomish, Sultan, and Wallace Rivers.
2. Shoreline development and activity shall be located and conducted in a manner that minimizes impacts to existing ecological values and natural resources of the area, conserves properly functioning conditions, and there is no net loss of ecological functions.
3. Shoreline development and activity shall be scheduled to protect biological productivity and to minimize interference with fish resources including anadromous fish migration, spawning, and rearing activity.
4. Projects shall be designed to avoid the removal of trees in shorelines, wherever practicable and to minimize the removal of other woody vegetation. Where riparian vegetation is removed, measures to mitigate the loss of vegetation shall be implemented to assure no net loss.
5. Shoreline activities and development projects shall minimize impacts to natural features of the shoreline as much as possible.
6. Shoreline development and activity shall maintain the unconstrained upstream and downstream migration of both adult and juvenile anadromous and resident fish, when applicable.
7. Mitigation shall be required of the applicant for the loss of fish and wildlife resources, natural systems, including riparian vegetation, wetlands and sensitive areas. The mitigation required shall be commensurate to the value and type of resource or system impacted by development and activity in the shoreline. On-site compensatory mitigation shall be the preferred mitigation option, except where off-site mitigation can be demonstrated to be more beneficial to fish and wildlife resources, natural systems, including riparian vegetation, wetlands and sensitive areas. If on-site compensatory mitigation is not feasible or if off-site mitigation is demonstrated to be more beneficial to the shoreline environment, the applicant shall participate in a publicly-sponsored restoration or enhancement program or purchase credits



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- from a state certified mitigation in accordance with Chapter 90.84 RCW (Wetlands Mitigation Banking).
8. Enhancement, restoration, and/or creation of coniferous riparian forest or forested riparian wetland shall be the preferred mitigation for impacts to riparian vegetation and wetlands when avoidance is not possible.
  9. Where mitigation for loss, natural systems and resources is required, a habitat management plan shall be required. Habitat management plans shall be prepared by a professional wildlife biologist or fisheries biologist as determined appropriate by the Shoreline Administrator. The habitat management plan shall contain at a minimum:
    - A discussion of the project's effects on fish and wildlife habitat;
    - A discussion of any federal, state, or local special management recommendations which have been developed for species or habitats located on the site;
    - A discussion of measures to preserve existing habitats and restore habitats which were degraded prior to the proposed land use activity. Restoration plans shall include at a minimum: planting and soil specifications; success standards; and contingency plans;
    - A discussion of proposed measures which mitigate the impacts of the project;
    - An evaluation of the anticipated effectiveness of the proposed mitigation and restoration measures, when mitigation or restoration is proposed or required;
    - A discussion of ongoing management practices which will protect fish and wildlife habitat after the project site has been fully developed, including proposed monitoring and maintenance programs;
    - An assessment of habitat recommendations proposed by resource agencies and their applicability to the proposal; and
    - Any additional information necessary to determine the impacts of a proposal and mitigation of the impacts.
  10. Habitat management plans shall be forwarded to the appropriate state and/or federal resource agencies for review and comment.
  11. When necessary to ensure the effectiveness of mitigation or restoration, the Administrator may require annual monitoring reports to be provided to the City by the property owner until the mitigation and/or restoration has been in place for up to 10 years and the success standards have been met. The City shall forward the monitoring reports annually to the appropriate federal agencies along with the following:
    - A list and map of the location of development permits issued in the last calendar year;



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- A contingency plan;
- The implementation status of habitat management plans; and
- The status of the habitat improvements.

12. Based on the habitat management plan, and comments from other agencies, the Shoreline Administrator may require mitigating measures to reduce the impacts of the proposal on critical habitat and/or wildlife areas. Mitigating measures may include, but are not limited to, increased buffers, setbacks for permanent and temporary structures, enhanced buffers, reduced project scope, limitations on construction hours, limitations on hours of operation, and relocation of access. Projects may be denied if the proposal will result in extirpation or isolation of a critical fish, wildlife, or plant species or its habitat. The authority of the State Environmental Policy Act shall provide possible mitigation for all areas of wildlife habitat not covered by this chapter.

13. Mitigation activities shall be monitored to determine effectiveness of the habitat mitigation plan. Monitoring shall be accomplished by a third party, subject to the approval of the Shoreline Administrator, and shall have the concurrence of the U.S. Fish and Wildlife Service, NOAA - Fisheries, Washington Department of Fish and Wildlife, and, where applicable, the Washington Department of Ecology. Monitoring shall occur over ten (10) years following implementation of the plan. Results of the monitoring shall be publicly available and reported to the U.S. Fish and Wildlife Service and National Marine Fisheries Service. Reports shall contain the following information:

- A list of parcels subject to this requirement;
- The implementation status of the habitat management plans; and
- Status of the improvements (e.g., update if success standards are being met, what types of remedial actions have been implemented).

14. If mitigation is found to be ineffective, corrective action shall be required of the property owner to satisfy the mitigation objectives. Mitigation plans shall include a contingency plan if the mitigation fails to meet established success criteria.

15. If proposed mitigation is found to be inadequate or if adequate mitigation is determined to be impossible, the application shall be denied.

16. Timing of in-water construction, development, or activity shall be determined by Washington Department of Fish and Wildlife.

### Noise

1. Noise levels shall not interfere with the quiet enjoyment of the shoreline. Any noise emanating from a shoreline use or activity shall be muffled so as to not interfere with the designated use of adjoining properties. This determination shall take into consideration ambient noise levels, intermittent beat, frequency, and shrillness.





## City of Sultan Shoreline Master Program

2. Ambient noise levels shall be a factor in evaluating a shoreline permit application. Shoreline developments that would increase noise levels to the extent that the designated use of the shoreline would be disrupted shall be prohibited. Specific maximum environment noise levels can be found in WAC 173-60-040.

### Public Health

1. All shoreline developments shall be located, constructed, and operated so as not to be a hazard to public health and safety.

### Land Use

1. The size of the shoreline development and the intensity of the use shall be compatible with the surrounding environment and uses. The City of Sultan may prescribe operation intensity, landscaping, and screening standards to ensure compatibility with the character and features of the surrounding area.
2. Shoreline developments shall minimize land use conflicts to properties adjacent to, upstream, and downstream of the proposed site.
3. In reviewing shoreline permit applications, the City of Sultan shall consider potential and current public use of the shoreline, total water surface reduction, and restriction to navigation.

### Aesthetics

1. Shoreline development shall be designed and located to be aesthetically compatible with the area.
2. The applicant for a shoreline development permit for a new development must indicate in the shoreline application the effect that the proposed development will have upon the scenic public views at the proposed site. Specifically, the applicant must state in the shoreline permit application what steps have been taken in the design of the proposed development to minimize interference with scenic views enjoyed by the public.
3. If required by the Shoreline Administrator, the applicant shall provide a landscape plan that provides suitable screening but does not block scenic views.
4. Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties and adjoining waters.
5. Development on the water shall be constructed of non-reflective materials that are compatible in terms of color and texture with the surrounding area.
6. Lighting shall be properly directed or shielded to avoid off-site glare and impacts to fisheries.





## City of Sultan Shoreline Master Program

### Historical/Cultural

1. Wherever possible, public or private developments shall be prevented from destroying or destructively altering potential or recognizable sites having historic, cultural, scientific, or educational value as identified by appropriate authorities.
2. All shoreline permits shall contain provisions that require developers to immediately stop work and notify the City of Sultan if any items of archaeological interest are uncovered during excavation. In such cases, there should be notification to the office of archaeology and historic preservation and affected Indian tribes if archaeological resources are uncovered during excavation.
3. Where archaeological or historic sites have been identified, public access shall be required, provided the development is consistent with the provisions for public access and provided further it is determined that public access to the site will not damage or reduce the cultural value of the site.

## 2. ENVIRONMENTALLY SENSITIVE AREAS - GENERAL

The following policies and regulations must be factored into decisions regarding all environmentally sensitive areas planning and development within Sultan's shoreline jurisdiction. Environmentally sensitive areas are those lands especially vulnerable to development because of fragile biophysical characteristics and/or important resource values.

The City of Sultan Critical Area Regulations, as codified in Chapter 16.80 of the Sultan Municipal Code (Ordinance 918-06, 11/4/06, Appendix B), are herein incorporated into this master program except as noted.

Any conflicts between the incorporated ordinances and the SMP are resolved in favor of the regulation that is most protective of the ecological functions. Exceptions to the applicability of the City of Sultan Critical Areas Regulations in the Shoreline Jurisdiction are SMC 16.80.040 Appeals, SMC 16.80.050 Exemptions, SMC 16.80.090 Building Setbacks, SMC 16.80.150 Buffers, SMC 16.80.160 Development in Buffers, SMC 16.80.200 E2 and G Landslide Hazard Areas, and 16.80.220 Reasonable Use Allowances.

Environmentally sensitive areas include but are not limited to:

- Wetlands
- Fish breeding, rearing, or feeding areas
- Wildlife habitat areas
- Floodplains and floodways
- Unstable slopes
- Aquifer Recharge areas



## City of Sultan Shoreline Master Program

### Environmentally Sensitive Area General Policies

1. Unique, rare, and fragile natural and man-made features as well as scenic vistas, and wildlife habitats should be preserved and protected.
2. The diversity of aquatic life, wildlife, and habitat within the shoreline should be enhanced.
3. Conserve and maintain designated open spaces for ecological reasons and for educational and recreational purposes.
4. Recognize that the interest and concern of the public is essential to the improvement of the environment and sponsor and support public information programs to that end.
5. The level of public access should be appropriate to the degree of uniqueness or fragility of the geological and biological characteristics of the shoreline (e.g., wetlands, spawning areas).
6. Intensive development of shorelines areas that are identified as hazardous or environmentally sensitive to development should be discouraged.

### Environmentally Sensitive Area General Regulations

1. All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or not adversely affect those natural features which are valuable, fragile or unique in the region, and to facilitate the appropriate intensity of human use of such features, including but not limited to:
  - a) Wetlands, including but not limited to marshes, bogs, and swamps;
  - b) Fish and wildlife habitats, including streams, migratory routes, and spawning areas;
  - c) Natural or man-made scenic vistas or features;
  - d) Floodplains and Floodways;
  - e) Geologically hazardous areas, including erosion, landslide, steep slope and seismic hazard areas; and
  - f) Ground water (aquifer) recharge areas.
2. The standards of the Sultan critical areas regulations are hereby incorporated into this shoreline master program by reference and shall regulate critical areas within shoreline jurisdiction.
3. The standards of the Sultan critical area regulations shall apply within areas landward of the ordinary high water mark (OHWM) and within the shoreline jurisdiction, where critical areas are present. If there are any conflicts or unclear distinctions between the Master Program and the Sultan critical areas regulations, the most restrictive requirements apply as determined by the city.
4. The use of herbicides and pesticides to remove noxious plants in the riparian management zones of rivers, streams, and wetland areas shall be PROHIBITED, except where no reasonable



## City of Sultan Shoreline Master Program

alternatives exist and it is demonstrated that such activity is in the public interest. A Shoreline Conditional Use permit shall be required in such cases. Mechanical removal of noxious weeds shall be timed and carried out in a manner to minimize any disruption of wildlife or habitat.

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### 3. ENVIRONMENTALLY SENSITIVE AREAS - FLOODPLAIN MANAGEMENT

The following policies and regulations must be factored into decisions regarding all flood management planning and development within that portion of the 100-year floodplain that falls within Sultan's shoreline jurisdiction (within 200 feet of OHWM).

Floodplain management involves actions taken with the primary purpose of preventing or mitigating damage due to flooding. Floodplain management can involve planning and zoning to control development, either to reduce risks to human life and property or to prevent development from contributing to the severity of flooding. Floodplain management can also address the design of developments to reduce flood damage and the construction of flood controls, such as dikes, dams, engineered floodways, and bioengineering.

The City of Sultan Flood Damage Prevention Code, as codified in Chapter 17.08 of the Sultan Municipal Code, Ordinance 808-03, 3/9/03 (Appendix A), is herein incorporated into this master program. Any conflicts between the incorporated ordinances and the SMP are resolved in favor of the regulation that is most protective of the ecological functions. Exceptions to the applicability of the City of Sultan Flood Damage Prevention Code in the Shoreline Jurisdiction are SMC 17.08.090 and SMC 17.08.100 Variance Procedures.

#### Floodplain Management Policies

1. Flood management planning should be undertaken in a coordinated manner among affected property owners and public agencies and should consider the entire river system. This planning should consider off-site impacts such as erosion, accretion, and/or flood damage that might occur if shore protection structures are constructed.
2. Non-structural control solutions are preferred over structural flood control devices, and should be used wherever possible when control devices are needed. Non-structural controls include such actions as prohibiting or limiting development in areas that are historically flooded or limiting increases in peak flow runoff from new upland development. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that non-structural solutions would not be able to reduce the damage.
3. Substantial stream channel modification, realignment, and straightening should be discouraged as a means of flood protection.
4. Where possible, public access should be integrated into the design of publicly financed flood management facilities.



## City of Sultan Shoreline Master Program

5. The City supports the protection and preservation of the aquatic environment and the habitats it provides, and advocates balancing these interests with the City's intention to ensure protection of life and property from damage caused by flooding.
6. Development should avoid potential channel migration impacts.

### **Floodplain Management Regulations**

1. Development and uses proposed within the 100-year floodplain shall meet the requirements of Chapter 17.08 SMC, Flood Damage Prevention, Ordinance 808-02, 3/9/03 (Appendix A)
2. The City shall require and utilize the following information as appropriate during its review of shoreline flood management projects and programs.
  - River channel hydraulics and floodway characteristics up and downstream from the project area.
  - Existing shoreline stabilization and flood protection works within the area.
  - Physical, geological, and soil characteristics of the area.
  - Biological resources and predicted impact to riverine ecology, including fish, vegetation, and animal habitat.
  - Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and,
  - Analysis of alternative flood protection measures, both non-structural and structural.
  - Mapped potential Channel Migration Zone (CMZ) information for the Sultan River, Skykomish River, and Wallace River from Snohomish County.
3. The City shall require engineered design of flood protection works where such projects may cause interference with normal river geohydraulic processes, off-site impacts, or adverse effects to shoreline resources and uses. Non-structural methods of flood protection shall be preferred over structural solutions, when the relocation of existing shoreline development is not feasible.
4. Flood protection measures shall be planned and constructed based on the Sultan flood control management plan, and in accordance with the National Flood Insurance Program and the City of Sultan's Flood Damage Prevention Code, Chapter 17.08 SMC, Ordinance 808-03, 3/9/03 (Appendix A). Flood protection measures must assure no net loss of ecological functions.
5. Projects proposed in the floodplain must assure no potential impacts to the Channel Migration Zone (CMZ) as mapped by Snohomish County. Structures should be located to avoid the need for future protection due to potential channel migration.



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### 4. ENVIRONMENTALLY SENSITIVE AREAS - WETLANDS

The following policies and regulations must be factored into decisions regarding all development within wetlands that fall within Sultan's shoreline jurisdiction.

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

#### Wetland Policies

1. Wetland ecosystems serve many important ecological and environmental functions, which are beneficial to the public welfare. Such functions include flood storage and conveyance, erosion control, sediment control, fish production, fish and wildlife habitat, recreation, water quality protection, water supply, education, and scientific research. Wetland ecosystems should be preserved and protected to prevent their continued loss and degradation.
2. Wetland areas should be identified according to established identification and delineation procedures and provided appropriate protection consistent with the policies and regulations of this Master Program and the City's streams and wetlands regulations (Sections 16.80.060, 16.80.070, and 16.80.080 SMC, Ordinance 918-06, 11/4/06, Appendix B).
3. The greatest protection should be provided to wetlands of exceptional resource value, which are defined as those wetlands that include rare, sensitive, or irreplaceable systems such as:
  - Documented or potential habitat for an endangered, threatened, or sensitive species.
  - High quality native wetland systems as determined by the Washington State Natural Heritage Program.
  - Significant habitat for fish or aquatic species as determined by the appropriate state resource agency.
  - Diverse wetlands exhibiting a high mixture of wetland classes and subclasses as defined in the US Fish and Wildlife Service classification system.
  - Mature forested swamp communities.
  - Sphagnum bogs or fens.



## City of Sultan Shoreline Master Program

4. A wetland buffer of adequate width should be maintained between a wetland and the adjacent development to protect the functions and integrity of the wetland. (Section 16.80.150 SMC, Ordinance 918-06, 11/4/06, Appendix B)
5. The width of the established buffer zone should be based upon the functions and sensitivity of the wetland, the characteristics of the existing buffer, and the potential impacts associated with the adjacent land use. (Section 16.80.150 SMC, Ordinance 918-06, 11/4/06, Appendix B)
6. All activities that could potentially affect wetland ecosystems should be controlled both within the wetland and the buffer zone to prevent adverse impacts to the wetland functions. (Section 16.80.170 and Section 16.80.180 SMC, Ordinance 918-06, 11/4/06, Appendix B)
7. No wetland alteration should be authorized unless it can be shown that the impact is both unavoidable and necessary and that resultant impacts are offset through the deliberate restoration, creation, or enhancement of wetlands. (Section 16.80.140 SMC).
8. Wetland restoration, creation, and enhancement projects should result in no net loss of wetland acreage and functions. Where feasible, wetland quality should be improved. (Section 16.80.140 SMC, Ordinance 918-06, 11/4/06, Appendix B)
9. Wetlands that are impacted by activities of a temporary nature should be restored immediately upon project completion. (Section 16.80.140 SMC, Ordinance 918-06, 11/4/06, Appendix B)
10. In-kind replacement of functional wetland values is preferred. Where in-kind replacement is not feasible or practical due to the characteristics of the existing wetland, substitute ecological resources of equal or greater value should be provided. (Section 16.80.170 SMC, Ordinance 918-06, 11/4/06, Appendix B)
11. On-site replacement of wetlands is preferred. Where on-site replacement of a wetland is not feasible or practical due to characteristics of the existing location, replacement should occur within the same watershed and in as close proximity to the original wetland as possible.
12. Where possible, wetland restoration, creation, and enhancement projects should be completed prior to wetland alteration. In all other cases, replacement should be completed prior to use or occupancy of the activity or development.
13. Applicants should develop comprehensive mitigation plans to ensure long-term success of the wetland restoration, creation, or enhancement project. Such plans should provide for sufficient monitoring and contingencies to ensure wetland persistence. (Section 16.80.140 SMC, Critical Areas Regulations Mitigation Plan Requirements, Ordinance 918-06, 11/4/06, Appendix B)
14. Applicants should demonstrate sufficient scientific expertise, supervisory capability, and financial resources to complete and monitor the mitigation project.



## City of Sultan Shoreline Master Program

15. Proposals for restoration, creation, or enhancement should be coordinated with appropriate resource agencies to ensure adequate design and consistency with other regulatory requirements.
16. Activities should be prevented in wetland buffer zones except where such activities have no adverse impacts on wetland ecosystem functions. (Section 16.80.170 SMC, Ordinance 918-06, 11/4/06, Appendix B)
17. Wetland buffer zones should be retained in their natural condition unless revegetation is necessary to improve or restore the buffer.
18. Wetland education programs should be developed to increase awareness of the importance of wetlands and to inform the citizenry of protective wetland regulations.
19. The City of Sultan should distribute wetland education materials to schools, landowners, and developers in the Sultan area.

### Wetland Regulations

1. Development and use proposed to be located within wetlands or their buffers shall be regulated per Section 16.80.160 SMC (Ordinance 918-06, 11/4/06, Appendix B). If a wetland of exceptional value is adjacent to a public access trail required under the provisions of this Master Program, then interpretive signage is required. The interpretive signage shall explain why the wetland is considered valuable. The Shoreline Administrator shall determine the type and extent of interpretive signage required.
2. Wetland mitigation sequencing shall be done in accordance with the Sultan Critical Area Regulations (SMC 16.80.240, Ordinance 918-06, 11/4/06, Appendix B)

## 5. PUBLIC ACCESS

Shoreline public access is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. There is a variety of types of public access, including picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, parking and others, although some of these are not currently provided along the City of Sultan's shorelines.

### Public Access Policies

1. Public access to the Sultan shorelines does not include the right to enter upon or cross private property, except for dedicated and marked public easements.
2. Public access provisions should be incorporated into all private and public developments. Exceptions may be considered for the following types of uses:
  - A single family residence.





## City of Sultan Shoreline Master Program

- An individual multi-family structure containing fewer than three (3) dwelling units; and
  - Where deemed inappropriate, in accordance with Public Access Regulation #2, below.
3. Development uses and activities on or near the shoreline should not impair or detract from the public's visual or physical access to the water.
  4. Preservation and enhancement of the public's visual access to Sultan's shoreline areas should be encouraged.
  5. Public access to the shoreline should be sensitive to the unique characteristics of the shoreline and should preserve the natural character and quality of the environment and adjacent wetlands, public access should assure no net loss of ecological functions.
  6. Where appropriate, public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment.
  7. Except for access to the water, the preferred location for placement of public access trails is at the furthest landward edge of the riparian management zone. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and should be designed for accessibility by handicapped and physically impaired persons. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected open space.
  8. Shoreline areas that hold unique value for public enjoyment should be purchased for public use, and public access area should be of sufficient size to allow passage and allow the visitor to stop, linger, and contemplate the setting.
  9. Public access afforded by shoreline street ends should be preserved, maintained, and enhanced.
  10. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy. This may include providing a physical separation to reinforce the distinction between public and private space, achieved by providing adequate space, through screening with landscape planting or fences, or other means.
  12. Public views from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excess removal of vegetation that partially impairs views.
  13. Maximum height limits for buildings shall be set by underlying zoning in shoreline areas, of which the maximum height of a building is 30 feet. (Also see Aesthetics under Environmental Impacts).





## City of Sultan Shoreline Master Program

14. Public access facilities should be constructed of environmentally friendly materials and support healthy natural processes, whenever financially feasible and possible.
15. Public access facilities should be maintained to provide a clean and safe experience and protect the environment.

### Public Access Regulations

1. Chapter 8, Shoreline Restoration, addresses public access to the shoreline on public property.
2. Public access shall be required for all shoreline development and uses, except for a single family residence or residential projects containing less than three (3) dwelling units.
3. A shoreline development or use that does not provide public access may be authorized provided it is demonstrated by the applicant and determined by the City that one or more of the following provisions apply.
  - Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
  - Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
  - The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development.
  - Unacceptable environmental harm such as damage to fish spawning areas will result from the public access which cannot be mitigated; or
  - Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.

Provided further, that the applicant has first demonstrated and the City has determined that all reasonable alternatives have been exhausted, including but not limited to:

- Regulating access by such means as limiting hours of use to daylight hours.
  - Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping.
  - Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.
3. Developments, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping.



## City of Sultan Shoreline Master Program

4. Public access sites shall be connected directly to the nearest public street.
5. Public access sites shall be made barrier free for the physically disabled where feasible.
6. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
7. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running in perpetuity with the land. Said recording with the Auditor's office shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval or disapproval).
8. The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. In accordance with *Public Access* regulation #1 in this section, signs controlling or restricting public access may be approved as a condition of permit approval.
9. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.
10. Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.
11. Physical public access shall be designed to prevent significant impacts to sensitive natural systems.
12. Whenever financially feasible and practical, the City shall require the use of environmentally friendly materials and technology in such things as building materials, paved surfaces, porous pavement, etc., when developing public access to the shoreline.
13. Where public access is to be provided through the Osprey Park trail plan the following requirements shall apply:
  - a. *The trail shall be no wider than 8 feet, plus 1 foot gravel shoulders, for a maximum width of 10 feet.*
  - b. *Other conditions described in an adopted trail plan.*
  - c. Where feasible the trail shall be placed on the furthest landward edge of the riparian management zone.



## City of Sultan Shoreline Master Program

# Specific Shoreline Use and Shoreline Modification Policies and Regulations

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## INTRODUCTION

The following policies and regulations apply to specific types of development that may be proposed along the shorelines of Sultan. A proposal can consist of one or more of these developments. If the proposed project includes other specific developments such as road, then these aspects of the project must also be reviewed for consistency with the applicable policies and regulations listed below. In addition, all specific shoreline developments must be consistent with the Shoreline Environmental designations of Chapter 5, the goals and objectives of Chapter 4 and the preceding general policies and regulations of this chapter.

The City of Sultan Uniform Development Code, as codified in Chapter 16.48, 16.56, 16.60, and 16.92 as Ordinance 630 § 2 – 1995, 7/18/95 (Appendix D) and The City of Sultan Sign Code as codified in Chapter 22.06 as Ordinance 806-03 § 1 (Appendix D), are herein incorporated into this master program. Any conflicts between the incorporated ordinances and the SMP are resolved in favor of the resolution that is most protective of the ecological functions.

This Master Program provides specific policies and regulations for the following types of specific shoreline development:

1. Boating Facilities
2. Clearing and Grading
3. Commercial Development
4. Dredging and Disposal of Dredge Spoils
5. Instream Structures
6. Landfill
7. Parking
8. Recreational Facilities
9. Residential Development
10. Shoreline Modification
  - a) Bulkheads
  - b) Dikes and Levees



## City of Sultan Shoreline Master Program

c) Revetments

11. Signs

12. Stormwater Management Facilities

13. Transportation

14. Unclassified Uses and Activities

15. Utilities

In specific environments, some uses may be prohibited.

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### 1. BOATING FACILITIES

Boating facilities generally include boat launch ramps (public and private), wet and dry boat storage, related sales and service for pleasure and commercial watercraft.

**Note:** Docks and marinas are not permitted in the Sultan shoreline area.<sup>1</sup>

#### Boating Facilities Policies

1. Boating facilities can have a significant impact on riverine habitat and river mechanics; for this reason, the impacts of boat facilities should be reviewed thoroughly before boating facilities are permitted in the Sultan shoreline jurisdiction.
2. Public and community boating facilities are preferred over individual private facilities.
3. New commercial boating facilities may be allowed as a conditional use in the Sultan shoreline. When allowed, such facilities should be designed to accommodate public access and enjoyment of the shoreline location. Depending on the scale of the facility, public access should include walkways, viewpoints, restroom facilities, and other recreational uses.
4. Docks shall be prohibited in the Sultan shoreline.
5. Dry boat storage should not be considered a water-oriented use. Only boat hoists, boat launch ramps, and access routes associated with a dry boat storage facility should be considered a water-oriented use.

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<sup>1</sup> RCW 90.58.030(3)(e)(7) further requires that, if subsequent construction with a fair market value of more than \$25,000 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a shoreline substantial development and be subject to review.



## City of Sultan Shoreline Master Program

### Boating Facilities Regulations

#### General

1. Boating facilities, as defined in this section, shall require a Shoreline Conditional Use Permit, unless otherwise specified.
2. The City of Sultan shall require the following information in its review and evaluation of boating facility proposals:
  - a) A description of the existing natural shoreline features and uses;
  - b) A description of the geohydraulic processes at the site including, accretion/erosion characteristics, flood levels, and surface drainage;
  - c) A description of biological resources and habitats in the upland and aquatic environments;
  - d) An estimate of the area of surface water to be appropriated;
  - e) A description of any shore defense works or shoreline stabilization and flood protection proposed as part of the project; and
  - f) Other information determined by the Shoreline Administrator to be relevant to the protection of the shoreline habitat and any endangered species present.
3. Boating facilities may be permitted only if:
  - a) It can be demonstrated that the facility will not adversely impact critical fish or wildlife habitat areas; associated wetlands; or properly functioning conditions for proposed, threatened or endangered species; and
  - b) Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat as a result of the facility.

#### Boat Launch Ramps

1. Boat launch ramps shall locate on stable shorelines where water depths are adequate to eliminate or minimize the need for channel maintenance activities.
2. Boat launch ramps may be permitted on accretion shoreforms, provided any necessary grading is not harmful to affected resources and any accessory facilities are located out of the floodway.
3. Where boat ramps are permitted, parking and shuttle areas shall not be located on scarce accretion shoreforms, which have high value for general shore recreation.
4. Boat launch ramps may be permitted on stable non-erosional banks where the need for shore stabilization structures is minimized.



## City of Sultan Shoreline Master Program

5. Boat launch ramps may be permitted for individual residences where the slope of the riverbank does not exceed twenty-five percent (25%) or where substantial cutting, grading, filling, or defense works are not necessary.
6. Ramp structures shall be placed near flush with the foreshore slope to minimize the interruption of geohydraulic processes.
7. Boat launch sites that are open to the public shall have adequate restroom facilities operated and maintained in compliance with Snohomish County Health District regulations.

### Docks

1. Docks are prohibited in the Sultan shoreline.

### Dry Boat Storage

1. Dry boat storage shall not be considered a water-oriented use and must respect the appropriate shoreline environment setback.
2. Only water-dependent aspects of dry-boat storage, such as boat hoists and boat launch ramps may be permitted within shoreline environment setbacks.
3. Boat launch ramps associated with dry boat storage shall be consistent with applicable requirements in this section.

### Marinas

1. Marinas are prohibited in the Sultan shoreline.

### **Boating Facilities Environment Specific Regulation**

**Natural:** Boating facilities are prohibited in areas designated Natural Environment.

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## **2. CLEARING AND GRADING**

Clearing and grading is the activity associated with developing property for commercial, industrial, residential, or public use. Clearing involves the removal of vegetation or topsoil. Grading involves the physical alteration of the earth's surface by either excavation or filling.

### **Clearing and Grading Policies**

1. Clearing and grading activities should only be allowed in association with an allowed (permitted) shoreline development.
2. Clearing and grading activities should be limited to the minimum necessary to accommodate the shoreline development or a landscape scheme developed in conjunction with the shoreline development.



## City of Sultan Shoreline Master Program

3. Clearing and grading should not be permitted within shoreline environment setbacks, unless fish and wildlife habitat will not be degraded.
4. Best management practices should be used during clearing and grading to control erosion.
5. For extensive clearing and grading proposals, a plan addressing species removal, revegetation, irrigation, erosion and sedimentation control, and other methods of riparian corridor protection should be required.

### Clearing and Grading Regulation

#### General

1. Clearing and grading activities shall only be allowed in association with a permitted shoreline development.
2. All clearing and grading activities shall be limited to the minimum necessary for the intended development, including any clearing and grading approved as part of a landscape plan. Surfaces cleared of vegetation and not developed must be replanted as soon as possible. Within two (2) years the vegetative cover must be reestablished.
3. Clearing and grading within shoreline environment setbacks shall comply with the special requirements for **Riparian Management Zones** (following).
4. Outside of riparian management zones, normal non-destructive pruning and trimming of vegetation for maintenance purposes shall be permitted.
5. Clearing invasive non-native shoreline vegetation listed on the Snohomish County Noxious Weed List is permitted in shoreline locations, provided hand held equipment is used and native vegetation is promptly reestablished in the disturbed area.
6. All shoreline development and activity shall use effective measures to minimize increases in surface water run off that may result from clearing and grading activity. The applicant must include in the proposal the methods that will be used to control, treat, and release runoff so that receiving water quality and shore properties and features shall not be adversely affected. Such measures may include but are not limited to dikes, berms, catch basins or settling ponds, installation and maintenance of oil/water separators, grassy swales interceptor drains, and landscaped buffers.
7. Stabilization of exposed erosional surfaces along shorelines shall, whenever feasible, utilize soil bioengineering techniques.



## City of Sultan Shoreline Master Program

### Riparian Management Zone Regulations

A riparian management zone is the area within the shoreline environment setback. These setbacks are measured landward from the ordinary high water mark (OHWM) or floodway, whichever is more inclusive, and are as follows:

| <u>Shoreline Environment</u> | <u>Width</u> |
|------------------------------|--------------|
| Urban Center                 | 100 feet     |
| Urban Conservancy            | 100 feet     |
| Shoreline Residential        | 100 feet     |
| Natural                      | 200 feet     |
| Aquatic                      | n/a          |

The purposes for maintaining a riparian management zone are to preserve the natural character of the shoreline, to protect the functions and values of critical areas, to conserve properly functioning conditions, and to enhance the recreational experience for the public using the river and adjacent lands.

*Chapter 3: Shorelines of Statewide Significance*, describes these purposes in more detail and establishes the riparian management zone as a primary means of complying with the priorities for shorelines of statewide significance.

In order to maintain riparian corridors, the City of Sultan shall regulate the cutting, trimming, and clearing of vegetation within shoreline environment setbacks, as follows:

**1. Topping of trees and trimming of vegetation may be permitted within the riparian management zone, provided:**

- a) This provision is not interpreted to allow clearing of vegetation, and
- b) The Shoreline Administrator determines, after consultation with the Washington Department of Fish and Wildlife, that such topping and trimming is not detrimental to the riparian functions and values.

**2. Clearing within the riparian management zone is regulated as follows:**

- a) For water-oriented uses, clearing shall be limited to the minimum necessary for the successful operation of the use, subject to the additional clearing and grading requirements of this section and the provisions of this Master Program.
- b) For nonwater-oriented uses, clearing is permitted for river access provided:
  - That it meets the requirements for public access as set forth in the *Public Access* section.
- c) Clearing for landscape purposes may be permitted upon approval of a detailed landscape plan prepared by a qualified professional. The landscape plan shall include:





## City of Sultan Shoreline Master Program

- A map illustrating the distribution of existing plant communities in the area proposed for landscaping. The map must be accompanied by a description of the vegetative condition of the site, including plant species, plant density, fish and wildlife habitat values, and any natural or man-made disturbances.
  - A description of the shade conditions created by existing vegetation. This description shall include an inventory of vegetation overhanging the river as well as a determination of how much shade is created by standing trees, during midday at midsummer. All trees that shade the river during midday at midsummer shall be retained.
  - A detailed landscape map indicating which areas will be preserved and which will be cleared. This map must identify trees that will be removed or selectively thinned.
  - Drawings illustrating the proposed landscape scheme, including the type, distribution, and density of plants. Any pathways or nonvegetated portions must be noted.
  - A description of any vegetation introduced for the purposes of fish and wildlife habitat. Loss of wildlife habitat shall be mitigated at a replacement ratio of one-to-one-and-a-quarter (1:1.25) (habitat lost to habitat replaced).
  - A letter from the Washington Department of Fish and Wildlife acknowledging review of the proposed landscape plan and finding that fish and wildlife habitat will not be degraded.
  - The plan shall include planting and soil specifications, success standards, and a contingency plan.
- d) In all cases where clearing may be approved, exposed soils shall be immediately developed or revegetated with native plants to prevent erosion. Unless it would interfere with river access or the successful operation of a water oriented use, cleared land within twenty-five (25) feet of the floodway shall be revegetated with native plants that benefit fish and wildlife habitat, such as low mass shrubbery, overhanging bushes, and tall grasses.
- e) In all cases where clearing is followed by revegetation, native plants shall be preferred.<sup>2</sup>
- f) In all cases where revegetation involves the placement of groundcover, shrubs, or trees the following regulations shall apply:
- At the time of planting, groundcover must be planted such that complete coverage is attained within one growing season.

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<sup>2</sup> A list of native plants that are adapted to riparian conditions will be provided by the City of Sultan, in consultation with appropriate local and state agencies. The Washington Department of Fish and Wildlife can also provide a list of species that benefit riparian habitat areas.



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- At the time of planting, shrubs must be eighteen (18) inches high. Shrubs shall be planted such that within two years the shrubs will cover at least sixty percent (60%) of the area that would be covered when the shrubs have attained a mature size.
- At the time of planting, deciduous trees must be at least two (2) inches in caliper as measured one (1) foot above grade, and coniferous trees must be at least five (5) feet in height.
- The applicant shall implement an irrigation system to ensure survival of vegetation planted in compliance with the riparian management provisions of this Master Program.
- Throughout the monitoring period, the applicant shall replace any unhealthy or dead vegetation planted consistent with an approved landscape plan.

- g) The City may require a performance bond as a condition of permit approval, to ensure compliance with the riparian management zone regulations.

### Clearing and Grading Environment Specific Regulation

**Urban Center** and **Shoreline Residential**: Clearing and grading shall be a permitted activity when associated with a development that is consistent with the provisions of this Master Program.

**Urban Conservancy** and **Natural**: Clearing and grading may be permitted as a Shoreline Conditional Use when associated with a development that is consistent with the provisions of this Master Program.

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## 3. COMMERCIAL DEVELOPMENT

Commercial development is a use that is involved in wholesale, retail, service, and business trade.

### Commercial Development Policies

1. Priority of any commercial development should be given to water dependent and water enjoyment uses. This includes restaurants that provide a view of the river to customers; motels and hotels that provide walking areas for the public along the shoreline; office buildings; and retail sales buildings that have a riverfront theme with public access to the waterfront.
2. Over-the-water commercial development shall be prohibited.
3. New commercial development on shorelines should be encouraged to locate in areas with existing commercial uses.



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4. Commercial development should be required to provide physical or visual access to the shoreline or other opportunities for the public to enjoy shorelines of statewide significance.
5. Site plans for commercial developments should include multiple use concepts such as open space and recreation.
6. Commercial development in the shoreline jurisdiction should include landscaping to enhance the shoreline area.

### Commercial Regulations

1. Over-water construction of commercial uses is prohibited, provided this prohibition does not preclude the development of boat launch ramps or other river access facilities that are consistent with the intent of this Master Program and necessary for the operation of an associated commercial use.
2. Alternatives to conventional storm water treatment, such as use of pervious materials, shall be considered in order to minimize impacts due to runoff and the need for storm water treatment. The city shall refer to the Ecology Storm Water Manual as adopted in SMC 16.92.010(D), Ordinance 630 § 2 – 1995, 7/18/95 (Appendix D) to deal with runoff and non-point source pollution.
3. All commercial development within shoreline jurisdiction shall provide for public visual and physical access to the shoreline. Where on-site public access is appropriate, commercial development shall dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public. Public access easements shall be a minimum of twenty-five (25) feet in width and shall comply with the public access standards contained in this Master Program (see the policies and regulations in the *Public Access* section).
4. Off-site public access to the Sultan shoreline shall be required if on-site public access would pose an unacceptable risk to the public health, safety, and welfare as identified in the Public Access Regulations. Off-site public access must meet the same standards and requirements as on-site public access.<sup>3</sup>
5. All commercial loading and service areas shall be located on the upland side of the commercial activity or provisions shall be made to screen the loading and service areas from the shoreline.
6. Commercial development shall be designed and maintained in a neat and orderly manner, consistent with the character and features of the surrounding area.
7. All commercial development within shoreline jurisdiction shall assure no net loss of ecological functions.

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<sup>3</sup> NOTE: Offsite public access could be provided either through a payment in lieu agreement with the City or through the purchase of land or an easement at a location appropriate to provide the access deemed necessary.



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### Commercial Environment Specific Regulations

**Urban Center:** Commercial developments that are allowed by Title 16.56 SMC, Unified Development Code, Ordinance 630 § 2, 1995, 7/18/95 – Appendix D, are permitted uses in accordance with the underlying zoning, unless otherwise stated in this Master Program, the more restrictive of these regulations applies. Over-the-water commercial uses are prohibited.

**Urban Conservancy** and **Aquatic:** Water-oriented commercial development may be permitted as a Shoreline Conditional Use. Non-water-oriented commercial development is prohibited.

**Shoreline Residential:** Only those commercial uses that are permitted as home occupations under Chapter 16.48 SMC, Ordinance 630 § 2, 1995, 7/18/95 – Appendix D, may be permitted. Home occupations shall be permitted uses unless otherwise stated in this Master Program.

**Natural:** Commercial development is prohibited.

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## 4. DREDGING AND DISPOSAL OF DREDGE SPOILS

Dredging is the removal or displacement of earth such as gravel, sand, mud, or silt from lands covered by water. Lands covered by water include stream beds and wetlands. Dredging is normally done for specific purposes or uses such as maintaining navigation channels, constructing bridge footings, or laying submarine pipelines or cable.

Dredge spoil is the material removed by dredging. Dredge spoil disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands or for disposing of the material in an acceptable manner.

### Dredging and Dredge Spoil Policies

1. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material is prohibited.
2. Dredging operations should be planned and conducted to minimize interference with navigation; avoid creating adverse impacts on other shoreline uses, properties, and values; and avoid adverse impacts to habitat areas and fish species.
3. Dredge spoil disposal in water bodies should be prohibited except for habitat improvement.
4. Dredge spoil disposal on land should occur in areas where environmental impacts will not be significant.



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### Dredging and Dredge Spoil Regulations

1. Applications for shoreline dredging and dredge spoil disposal shall provide, at a minimum, the following information:
  - a) Physical, chemical, and biological analysis of material to be dredged, including material composition, particle size distribution, volume and amount, organic content, source of material, volatile solids, chemical oxygen demand (COD), grease and oil, oxygen and heavy metals, nutrients, sulfides and biological organisms, both permanent and migratory/transitory.
  - b) Dredging technique, schedule, frequency, hours of operation, and procedures.
  - c) Method of dredge spoil disposal, including the location, size, capacity and physical characteristics of the soil disposal area, transportation method and routes, hours of operation, and schedule.
  - d) Location and stability of bedlands adjacent to proposed dredging area.
  - e) Hydraulic analyses, including current flows, direction, and projected impacts. Hydraulic modeling studies are required for large scale, extensive dredging projects.
  - f) Assessment of water quality impacts.
  - g) Biological assessment including migratory, seasonal, and spawning factors.
2. Dredging and dredge spoil disposal shall be permitted only where it is demonstrated that the proposed actions will not:
  - a) Result in significant damage to water quality, fish, and other essential biological elements, and will not adversely alter natural drainage and circulation patterns, currents, river flows, or reduce floodwater capacities, or adversely impact properly functioning conditions for proposed, threatened or endangered species or the functions and values of critical areas.
3. Proposals for dredging and dredge spoil disposal shall include all feasible mitigating measures to protect habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic materials, or toxic substances, depletion of oxygen, disruption of food chains, loss of benthic productivity, and disturbance of fish runs and important localized biological communities.
4. Dredging and dredge spoil disposal shall not occur in wetlands, except if the wetland alteration policies and regulations in this chapter are followed. Dredging and dredge spoil disposal in wetlands can occur for the purposes of enhancing valuable wetland functions. A design prepared by a qualified wetland scientist is required prior to allowing dredging and/or disposal of dredge spoils into a wetland.



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### 5. Dredging within the floodway shall be permitted only:

- For navigational purposes;
- In conjunction with a water-dependent use;
- As part of an approved habitat improvement project;
- To improve flood control, water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water;
- In conjunction with a bridge, utility, navigational structure, or instream structure, for which there is a documented public need and where other feasible sites or routes do not exist.

### 6. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.

### 7. Dredging shall utilize techniques that cause minimum dispersal and broadcast of bottom material; hydraulic dredging shall be used wherever feasible in preference to agitation dredging.

### 8. Dredged spoil material may be disposed at approved upland sites. If these upland sites are dry lands and fall within shoreline jurisdiction, the disposal of dredge spoils shall be considered grading and must be consistent with all applicable provisions of this Master Program. If these upland sites are associated wetlands, then the disposal of dredge spoils shall be considered "Landfill" and must be consistent with all applicable provisions of this Master Program.

### 9. Depositing dredge spoils within water and riparian management zones shall be allowed only by Shoreline Conditional Use for one of the following reasons:

- For wildlife habitat improvements;
- To correct problems of material distribution that are adversely affecting fish resources; or
- When land disposal alternatives are more detrimental to shoreline resources than depositing it in water areas.

### 10. If suitable alternatives for land disposal are not available or are infeasible, water disposal sites shall be identified consistent with the following criteria:

- Disposal will not interfere with geohydraulic processes;
- The dredge spoil has been analyzed by qualified personnel and found to be minimally or nonpolluting;
- Aquatic life will not be adversely affected; and
- The site and method of disposal meets all requirements of applicable regulatory agencies.



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11. The City may impose reasonable limitations on dredge disposal operating periods and hours and may require buffer strips at land disposal sites.

### Dredging Environment Specific Regulations

**Aquatic:** Dredging may be permitted as a Shoreline Conditional Use.

### Dredge Spoil Disposal Environment Specific Regulations

**Aquatic, Urban Conservancy, Shoreline Residential** and **Natural:** Dredge soil disposal may be permitted as a Shoreline Conditional Use.

**Urban Center:** Dredge soil disposal shall be a permitted use when associated with a development that is consistent with the provisions of this Master Program.

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## 5. INSTREAM STRUCTURES

Instream structures function for the impoundment, diversion, or use of water for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial). Instream structures can also function for recreational or fisheries enhancement and for the discharge of effluent. Both the structures themselves and their support facilities are covered by this section. This applies to their construction, operation and maintenance, as well as the expansion of existing structures and facilities.

### Instream Structure Policies

#### 1. Location and Design Features

- Applications for instream structures should clearly document the suitability of the proposed site and alternative locations for the specific type of development, including alternative locations. Such site suitability analysis should thoroughly consider the environmental effects of the proposed facilities at the primary site and at alternative sites.
- All instream structures should be designed to permit natural transport of bed load materials.
- Instream structures and their support facilities should be designed to minimize removal of riparian vegetation and the necessity of massive shore defense structures.
- All nonwater-oriented facilities associated with instream structures, such as staging and storage areas, switching yards, utility transmission lines and in many cases power houses, should be located outside of shoreline jurisdiction.
- In determining the appropriateness of hydroelectric development, the recommendations and conclusions of the Northwest Power Planning Council (1988) or equivalent state-adopted site ranking study should be considered.





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- Mitigation should be required for loss of fisheries and wildlife resources, natural systems including wetlands, and other sensitive areas. No net loss in critical area function, value, or acreage should occur as a result of instream structures and properly functioning conditions for proposed, threatened or endangered species shall be conserved. When required, mitigation measures should be properly planned and monitored to ensure their effectiveness.
- When possible, instream structures should be designed and constructed to insure public access to and along the shoreline, in accordance with the public access policies and regulations contained in this Master Program. Existing public access and recreational opportunities should be retained, enhanced, or replaced.

### **Instream Structures Regulations**

1. Instream structures may be permitted as a shoreline conditional use.
  2. All permit applications shall contain, at a minimum, the following:
    - A site suitability analysis that provides sufficient justification for the proposed site. The analysis must fully address alternative sites for the proposed development.
    - The applicant must address the need for the project.
    - Proposed location and design of the instream structure, accessory structures, and access/service roads.
    - Provision for public access to and along the affected shoreline and proposed recreational features at the site, where applicable.
    - A plan that describes the extent and location of vegetation that is proposed to be removed to accommodate the proposed facility, and any site revegetation plan required by this Master Program.
    - A hydraulic analysis prepared by a licensed professional engineer which sufficiently describes the project's effects on floodway hydraulics, including potential increases in base-flood elevation, changes in stream velocity, and the potential for re-direction of the normal flow of the affected river.
    - Biological resource inventory and analysis that sufficiently describes the project's effects on fisheries and wildlife resources, prepared by a professional biologist.
    - Provision for erosion control, protection of water quality, and preservation of fishery and wildlife resources during construction.
- Long-term management plans that described, in sufficient detail, provisions for protection of in-stream resources during construction and operation. The plan shall include means for monitoring its success.





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### 3. Structural Development

- Instream structures shall be designed, located, and constructed in such a manner as to avoid extensive topographical alteration.
- Instream structures that divert water shall return flow to the stream in as short a distance as possible.
- All instream structures shall be designed to permit the natural transport of bedload materials.
- Powerhouses associated with hydroelectric facilities shall be located a minimum of fifty (50) feet from the floodway, provided that this does not apply to raceways.

#### **Instream Structure Environment Specific Regulations**

**Aquatic:** Instream structures may be permitted as a Shoreline Conditional Use.

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## 6. LANDFILL

Landfill is the placement of soil, rock, existing sediment or other material (excluding solid waste) to create new land, tideland or bottom land area along the shoreline below the OHWM, or on wetland or upland areas in order to raise the elevation.

#### **Landfill Policies**

1. Landfills waterward of the floodway should be discouraged and only allowed when necessary to facilitate water-dependent uses consistent with this Master Program for necessary river crossings and for projects beneficial to the environment.
2. The perimeter of landfills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial landfill activities and over time.
3. Where permitted, landfills should be the minimum necessary to provide for the proposed use and should be permitted only when tied to a specific development proposal that is permitted by the Master Program. Speculative landfill activity should be prohibited.
4. Mitigation for wetland impacts must be implemented pursuant to wetland policies and regulations contained in this Shoreline Master Program.

#### **Landfill Regulations**

1. Applications for landfill permits shall include the following:
  - a) Proposed use of the landfill area;
  - b) Physical, chemical, and biological characteristics of the fill material;



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- c) Source of landfill material.
  - d) Method of placement and compaction;
  - e) Location of landfill relative to natural and/or existing drainage patterns;
  - f) Location of the landfill perimeter relative to the floodway;
  - g) Perimeter erosion control or stabilization means;
  - h) Type of surfacing and runoff control devices; and
  - i) Location of wetlands or other sensitive areas.
- 2. Landfill waterward of the floodway shall be permitted as a shoreline conditional use only:**
- a) In conjunction with a water-dependent use permitted under this Master Program.
  - b) In conjunction with a bridge, utility or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist.
  - c) As part of an approved shoreline restoration project; or
  - d) For fisheries, aquaculture, or wildlife habitat enhancement projects.
  - e) Pier or pile supports shall be utilized in preference to landfills. Landfills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven structurally infeasible.
  - f) Landfills shall only be permitted in conjunction with a specific development already permitted by this Master Program or proposed simultaneously as part of a Shoreline Conditional Use Permit application. Speculative landfills are prohibited.
- 3. Landfill shall be permitted only where it is demonstrated that the proposed action will not:**
- Result in significant damage to water quality, fish, and/or wildlife habitat.
  - Adversely alter natural drainage and current patterns or significantly reduce floodwater capacities.
- 4. Where landfills are permitted, the landfill shall be the minimum necessary to accommodate the proposed use.**
- 5. Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.**



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6. Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark.
7. Disposal of dredge material on shorelands or wetlands within a river's channel migration zone shall be discouraged. In the limited instances where it is allowed, such disposal shall require a shoreline conditional use permit.
8. Disposal of dredge material shall be done in accordance with the Washington State DNR Dredge Material Management Program. DNR manages disposal sites through a Site Use Authorization (SUA), all other required permits must be provided to DNR prior to the DNR issuing a SUA for dredge disposal.
9. Landfills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Landfill perimeters shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms to prevent material movement. In addition the sides of the landfill shall be appropriately sloped to prevent erosion and sedimentation, both during initial landfill activities and afterwards.
10. Fill materials shall be clean sand, gravel, soil, rock, or similar material. Use of polluted dredge spoils and sanitary landfill materials are prohibited. The developer shall provide evidence that the material has been obtained from a clean source prior to fill placement.
11. Landfills shall be designed to allow surface water penetration into aquifers, if such conditions existed prior to the fill.

### Landfill Environment Specific Regulations

Landfill may be permitted as a shoreline Conditional Use. Landfill only applies to areas waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

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## 7. PARKING

Parking is the use of land for the purpose of accommodating motor vehicles, motorized equipment, or accessory units, such as trailers. Land used for this purpose is leveled, cleared, and often covered with an impermeable surface.

### Parking Policies

1. Parking in shoreline areas should be minimized.
2. Parking within shoreline jurisdiction should directly serve a permitted use on the property and should be sensitive to the adjacent shorelines and properties.



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3. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance.
4. Encourage the use of pervious materials in parking facilities.
5. Landscaping should consist of native vegetation in order to enhance the habitat opportunities within the shorelines area.
6. Discourage location of parking facilities in sensitive areas.

### Parking Regulations

Parking for specific land use activities within the City of Sultan is subject to the requirements and standards set forth in the Sultan Municipal Code (Chapter 16.60 SMC, Ordinance 630 § 2, 1995, 7/18/95 – Appendix D). In addition, the following parking requirements shall apply to all developments within shoreline jurisdiction.

1. The location of parking areas in or near sensitive areas shall be avoided.
2. Parking in shoreline areas must directly serve an approved shoreline use.
3. Parking areas within shoreline jurisdiction shall be designed and landscaped to minimize adverse impacts upon adjacent shorelines and abutting properties. The landscaping shall consist of native vegetation, to be planted within one (1) year after completion of construction and provide an effective screening three (3) years after planting. Adequate screening or landscaping for parking lots shall consist of one or more of the following:
  - A strip 5 feet wide landscaped with trees, shrubs, and groundcover.
  - A building or enclosed structure.
  - A strip of land not less than 2.5 feet in width that is occupied by a continuous wall, fence, plant material, or combination of both; which shall be at least 3.5 feet high at time of installation. The plant material shall be evergreen and spaced not more than 1.5 feet on center if pyramidal in shape, or not more than 3 feet if wider in branching habit. If the plant material is used in conjunction with a wall or fence meeting the minimum height requirements then said material may be of any kind and spacing.

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

4. All landscaping shall be designed to provide biofiltration functions for runoff from the parking area.
5. Alternatives to conventional storm water treatment, such as use of pervious materials, shall be considered in order to minimize impacts due to runoff and the need for storm water treatment. The city shall refer to the Ecology Storm Water Manual as adopted in SMC 16.92.010(D),



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Ordinance 630 § 2 -1995, 7/18/1995, (Appendix D) to deal with runoff and non-point source pollution.

6. All landscaping must be maintained in a neat and orderly manner. In no event shall such landscape areas be used for the storage of materials or parking of automobiles, or recreational or other vehicles.
7. Parking facilities shall not be permitted over the water.

### **Parking - Environment Specific Regulations**

**Urban Conservancy, Shoreline Residential and Natural:** Parking may be permitted as a Shoreline Conditional Use and the following additional requirements shall apply.

1. Parking as a primary use shall be prohibited within the shoreline jurisdiction.
2. Parking or storage of recreational vehicles or travel trailers as a primary use shall be prohibited in all shoreline environment jurisdictions.
3. Parking shall be located on the landward side of the development unless parking is contained within a permitted structure. Where there is no available land area on the landward side of the development, parking shall extend no closer to the shoreline than a permitted structure.

**Urban Center:** Parking shall be a permitted use when consistent with the provisions of this Master Program.

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## **8. RECREATIONAL FACILITIES**

Recreational development provides opportunities for the refreshment of body and mind through forms of play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, viewing, and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, and golf courses. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or a private club, group, association, or individual.

### **Recreational Facilities Policies**

1. The coordination of local, state, and federal recreation planning should be encouraged so as to mutually satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.
2. Shoreline areas with a potential for providing recreation or public access opportunities should be identified for this use and acquired by lease or purchase and incorporated into the public park and open space system.



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3. The linkage of shoreline parks, recreation areas, and public access points in a linear system, such as hiking paths, bicycle paths, and scenic drives should be encouraged.
4. Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas.
5. The use of jet-skis and similar recreational equipment should be restricted to special areas. This type of activity should be allowed only where no conflict exists with other uses and wildlife habitat.
6. All recreational developments should make adequate provisions for:
  - Vehicular and pedestrian access, both on-site and off-site.
  - Proper water, solid waste, and sewage disposal methods.
  - Security and fire protection for the use itself and for any use-related impacts to adjacent private property.
  - The prevention of overflow and trespass onto adjacent properties.
  - Buffering of such development from adjacent private property or natural area.

### Recreational Facilities Regulations

1. Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shore forms, shall be used only for non-intensive and nonstructural recreation activities.
2. For recreation developments such as golf courses and playfields that require the use of fertilizers, pesticides, or other chemicals, the applicant shall submit plans demonstrating the methods to be used to prevent these chemical applications and resultant leachate from entering adjacent water bodies. Vegetation buffer strips and, if possible, shade trees shall be required between rivers, streams or wetlands and recreation developments that use fertilizers, pesticides, or other chemicals. The Administrator shall determine the width necessary for buffer strips. Buffers shall not be less than fifty (50) feet wide, measured on a horizontal plane, perpendicular to the floodway edge. The developer shall also be required to leave a chemical-free swath at least one hundred (100) feet in width next to water bodies and wetlands. (See also Environmental Impact Regulations – Water).
3. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to prevent overflow onto adjacent private properties.
4. Waterward of the ordinary high water mark, no recreational buildings or structures shall be built, except water-dependent and/or water-enjoyment structures such as bridges and viewing platforms. Such uses may be permitted as a shoreline conditional use.



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5. Proposals for recreational development shall include adequate facilities for water supply, sewage, and garbage disposal.

### Recreational Facilities Environments

**Aquatic, Urban Center, Urban Conservancy, Shoreline Residential** and **Natural**: Recreation facilities may be permitted as a Shoreline Conditional Use when consistent with the provisions of this Master Program.

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## 9. RESIDENTIAL DEVELOPMENT

Residential development refers to one or more buildings, structures, lots, parcels, or portions of parcels that are used or intended to be used to provide a place of abode for human beings. Residential development includes single family residences, duplexes, other detached dwellings, multifamily residences, apartments, townhouses, mobile home parks, other similar group housing, condominiums, subdivisions, planned unit developments, and short subdivisions.

Residential development also includes accessory uses and structures such as garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas, and guest cottages. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

**Note:** A Shoreline Substantial Development permit is not required for construction of a single family residence by an owner, lessee, or contract purchaser for his own use or the use of his family. However, such construction and all normal appurtenant structures must otherwise conform to this Master Program.

In addition, when applicable, all residential development is subject to the Shoreline Variance and shoreline conditional use requirements of this Master Program. For example, a Shoreline Variance will be required for any residential development that proposes to locate within the shoreline environment setbacks established in Chapter 5 of this Master Program.

Uses and facilities associated with residential development, which are identified as separate use activities in this Master Program, such as clearing and grading and landfill are subject to the regulations established for those uses in this section. Clearing and grading may be exempted from the Shoreline Substantial Development Permit (SSDP) requirement, provided it is associated with an exempted single family residence and the following conditions are met: the clearing and grading activity is confined to the construction site and grading does not exceed 250 cubic yards.

### Residential Policies

1. In accordance with the Public Access requirements in Chapter 6, residential developments of three (3) or more dwelling units should provide dedicated and improved public access to the shoreline.
2. Residential development and accessory uses should be prohibited over the water.
3. New subdivision development should be encouraged to cluster dwelling units in order to preserve natural features, minimize physical impacts, and provide for public access to the shoreline.





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4. In all new subdivisions and planned residential developments, joint use shoreline facilities should be encouraged.
5. Accessory development should be designed and located to blend into the site as much as possible. Accessory uses and structures should be located landward of the principal residence when feasible.
6. Residential development should apply best management practices in developing surface and storm water facilities. The city shall refer to the Ecology Storm Water Manual as adopted in SMC 16.92.010(D), Ordinance 630 § 2 – 1995, 7/18/95, (Appendix D) to deal with runoff and non-point source pollution.

### Residential Regulations

1. Residential development is prohibited waterward of the OHWM and within setbacks set within each shoreline environment designation. Riparian setbacks are specified for each shoreline environment designation in Chapter 5.
2. Residential development shall assure no net loss of ecological functions.
3. Residential development shall not be approved if geotechnical analysis demonstrates that flood control or shoreline protection measures are necessary to create a residential lot or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future.
4. If wetlands or other environmentally sensitive areas are located on the development site, clustering of residential units shall be required in order to avoid these areas. Clustering shall be in accordance with the Sultan development regulations (SMC 16.80 SMC, Ordinance 918-06, 11/4/06, Appendix D).
5. Storm drainage and treatment facilities shall be required by the City for proposals five or more dwellings. Drainage facilities shall be separate from sewage disposal facilities. Drainage systems shall include provisions to prevent the direct entry of uncontrolled and untreated surface water runoff into receiving waters. Such provisions may include retention ponds, vegetated swales, and artificial wetlands. The city shall refer to the Ecology Storm Water Manual as adopted in SMC 16.92.010(D) Ordinance 744-00 (Appendix D) to deal with runoff.
6. Subdivisions and planned unit developments of five (5) or more waterfront lots/units shall dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for all residents of the development and the general public. When required, public access easements shall be a minimum of twenty-five (25) feet in width and shall comply with the public access standards contained in this Master Program (see *Chapter 6 section on Public Access*).





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### Residential Environment Specific Regulations

**Urban Conservancy** and **Natural**: Single family residential development may be permitted as a Shoreline Conditional Use landward of the OHWM when consistent with the provisions of this Master Program, including applicable environment setbacks.

**Shoreline Residential** and **Urban Center**: Residential development shall be permitted landward of the OHWM when consistent with the provisions of this Master Program and the underlying zoning.

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## 10. SHORELINE MODIFICATION

Shoreline modification involves developments that provide riverbank stabilization or flood control. The purpose of such developments is to reduce adverse impacts caused by natural processes, such as current, flood, tides, wind, or wave action. Shoreline modification includes all structural and nonstructural means to reduce erosion of riverbanks and/or flooding.

Nonstructural methods include setbacks of permanent and temporary structures, relocation of the structure to be protected, ground water management, planning, bioengineering or “soft” engineered solutions, and regulatory measures to avoid the need for structural stabilization

“Hard” structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while “soft” structural measures rely on softer materials, such as biotechnical vegetation measures or beach enhancement. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. Structural shoreline stabilization also often results in vegetation removal and damage to near-shore habitat and shoreline corridors. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls; and



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- Bulkheads.

**Note:** As applied to shoreline stabilization measures, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of existing structures, the replenishment of sand or other material that has been washed away, and the replacement of less than twenty percent (20%) of the structure. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis. Construction that causes significant ecological impacts is not considered normal maintenance and repair.

As applied to shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose.

Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

The following policies and regulations apply to all actions and developments that modify the shoreline for the purposes of preventing riverbank erosion or flooding. Following these general requirements, specific policies and regulations are provided for bulkheads, revetments, and dikes and levees.

### Shoreline Modification Policies - General

1. Riprapping and other bank stabilization measures should be located, designed, and constructed primarily to prevent damage to the existing primary structure.
2. All new development should be located and designed to prevent or minimize the need for shoreline stabilization measures and flood protection works. New development requiring shoreline stabilization should be discouraged.
3. Shoreline modifications are only allowed when and where there is a demonstrated necessity to support or protect an allowed primary structure or legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of shoreline for mitigation or enhancement purposes.
4. Proposals for shoreline modifications should be designed to protect life and property without impacting upstream or downstream uses of the floodway or river resources.
5. Stabilization and protection works which are more natural in appearance, more compatible with ongoing shore processes, and more flexible for long term floodway management such as protective berms or vegetative stabilization should be encouraged over structural means such as concrete bulkheads or extensive revetments.
6. All Shoreline stabilization proposals require a geotechnical analysis.
7. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that nonstructural solutions would not be able to reduce the damage.



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8. Shoreline modifications shall only be constructed of clean natural materials such as rock and gravel, use of other non-natural materials not designed for the purpose of shoreline stabilization should be prohibited.
9. Substantial river channel realignment should be discouraged as a means of shoreline stabilization and flood protection.
10. The design of bank stabilization or protection works should provide for the long term multiple use of shoreline resources and public access to public shorelines. In the design of publicly financed or subsidized works, consideration should be given to providing pedestrian access to shorelines for low intensity outdoor recreation.
11. All flood protection measures should be placed landward of the natural floodway boundary, including wetlands that are directly interrelated and inter-dependent with the river.
12. If through construction and/or maintenance of shoreline modification developments, the loss of riparian vegetation and wildlife habitat will occur, mitigation should be required.

### Shoreline Modification Regulations - General

1. All new shoreline modification activity shall be located and designed to prevent or minimize the need for bank stabilization and flood protection works.
2. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that mitigates adverse impacts to the environment. The preferred mitigation sequence (avoid, minimize, mitigate, compensate) shall follow that listed in WAC 173-26-201 (2)(e)
3. The City shall require and utilize the following information during its review of shoreline stabilization and flood protection proposals:
  - Purpose of the project;
  - Hydraulic characteristics of the river within one-half (0.5) mile upstream and downstream of the proposed project;
  - Existing shoreline stabilization and flood protection devices within one-half (0.5) mile upstream and downstream of the proposed project;
  - Biological characteristics of the area, including fish and wildlife resources;
  - Construction material and methods;
  - Physical, geological, and/or soil characteristics of the area;
  - Geotechnical report;



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- Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and
- Alternative measures (including non-structural) that will achieve the same purpose.
  3. Shoreline stabilization and flood protection measures shall not be designed and constructed in such a manner as to result in channelization of normal stream flows.
  4. River and stream channel direction modification, and realignment are prohibited unless they are essential to uses that are consistent with this Master Program.
  5. New nonwater-dependent development, including single-family residences, that includes structural shoreline stabilization shall not be allowed unless *all* of the conditions below apply, otherwise new stabilization measures are limited to protecting only existing developments:
    - The need to protect the development from destruction due to erosion caused by natural processes, such as currents and waves, is demonstrated through a geotechnical report.
    - The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
    - There will be no net loss of ecological functions or impacts on adjacent or down current properties.
    - Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements and soft structural solutions such as bioengineering, are not feasible or not sufficient.
    - The structure will not cause significant impacts to functions and values of critical areas or properly functioning conditions for proposed, threatened, and endangered species.
    - Other mitigation/restoration measures are included in the proposal.
  6. Flood control diking shall be landward of the floodway base (100-year frequency) and any wetlands directly interrelated and interdependent with the river.
  7. Upon project completion, all disturbed shoreline areas shall be restored to as near pre-project configuration as possible and replanted with appropriate vegetation. All losses in riparian vegetation or wildlife habitat shall be mitigated at a ratio of 1:1.25 (habitat lost to habitat replaced).
  8. Shoreline stabilization and flood protection works are prohibited in wetlands and on point and channel bars. They are also prohibited in salmon or trout spawning areas.



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9. Shore modification shall to the extent possible, be planned, designed, and constructed to allow for channel migration. These developments shall not reduce the volume and storage capacity of rivers and adjacent wetlands or flood plains.
10. Use of car bodies, scrap building materials, asphalt from street work, or any discarded piles of equipment or appliances for the stabilization of shorelines shall be prohibited.

### Shoreline Modifications

Permitted and shoreline conditional use requirements for bulkheads, revetments, and dikes and levees are specified under these headings below. All other forms of shoreline modification must be approved as a shoreline conditional use within all of the shoreline environments.

### BULKHEADS

Bulkheads are walls usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are used to protect riverbanks by retaining soil at the toe of the slope or by protecting the toe of the bank from erosion and undercutting.

Bulkheads are typically constructed of poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

**Note:** The Shoreline Management Act only exempts the construction of a normal protective bulkhead common to an existing single family residence from the Shoreline Substantial Development Permit requirement. However, these structures are required to comply with all the policies, prohibitions, and development standards of this Master Program.

### Bulkhead Policies

1. Defense works of natural materials, such as protective berms, beach enhancement, or vegetative stabilization are strongly preferred over structural defense works of materials such as steel, wood, or concrete. Proposals for bulkheads should demonstrate that natural methods are unworkable.
2. Bulkheads should be located, designed, and constructed primarily to prevent damage to the existing primary structure. New development that requires bulkheads should be discouraged.
3. Shoreline uses should be located in a manner so that bulkheading is not likely to become necessary in the future.
4. The cumulative effect of allowing bulkheads along river segments should be evaluated. If it is determined that the cumulative effect of bulkheads would have a deleterious effect on the shoreline, then exemptions and permits should not be granted.
5. Bulkheads should not be approved as a solution to geo-physical problems such as mass slope failure, sloughing, or landslides. Bulkheads should only be approved for the purposes of preventing bank erosion by the river.



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### Bulkhead Regulations

1. Bulkheads may be allowed only when evidence is presented which conclusively demonstrates that one of the following conditions exist:
  - Serious river erosion threatens an established use or existing primary structure on upland property.
  - Bulkheads are necessary to the operation and location of water-dependent, water-related, or water-enjoyment activities consistent with this Master Program; provided that all other alternative methods of shore protection have proven infeasible.
  - A bulkhead is necessary to retain a landfill that has been approved consistent with the provisions of this Master Program.
  - Proposals for bulkheads must first demonstrate through a geotechnical analysis that use of natural materials and processes and non-structural or soft structural solutions to bank stabilization are unworkable.
2. The construction of a bulkhead for the primary purpose of retaining a landfill shall be allowed only in conjunction with:
  - A water-dependent use;
  - A bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist;
  - A wildlife or fish enhancement project.
3. Bulkheads shall not be located on shorelines where valuable geo-hydraulic or biological processes are sensitive to interference. Examples of such areas include wetlands and accretion landforms.
4. Bulkheads are to be permitted only where local physical conditions, such as foundation bearing materials, and surface and subsurface drainage, are suitable for such alterations.
5. If possible, bulkheads shall be located landward of the OHWM and generally parallel to the natural shoreline. In addition:
  - Where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the eroding bank as possible and in no case shall it be more than three (3) feet from the toe of the bank.
  - A bulkhead for a permitted landfill shall be located at the toe of the fill.
  - Where permitted a bulkhead must tie in flush with existing bulkheads on adjoining properties, except where the adjoining bulkheads extend waterward of the floodway, the requirements set forth in this section shall apply.



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6. Replacement bulkheads may be located immediately in front of the bulkhead to be replaced such that the two (2) bulkheads will share a common surface, except where the existing bulkhead has not been backfilled or has been abandoned and is in serious disrepair. In such cases, the replacement bulkhead shall not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns.
7. Bulkheads shall be sited and designed consistent with appropriate engineering principles. All bulkheads proposals require a geotechnical study.
8. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.
9. Bulkheads shall be designed for the minimum dimensions necessary to adequately protect the development.
10. Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of it.
11. Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.
12. Adequate toe protection consisting of proper footings, a fines retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.
13. Materials used in bulkhead construction shall meet the following standards:
  - Bulkheads shall utilize stable, nonerodable, homogeneous materials such as concrete, wood, and rock that are consistent with the preservation and protection of the ecological habitat.
  - Shore materials shall not be used for fill behind bulkheads, except clean dredge spoil from a permitted off-site dredge and fill operation.

### **Bulkhead Environment Specific Regulations**

**Aquatic, Urban Conservancy, Shoreline Residential** and **Natural**: Normal protective bulkheads associated with an existing single family house and that are exempt from the Shoreline Substantial Development Permit requirement, shall be permitted when consistent with the provisions of this Master Program. All other bulkheads may be permitted as a Shoreline Conditional Use when consistent with the provisions of this Master Program.

### **DIKES AND LEVEES**

Dikes and levees are man-made earthen embankments for the purpose of flood control.

**Note:** Dikes and levees existing on September 8, 1975, which were created, developed, or utilized primarily as an agricultural drainage or diking system may be operated and maintained without





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obtaining a shoreline Substantial Development Permit. Maintenance does not include expanding the length or width of the dike or levee. However, reconstruction to the original built height may be allowed, if settling has occurred.

### Dikes and Levees Policies

1. Dikes and levees should be located, designed, constructed, and maintained so that the resultant effects on the river processes will not cause significant damage to adjacent properties or valuable resources.
2. Proposals for dikes and levees should be designed to protect life and property without impacting upstream or downstream uses of the floodway or river resources.
3. Decisions regarding dikes and levees should balance the benefits of development with potential flood losses and destruction of natural and beneficial floodplain values. Floodplain values include water resource values (moderation of floods, water quality maintenance, and groundwater recharge), living resource values (fish, wildlife, and plant resources and habitat), cultural resource values (open space, natural beauty, scientific study, outdoor education, and recreation) and cultivated resource values (agriculture, aquaculture, and forestry).

### Dikes and Levees Regulations

1. Dikes and levees shall be limited in size to the minimum height required to protect adjacent lands from the projected flood stage, as identified in the Sultan Flood Damage Prevention code, Chapter 17.08 SMC, Ordinance 808-03, 3/9/03, Appendix A.
2. Dikes and levees shall not be placed in the floodway, except as current deflectors necessary for protection of bridges and roads.
3. Public access to the shoreline shall be provided. Improved trail systems along diked or leveed shorelines are preferred.
4. Proposals for dikes and levees shall contain a detailed evaluation of potential losses to floodplain values. This evaluation shall address:
  - Groundwater discharge
  - Associated wetlands
  - Water quality
  - Erosion/sedimentation.
5. Dikes and levees shall only be authorized by Shoreline Conditional Use Permit and shall be consistent with all flood control management plans and regulations adopted by the City of Sultan.





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### Dikes and Levees Environment Specific Regulation

Aquatic, Urban Center, Urban Conservancy, Shoreline Residential and Natural: Dikes and levees may be permitted as a Shoreline Conditional Use when consistent with the provisions of this Master Program.

### REVETMENTS

A revetment is a sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against river currents. Revetments are most commonly built of randomly placed boulders (riprap) but may also be built of sand cement bags, paving, or building blocks, gabions (rock filled wire baskets) or other systems and materials. The principal features of a revetment, regardless of type is a heavy armor layer, a filter layer, and toe protection.

### Revetment Policies

1. The use of armored structural revetments should be limited to situations where it is determined that nonstructural solutions such as bioengineering, setbacks, buffers or any combination thereof, will not provide sufficient shoreline stabilization.
2. Revetments should be designed, improved, and maintained to provide public access whenever possible.

### Revetment Regulation

1. The Shoreline Administrator shall require professional design of a proposed revetment, if it is determined that uncertainties exist, such as:
  - Inadequate data on local geophysical conditions;
  - Inadequate data on stream flow, velocity, and/or flood capacity; and
  - Effects on adjacent properties.
2. Bank revetments, where permitted shall be placed at the extreme edge of the riverbank.
3. Design of public works shall include and provide improved access to public shorelines whenever possible.
4. When permitted, the siting and design of revetments shall be performed using appropriate engineering principals, including guidelines of the U.S. Soil Conservation Service and the U.S. Army Corps of Engineers.
5. If an armored revetment is employed the following design criteria shall be met:
  - The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;
  - Filter cloth must be used to aid drainage and help prevent settling;



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- The toe reinforcement or protection must be adequate to prevent a collapse of the system from river scouring or wave action; and
- Fish habitat components, such as large boulders, logs, and stumps shall be considered in the design subject to Hydraulic Project Approval by the Washington Department of Fisheries.

### Revetment Environment Specific Regulation

Aquatic, Urban Conservancy, Shoreline Residential and Natural: Revetments may be permitted as a Shoreline Conditional Use when consistent with the provisions of this Master Program.

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## 11. SIGNS

### Sign Policy

Signs should be designed and placed so that they are compatible with the natural quality of the shoreline environment and adjacent land and water uses.

### Sign Regulation

Signs within the City of Sultan are subject to the requirements and standards specified in the Sultan sign regulations (Chapter 22.06 SMC, Ordinance 806-03 § 1, Appendix D). In addition, the following sign requirements shall apply to signs within shoreline jurisdiction.

1. Signs shall only be allowed in, or over water for water navigation, highway or railroad crossings as necessary for operation, safety and direction; or related and necessary as part of a water dependent use.
2. The following types of signs are permitted in all upland shoreline environments (e.g., excluding all areas waterward of the ordinary high water mark in the shoreline environment):
  - Water navigational signs, highway and railroad signs necessary for operation, safety, and direction.
  - Public information signs directly relating to an allowed local shoreline activity.
  - Off-premise, free standing signs for community identification, information, or directional purposes.
  - Signs with "changing messages," as long as the information is limited to time-temperature-date or public messages.
  - National, site, and institutional flags for temporary decorations customary for special holidays and similar events of a public nature.
  - The U.S. and Washington State flags.



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- Temporary directional signs to public or quasi-public events, provided these signs are removed within fourteen (14) days following the event.
  - Signs identifying developments approved in compliance with the provisions of this Master Program.
3. Temporary or obsolete signs shall be removed within ten (10) days of elections, closures of business, or termination of any other function. Examples of temporary signs include real estate signs, directions to events, political advertisements, event or holiday signs, construction signs.
  4. Signs that do not meet the policies and regulations of this Master Program shall be considered nonconforming signs and regulated per the Sultan sign regulations.
  5. Permanent signs shall be constructed of durable, weather-resistant materials.
  6. Billboards and other off-premises signs shall be regulated per Sultan sign regulations.
  7. The following types of signs are prohibited in all shoreline environments:
    - Signs that impair visual access from public viewpoints in view corridors
    - Signs placed on trees or other natural features
    - Roof mounted signs

### Signs Environment Specific Regulations

**Urban Center:** Signs shall be permitted when consistent with the provisions of this Master Program and the Sultan sign regulations.

**Aquatic, Urban Conservancy, Shoreline Residential** and **Natural:** Signs may be permitted when consistent with the provisions of this Master Program and the following additional requirements:

1. When feasible, signs shall be flush mounted against existing buildings. Freestanding, on-premise signs must demonstrate that it is unfeasible to mount the sign on an exterior wall of the permitted development. Failure to satisfactorily comply with this requirement shall be sufficient grounds for denial of the application.
2. Where freestanding on-premise signs are approved, the sign shall not exceed six (6) feet in height.
3. All public and private enterprises, development, and services located in shoreline areas shall have no more than two (2) on-premise advertising devices or signs.
4. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes shall be prohibited.



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### 12. STORMWATER MANAGEMENT FACILITIES

Stormwater management facilities are utilities that retain, detain, clean and convey stormwater run-off.

#### Stormwater Management Facilities Policies

1. Stormwater conveyance facilities should utilize existing transportation and utility sites, rights-of-way and corridors, whenever possible. Joint use of rights-of-way and corridors should be encouraged.
2. Stormwater facilities should be prohibited within the riparian management areas, wetlands, and other critical areas.
3. New stormwater facilities should be located so as not to require any shoreline protection works.
4. New stormwater facilities should provide a net benefit to fish and wildlife habitat in the area as compared to leaving the riparian management zone undisturbed.
5. Stormwater facilities located in the shoreland area should be maintained only to the degree necessary to ensure the capacity and function of the facility including the removal of non-native invasive plant species.
6. The stormwater facility should be planted with native vegetation and where feasible provide for off-channel habitat for fish.
7. Low impact development techniques that allow for a greater amount of stormwater to infiltrate into the soil should be encouraged to reduce stormwater run-off.

#### Stormwater Management Facility Regulations

1. Applications for the installation of stormwater management facilities shall be prepared by a qualified professional and include the following:
  - Description of the proposed stormwater facilities;
  - Reasons why the stormwater facility requires a shoreline location;
  - Alternative locations considered and reasons for their elimination; identification of any possibility for locating the proposed stormwater facility at another existing site or within an existing stormwater facility;
  - Location of other stormwater facilities in the vicinity of the proposed project and any plans to provide for consolidation of area-wide stormwater facilities that would reduce demand on shoreline locations;
  - Plans for reclamation of areas disturbed during construction;



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- Plans temporary sediment and erosion control during construction and operation;
  - A mitigation and monitoring plan per the requirements of the following sections contained in this chapter, *Environmental Impact and Environmental Impacts: Plants and Animals*.
2. New stormwater facilities shall be located so as not to require any shoreline protection works.
  3. Stormwater facilities shall not be located in the riparian management zone.
  4. Stormwater facility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with stormwater facility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
  5. Construction of stormwater facilities in shoreland areas or in adjacent wetlands shall be timed to avoid fish and wildlife migratory and spawning periods.

### Stormwater Management Facilities Environment Specific Regulations

**Urban Center:** Stormwater management facilities shall be permitted when consistent with the provisions of this Master Program and the underlying zoning.

**Shoreline Residential:** Stormwater management facilities shall be a permitted activity when associated with a development that is consistent with the provisions of this Master Program.

**Urban Conservancy** and **Natural:** Stormwater management facilities may be permitted when consistent with the provisions of this Master Program, when integrated with a development proposal. Independent stormwater management facilities may be permitted as a shoreline conditional use.

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## 13. TRANSPORTATION

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, and boat and floatplane terminals.

### Transportation Policies

1. New roads and railroads within shoreline jurisdiction should be minimized.
2. Roads and railroad locations should be planned to fit the topographical characteristics of the shoreline such that minimum alternation of natural conditions result. The number of river crossings should be minimized to the maximum extent possible.



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3. Pedestrian and bicycle trails should be encouraged along Skykomish, Sultan, and Wallace Rivers to the maximum extent feasible.
4. When existing transportation corridors are abandoned they should be reused for water-dependent use or public access.
5. Joint use of transportation corridors within shoreline jurisdiction for roads, utilities, and motorized forms of transportation should be encouraged.

### Transportation Regulations

1. Transportation facilities and services shall utilize existing transportation corridors wherever possible, provided the shoreline is not adversely impacted and the development is otherwise consistent with this Master Program.
2. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate river crossings.
3. The City shall maintain its current transportation plans under Title 10 – Vehicles and Traffic.
4. Landfills for transportation facility development are prohibited in water bodies and wetlands and on accretion beaches, except when all structural and upland alternatives have proven infeasible and the transportation facilities are necessary to support uses consistent with this Master Program.
5. Major new highways, freeways, and railways shall avoid being located in the shoreline jurisdiction to the extent practical, except where a river crossing is required. These roads shall cross shoreline areas and rivers by the shortest, most direct route, unless this route would cause more damage to the environment.
6. New transportation facilities shall be located and designed to minimize or prevent the need for shoreline modification.
7. New roads or road expansion in the shoreline environment should be a last option as other alternative must be explored outside of the shoreline environment.
8. All bridges must be built high enough to allow the passage of debris and provide eight (8) feet of clearance above the Sultan, Skykomish, and Wallace floodways, and three (3) feet of clearance above other portions of the 100-year floodplain.
9. Shoreline transportation facilities shall be sited and designed to avoid steep or unstable areas and fit the existing topography in order to minimize cuts and fills.
10. Cut and fill slopes shall be designed at the normal angle of repose or less.
11. Cut and fill and sidecast slopes shall be protected from erosion by mulching, seeding, compacting, riprapping, benching, or other suitable means.



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12. Bridge abutments and necessary approach fills shall be located landward of the floodway, except bridge piers may be permitted in a water body as a shoreline conditional use.

### Transportation Environment Specific Regulation

**Urban Center:** Transportation facilities shall be permitted when consistent with the provisions of this Master Program and the underlying zoning.

**Shoreline Residential:** Transportation facilities shall be a permitted use when associated with a development that is consistent with the provisions of this Master Program. Otherwise, transportation facilities may be permitted as a Shoreline Conditional Use when consistent with the provisions of this Master Program.

**Urban Conservancy, Natural and Aquatic:** Transportation facilities shall be a permitted use when associated with a development that is consistent with the provisions of this Master Program. Otherwise, transportation facilities may be permitted as a Shoreline Conditional Use when consistent with the provisions of this Master Program.

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## 14. UNCLASSIFIED USES AND ACTIVITIES

In the event that a proposed shoreline use or activity is not identified or classified in this Master Program, the following regulation shall apply.

### Regulations

1. All uses and activities proposed in the Sultan Shoreline jurisdiction that are not classified by provisions in this Master Program shall require a Shoreline Conditional Use Permit.

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## 15. UTILITIES

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, oil, gas, water, sewage, communications, and the like.

Primary utilities include substations, pump stations, treatment plants, sanitary sewer outfalls, electrical transmission lines greater than 55,000 volts, water, sewer or storm drainage mains greater than eight (8) inches in diameter, gas and petroleum transmission lines, and submarine telecommunications cables. Accessory utilities include local public water, electric, natural gas distribution, public sewer collection, cable and telephone service and appurtenances.



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### Utility Policies

1. Utilities should utilize existing transportation and utility sites, rights-of-way and corridors, whenever possible. Joint use of rights-of-way and corridors should be encouraged.
2. Unless no other feasible alternative exists, utilities should be prohibited in the shoreline jurisdiction, wetlands and other critical areas and there shall be no net loss of ecological functions or significant impacts to other shoreline resources or values.
3. New utility facilities should be located so as not to require extensive shoreline protection works.
4. Whenever possible, utilities should be placed underground or alongside or under bridges.
5. Solid waste disposal activities and facilities should be prohibited in shoreline areas.

### Utility Regulations

1. Applications for the installation of utility facilities shall include the following:
  - Description of the proposed facilities;
  - Reasons why the utility facility requires a shoreline location.
  - Alternative locations considered and reasons for their elimination. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.
  - Location of other utility facilities in the vicinity of the proposed project and any plans to include the other types of utilities in the project.
  - Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the useful life of the utility.
  - Plans for control of erosion and turbidity during construction and operation; and
2. Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way.
3. Utility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
4. Proposals for new utility corridors or river crossings shall fully substantiate the infeasibility of existing routes.
5. Existing solid waste disposal and transfer facilities within shoreline jurisdiction shall be expeditiously phased out or rehabilitated.





## City of Sultan Shoreline Master Program

6. The following major utility facilities, which are not essentially water-dependent, may be permitted as a shoreline conditional use if it can be shown that no reasonable alternative exists.
  - Water system treatment plants;
  - Sewage system line, interceptors, pump stations, and treatment plants;
  - Electrical energy generating plants (except for instream structures), substations, lines, and cables.
  - Petroleum and gas pipelines.
7. New solid waste disposal sites and facilities are prohibited.
8. New utility lines including electricity, communications, and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible. Existing above ground lines shall be moved underground during normal replacement processes.
9. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest most direct route feasible, unless such route would cause significant environmental damage.
10. Utility facilities requiring withdrawal of water from streams or rivers shall be located only where minimum flows as established by the Washington State Department of Fish and Wildlife can be maintained.
11. Utility developments shall be located and designated so as to avoid the use of any structural or artificial shore modification works.
12. Water lines shall be completely buried under the riverbed in all river crossings except where such lines may be affixed to a bridge structure and except for appropriate water or sewage treatment plant intake pipes or outfalls.
13. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other alternative exists. In those instances where no other alternative exists, the use may be permitted as a shoreline conditional use. However, automatic shut-off valves shall be provided on both sides of the water body.
14. Construction of utilities underwater or in adjacent wetlands shall be timed to avoid fish and wildlife migratory and spawning periods.

### Utility Environment Specific Regulations

**Urban Center:** Utility facilities shall be permitted when consistent with the provisions of this Master Program and the underlying zoning.



## City of Sultan Shoreline Master Program

**Shoreline Residential:** Utility facilities shall be a permitted use when associated with a development that is consistent with the provisions of this Master Program. Otherwise, utility facilities may be permitted as a Shoreline Conditional Use when consistent with the provisions of this Master Program.

**Urban Conservancy, Natural and Aquatic:** Utility facilities may be permitted as a Shoreline Conditional Use when consistent with the provisions of this Master Program.



## City of Sultan Shoreline Master Program

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## Administrative Procedures

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### I. GENERAL

This is hereby established an administrative system designed to assign responsibilities for implementation of this Shoreline Master Program (or “SMP”) and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications and to ensure that all persons affected by this Master Program are treated in a fair and equal manner.

The City of Sultan Administration Code, as codified in Chapter 16.120 of the Sultan Municipal Code, Ordinance 630 § 2, 7/18/96 (Appendix C), is herein referenced by this master program. Any conflicts between the referenced ordinances and the SMP are resolved in favor of the regulation that is most protective of the ecological functions. Exceptions to the City of Sultan Administration Code in the Shoreline Jurisdiction are the Continuation of the Planning Commission, Planning Commission Powers and Duties, and variance and conditional use sections of the Administration Chapter under SMC 16.120.010, 16.120.20, and 16.120.050.

#### A. Legal Authority

The Sultan Shoreline Master Program is adopted in accordance with the Shoreline Management Act (Chapter 90.58 RCW) and the state Shoreline Guidelines (Chapter 173-26 WAC).

If any portion of the regulations of this Master Program are declared unlawful, such declaration shall not impair or render void the balance of these regulations.

Where these regulations provide that public access shall be provided, or an easement, fee ownership or otherwise shall be given to the City, all such regulations shall be construed to be limited to the extent of the lawful and constitutional authority of the City to require public access or to require the easement, fee ownership or interest requested.

#### B. Severability

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

#### C. Effective Date

Per WAC 173-26-120(7)(b)(i) the effective date of the City of Sultan Shoreline Master Program is July 17, 2008.



## City of Sultan Shoreline Master Program

### **D. Administrator**

The Community Development Director or his/her designee, herein after known as the Administrator, is vested with:

1. Overall administrative responsibility for this shoreline master program;
2. Authority to approve, approve with conditions or deny shoreline Substantial Development Permits and permit revisions in accordance with the policies and provisions of this Master Program;
3. Authority to grant statements of exemptions from shoreline substantial development permits; and
4. Authority to determine compliance with RCW 43.21C, the State Environmental Policy Act.

The duties and responsibilities of the Administrator shall include:

1. Specifying the required application forms and submittal requirements including the type, details and number of copies for Substantial Development, Conditional Use and Variance applications. At a minimum, the application shall include the information required by this Master Program.
2. Advising interested citizens and applicants of the goals, policies, regulations and procedures of this program.
3. Making administrative decisions and interpretations of the policies and regulations of this program and the Shoreline Management Act.
4. Collecting applicable fees based on annual fee schedule.
5. Determining that all applications and required information and materials are provided.
6. Making field inspections, as necessary.
7. Reviewing, insofar as possible, all provided and related information deemed necessary for application needs.
8. Determining if a shoreline substantial development permit, conditional use or variance permit is required.
9. Conducting a thorough review and analysis of the shoreline Substantial Development Permit applications making written findings and conclusions and approving, approving with conditions, or denying such applications.
10. Submitting Variance and Conditional Use applications and making written recommendations on such permits to the Hearing Examiner for review and recommendation.
11. Assuring that proper notice is given to appropriate persons and the public for all hearings.



## City of Sultan Shoreline Master Program

12. Providing an annual summary report of the shoreline management permits issued during the past calendar year to the City Council.
13. Investigating, developing and proposing amendments to this Master Program as deemed necessary to more effectively and equitably achieve its goals and policies.
14. Seeking remedies for alleged violations of this program, the provisions of the Shoreline Management Act, or of conditions of any approved shoreline permit issued by the City.
15. Forwarding shoreline permits to Ecology for filing or Ecology action.
16. Coordinating the preparation of plans, designs, and construction projects for restoration projects.

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## II. SHORELINE PERMIT REQUIREMENTS

Any person wishing to undertake a substantial development within shoreline jurisdiction shall apply to the City for a Shoreline permit. Based on the provisions of this Master Program, the Administrator shall determine if a Substantial Development Permit, a Shoreline Conditional Use Permit and/or a Shoreline Variance is required.

Exempt developments, which are outlined below in Section A, shall not require a Substantial Development Permit. However, an exempt development may require a Conditional Use Permit and/or a Shoreline Variance from Master Program provisions.

### A. Exemptions from Substantial Development Permit Requirements

An exemption from the Substantial Development Permit requirements does not constitute an exemption from the policies and use regulations of the Shoreline Management Act, the provisions of this Master Program or other applicable city, state, or federal requirements.

The following are exempt from the requirements for a substantial development permit for the purpose of this Master Program.

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred and eighteen (\$5,718) dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state. 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. 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<sup>1</sup>;

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<sup>1</sup> The Substantial Development dollar threshold on the adoption date of this Shoreline Master Program is \$5,178. Under current law, the dollar threshold will be recalculated every five years by the Office of Financial Management (OFM). OFM will post updated dollar thresholds in the Washington State Register. See RCW 90.58.030(3)(e). The Legislature can change the dollar threshold at any time.

*(footnote continued)*



## City of Sultan Shoreline Master Program

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 within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to the 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 a normal protective bulkhead common to single family residences. A "normal protective bulkhead" is constructed at or near the ordinary high water mark to protect a single family residence and is for protecting land from erosion, not for the purpose of creating dry land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings;
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 the Act or this Master 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 by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not have a building height that exceeds thirty five (35) feet and meets all requirements of the state agency or local government having jurisdiction thereof;
6. The marking of property lines or corners, when such marking does not significantly interfere with the normal public use of the surface waters;
7. 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 part of an agricultural drainage or diking system.
8. Any project with certification from the Governor pursuant to Chapter 80.50 RCW.
9. Watershed restoration projects as defined in WAC 173-27-040. Local government shall review the projects for consistency with the Shoreline Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) 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.



## City of Sultan Shoreline Master Program

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

- The activity does not interfere with the normal public use of the surface waters;
- 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;
- 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;
- 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 preexisting conditions.

### B. Unclassified Uses

Uses that are not classified in *Chapter 5* may be authorized as Conditional Uses provided the applicant can demonstrate compliance with the criteria listed in Section III.B.3 and all other applicable policies and regulations of this Master Program.

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## III. SHORELINE PERMIT PROCEDURES

### *Pre-application*

#### A. Information Prior to Submitting Application

Prior to submitting a complete application for a Substantial Development Permit, a Conditional Use Permit and/or a Variance, the applicant may request preliminary site plan review by the City. This will enable the applicant to become familiar with the requirements of this Master Program, other applicable regulations and the approval process. The preliminary site plan review shall be conducted according to procedures established by the Administrator. This process may also be conducted jointly with other land use permit processes.

### *Submittal*

#### B. Statement of Exemption

A Statement of Exemption must be obtained from the Administrator for a development that is exempt from Shoreline Substantial Development Permit requirements, but which requires other permit approvals, such as a building permit. This statement will verify that the development is exempt. The statement will also list any provisions that must be followed to ensure that the development is consistent with the Master Program and the Act. The Statement of Exemption shall be attached to the other permit approvals.



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Whenever a development falls within the exemption criteria listed above and is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, the Administrator shall prepare a Statement of Exemption and send a copy of this statement to the Washington Department of Ecology.

Before issuing a Statement of Exemption, the Administrator shall review the Master Program to determine if the proposed development requires a Shoreline Conditional Use Permit and/or a Variance. It may be necessary for the Administrator to conduct a site inspection to ensure that the proposed development meets the exemption criteria.

1. **Application Forms.** Applications for such shoreline exemptions shall be made on forms provided by the Administrator.
2. **Site Plan.** A site plan shall meet the requirements of the underlying development permit and shall include the following items listed Section C.2 below.

### C. Substantial Development Permits

1. **Application Forms.** No substantial development, except those exemptions listed in this master program, shall be undertaken on shorelines of the City without first obtaining a Substantial Development Permit from the City. Applications for such permits shall be made on forms provided by the Administrator.

For Variance and Conditional Use Permit requests, the application shall also demonstrate compliance with the provisions of Section III in this chapter.

For all shoreline permits and in addition to the information requested on the application, the applicant shall provide, at a minimum, the following information:

2. **Site Plan** - drawn to scale (1 foot equals 40, 100, 200 or 400 feet or other scale approved the Administrator) and including:
  - a. Site boundary.
  - b. Property dimensions in the vicinity of project.
  - c. Ordinary high water mark.
  - d. Typical cross section or sections showing:
    - i) existing ground elevation
    - ii) proposed ground elevation
    - iii) height of existing structures
    - iv) height of proposed structures
  - e. Where appropriate, proposed land contours using one-foot intervals, if development involves grading, cutting, filling, or other alteration of land contours.
  - f. Dimensions and locations of existing structures that will be maintained.





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- g. Dimensions and locations of proposed structures.
- h. Source, composition and volume of fill material.
- i. Composition and volume of any extracted materials and identify proposed disposal area.
- j. Location of proposed utilities, such as sewer, septic tanks and drainfields, water, gas and electricity.
- k. Information regarding compliance with local and state health regulations, if the development proposes septic tanks.
- l. Shoreline environment designations according to the Master Program.
- m. Designated shorelines and shorelines of statewide significance.

### 3. Vicinity Map

- a. Indicate site location using natural points of reference (roads, state highways, prominent landmarks, etc.).
- b. If the development involves the removal of any soils by dredging or otherwise, identify the proposed disposal site on the map. If the disposal site is beyond the confines of the vicinity map, provide additional information describing the precise location of the disposal site and its distance to the nearest city or town.
- c. Give brief narrative description of the general nature of the improvements and land use within 1,000 feet in all directions from development site (i.e., residential to the north, commercial to the south, etc.).

### D. Application Fees

A filing fee in an amount established in the annual fee schedule adopted by resolution each year shall be paid to the City of Sultan at the time of application.

### E. Complete Application

Complete application and documents for all shoreline permits shall be submitted to the Administrator for processing and review. The application will be reviewed for completeness and a determination of completeness made per SMC 16.120 (Ordinance 630 § 2 – 1995, 7/18/95, Appendix C).

## Review

### F. Permit Process

When a complete application and associated information have been received by the Administrator, the actions listed below shall be taken. These actions also apply to shoreline Conditional Use Permits and requests for Variances:



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**1. Public Notice.** The Administrator shall have a Notice of Application for Substantial Development Permit, Conditional Use, or Variance (as applicable) published in a newspaper of general circulation, within the area in which the development is proposed. The applicant shall also provide notice of application to all properties located within 300 feet of the site.

The Notice of Application for Substantial Development Permit, Conditional Use, or Variance (as applicable) describes the location of the project and includes a statement that any person desiring to present their views to the Hearing Examiner may do so in writing within thirty (30) days of the final newspaper publication. The notice also provides the date when a public hearing will be held on the application and states that any person may submit oral or written comments at the hearing. All persons who indicate their desire to receive a copy of the final order shall be notified, in a timely manner, of the City Council's decision.

The Notice of Application for a Substantial Development Permit, Conditional Use, or Variance (as applicable) shall be provided within fourteen days after the determination of completeness and should include information required by WAC 173-27-110.

The Administrator shall also have the applicant post the Notice of Application for a Substantial Development Permit, Conditional Use or Variance (as applicable) on-site per SMC 16.120, (Ordinance 630 § 2 – 1995, 7/18/95, Appendix C).

The Administrator may require any other manner of public notice deemed appropriate to accomplish the objectives of reasonable notice to the adjacent landowners and the public.

**2. Review.** The Administrator or Hearing Examiner as applicable shall review an application for a Substantial Development Permit, Conditional Use or Variance using the following information:

- a. The application.
- b. Applicable SEPA documents.
- c. Evidence presented at the public hearing.
- d. Written and oral comments from interested persons.
- e. The findings, conclusions and recommendation of the Administrator.
- f. Information and comment from other city departments.
- g. Independent study of the Hearing Examiner.

The Hearing Examiner may require an applicant to furnish information and data in addition to that contained or required on the Substantial Development Permit, Conditional Use or Variance application.

**3. Administrative Review of Substantial Development Permits.** The Administrator shall review the application and related information and issue a written decision to approve, approve with condition, or deny the application for a Substantial Development Permit. No permit shall be granted unless the proposed development is consistent with the provisions of this Master



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Program, the Shoreline Management Act of 1971 and the rules and regulations adopted by the Department of Ecology thereunder.

**4. Public Hearing for a Conditional Use or Variance Permit.** At least one public hearing shall be held by the Hearing Examiner regarding an application for a Substantial Development Permit, Conditional Use or Variance. The public hearing should be held at the earliest possible date after the thirty (30) day public comment period has ended.

A written notice of the public hearing at which the Hearing Examiner will consider the application shall be mailed or delivered to the applicant a minimum of seven (7) days prior to the hearing. The Administrator's findings and conclusions and recommended action on the application shall be sent to the applicant with the notice of public hearing.

**5. Hearing Examiner Review Criteria.** The Hearing Examiner shall review the application and related information and make a recommendation to approve, approve with condition, or deny the application for a Conditional Use or Variance. No permit shall be granted unless the proposed development is consistent with the provisions of this Master Program, the Shoreline Management Act of 1971 and the rules and regulations adopted by the Department of Ecology thereunder.

**6. Burden of Proof on Applicant.** The burden of proving that the proposed development is consistent with the criteria which must be met before a permit is granted shall be on the applicant. The applicant may, but is not required to, respond to public comments made at or prior to the hearing.

**7. Hearing Examiner Recommendation.** The Hearing Examiner shall issue a written recommendation to approve, approve with conditions, or deny the application for a Conditional Use or Variance. The Hearing Examiner may reconsider his recommendation in accordance with SMC 16.120 (Ordinance 630 § 2 – 1995, 7/18/95, Appendix C). Within five (5) days of the recommendation, the Administrator shall schedule the Hearing Examiner's recommendation for review and decision by the City Council.

**8. Conditional Approval.** Should the Administrator or City Council find that any application does not substantially comply with criteria imposed by the Master Program and the Shoreline Management Act, it may deny such application or attach any terms or condition which is deemed suitable and reasonable to affect the purpose and objective of this Master Program and the Act.

**9. Bonds.** The City may require the applicant to post a bond in favor of the City of Sultan to assure full compliance with any terms and conditions imposed by the City on any Substantial Development Permit, Conditional Use or Variance. Said bond shall be in an amount to reasonably assure the City that any deferred improvement will be carried out within the time stipulated.

**10. City Council Decision.** The City Council shall review Conditional Use and Variance applications at a closed record hearing.

- a. The record established by the Hearing Examiner (including testimony, exhibits, comment letters, plans, staff reports, etc.) shall be the record used by the Council unless it is supplemented by the City Council pursuant to this section. A request to



## City of Sultan Shoreline Master Program

supplement the record shall be made in a separate document that is attached to an appeal. The appeal shall not mention or refer to the material that is proposed to be added to the record. A request to supplement the record shall include a brief description of the nature of the material to be added and a separate, attached copy of the material to be added. The request to supplement the record must clearly establish that the new evidence or information to be added to the record was not available or could not have been reasonably produced at the time of the open record hearing before the Hearing Examiner.

- b. The Council may affirm, modify, or reverse the Hearing Examiner's recommendation, remand to the Hearing Examiner with directions for further proceedings or grant other appropriate relief. If the Council reverses or modifies the Hearing Examiner's recommendation, the Council shall enter findings and/or conclusions to support the decision.
- c. The Hearing Examiner's recommendation shall be given substantial weight.
- d. Within five (5) days of the City Council's decision, the Administrator shall send the City Council's final order, including findings and conclusions to the following:
  - i. The applicant.
  - ii. The Department of Ecology.
  - iii. The Attorney General.

The Administrator shall provide Notice of Final Decision per SMC 16.120 (Ordinance 630 § 2 – 1995, 7/18/95, Appendix C).

**11. Department of Ecology Review of Variance and Conditional Use Permits.** After the City Council has approved a Variance or Conditional Use Permit, the Administrator shall file the permit with the Department of Ecology for its approval, approval with conditions, or denial. When a Substantial Development Permit and a Conditional Use or Variance Permit are required for a development, the filing on local government's rulings on the permits shall be made simultaneously. The Department of Ecology will issue its decision on a Variance or Conditional Use Permit within thirty (30) days of filing. The submittal is not complete until all the required documents have been received by the Department of Ecology and the Attorney General. Upon receipt of the Department of Ecology's decision, the Administrator shall notify those interested persons having requested notification of such decision.

Development authorized by a Variance or Conditional Use Permit shall not begin until twenty-one (21) days following Ecology's approval, provided no appeal proceedings have been initiated.

**12. Local Appeals.** Any decision made by the Administrator may be appealed to the Hearing Examiner subject to the following provisions:

Appeals shall be submitted in writing to the city clerk by 5:00 p.m. of the fifteenth calendar day following the date of the decision. When the last day of the comment period so computed is a Saturday, Sunday or city holiday, the period shall run until 5:00 p.m. on the next business day. The



## City of Sultan Shoreline Master Program

appeal shall be in writing and shall state specific objections to the decision and the relief sought. The appeal shall be accompanied with any applicable filing fees.

The record established by the Administrator (including testimony, exhibits, comment letters, plans, staff reports, etc.) shall be the record used by the Hearing Examiner unless it is supplemented by the Hearing Examiner pursuant to this section. A request to supplement the record shall be made in a separate document that is attached to an appeal. The appeal shall not mention or refer to the material that is proposed to be added to the record. A request to supplement the record shall include a brief description of the nature of the material to be added and a separate, attached copy of the material to be added. The request to supplement the record must clearly establish that the new evidence or information to be added to the record was not available or could not have been reasonably produced at the time of the open record hearing before the hearing examiner.

The Hearing Examiner may affirm, modify, reverse the Administrator's decision, remand to the Hearing Examiner with directions for further proceedings or grant other appropriate relief. If the Hearing Examiner reverses or modifies the Administrator's decision, the Hearing Examiner shall enter findings and/or conclusions to support the decision.

The Administrator's decision on appeal shall be given substantial weight.

**13. Appeals to State Shoreline Hearings Board.** Any person aggrieved by the granting, denying, rescission or modification of a Shoreline permit may seek review from the State Shorelines Hearings Board. An appeal of a Shoreline Substantial Development Permit shall be initiated by filing an original and one copy of request for review with the Hearings Board within twenty-one (21) days of the Department of Ecology's receipt of the final decision by the City Council or Hearing Examiner. An appeal of a Variance or Conditional Use Permit shall be filed with the Hearings Board within twenty-one (21) days of the Department of Ecology's decision. The request for review shall be in the form required by the rules for practice and procedure before the Shorelines Hearings Board. The person seeking review shall also file a copy of the request for review with the State Department of Ecology and the Attorney General.

**14. Washington State Department of Ecology Review.** Development authorized by a Shoreline Substantial Development Permit shall not begin until thirty (30) days from the date the Administrator files the approved permit with the Department of Ecology and the Attorney General: provided no appeals have been initiated during this twenty-one (21) day period. The date of filing is the date the Department of Ecology and the Attorney General receive all the required documents.

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## IV. VARIANCE AND CONDITIONAL USE PERMIT CRITERIA

The Shoreline Management Act states that master programs shall contain provisions covering Conditional Uses and Variances. These provisions should be applied in a manner, which while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.



## City of Sultan Shoreline Master Program

### A. Variances

1. **Purpose.** The purpose of a Variance is strictly limited to granting relief to specific bulk, dimensional, or performance standards set forth in the Master Program. A Variance is appropriate where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant.

Construction pursuant to a Variance shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

2. **Application.** An application for a shoreline Variance shall be submitted on a form provided by the Administrator and accompanying material as required by SMC 16.120 (Ordinance 630 § 2 – 1995, 7/18/95, Appendix C).

An applicant for a Substantial Development Permit who wishes to request a Variance shall submit the Variance application and the permit application simultaneously.

3. **Criteria for Granting Variances.** Variances for development that will be located landward of the ordinary high water mark, except those areas designated by the Department of Ecology as wetlands pursuant to WAC 173-22, may be authorized provided the applicant can demonstrate all of the following:

- a. That the strict requirements of the bulk, dimensional, or performance standards set forth in the Master Program preclude or significantly interfere with reasonable use of the property not otherwise prohibited by the Master Program.
- b. That the hardship described above is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program and not, for example, from deed restrictions or the applicant's own actions.
- c. That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment.
- d. That the Variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area and will be the minimum necessary to afford relief.
- e. That the public interest will suffer no substantial detrimental effect. Variance permits for development that will be located either waterward of the ordinary high water mark or within wetlands as designated in WAC 173-22, may be authorized provided the applicant can demonstrate all the criteria stated above as well as the following:
  - That the public rights of navigation and use of the shorelines will not be adversely affected by granting the Variance.





## City of Sultan Shoreline Master Program

- That the strict application of the bulk, dimensional or performance standards set forth in the Shoreline Master Program precludes all reasonable use of the property
- That the proposal is consistent with the criteria established under subsection 3.a. through 3.d. of this section.

In the granting of all Variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Variances were granted to other developments in the area where similar circumstances exist, the total of the Variances should also remain consistent with the policies of RCW 90.58 and should not produce substantial adverse effects to the shoreline environment.

Requests for varying the use to which a shoreline area is to be put are not requests for Variances, but rather requests for Conditional Uses. Such requests shall be evaluated using the Conditional Use criteria set forth below.

In accordance with WAC 173-27-170, 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 subsection 3 of this section; and
- (c) That the public rights of navigation and use of the shorelines will not be adversely affected.

Variances from the use regulations of the master program are prohibited.

### B. Conditional Use

1. **Purpose.** The purpose of a Conditional Use Permit is to allow greater flexibility in varying the application of the use regulations of the Master Program in a manner consistent with the policies of RCW 90.58.020; provided that Conditional Use Permits should also be granted in a circumstance where denial of the permit would result in a thwarting of state policy enumerated in RCW 90.58.020.

In authorizing a Conditional Use special conditions may be attached to the permit by the City of Sultan or by the Department of Ecology to prevent undesirable effects of the proposed use. Uses that are specifically prohibited by the Master Program may not be authorized with the approval of a Conditional Use Permit.



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2. **Application.** An application for a Shoreline Conditional Use shall be submitted on a form provided by the Administrator and accompanying material as required by SMC 16.120 (Ordinance 630 § 2 – 1995, 7/18/06, Appendix C).

An applicant for a Shoreline Substantial Development Permit which requires a Conditional Use Permit shall submit applications for both permits simultaneously.

3. **Criteria for Granting Shoreline Conditional Use Permits.** Uses classified as conditional uses may be authorized provided that the applicant can demonstrate all of the following:

- a. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program;
- b. That the proposed use will not interfere with the normal public use of public shorelines;
- c. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area and with goals and policies of the Comprehensive Plan;
- d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
- e. That the public interest will suffer no substantial detrimental effect.

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.

Uses that are specifically prohibited by this Master Program may not be authorized pursuant to this section.

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## V. TIME LIMITS AND REVISIONS

### A. Time Requirements for Shoreline Permits

1. **Duration of Permits:** The City of Sultan may issue shoreline permits which determine the length of time a shoreline permit will be effective based on the specific requirements of the development proposal. If a permit does not specify a termination date, the following requirements apply, consistent with WAC 173-14-060:
  - a. **Time Limit for Substantial Progress.** Construction, or substantial progress toward completion, must begin within two (2) years after approval of the permits.





## City of Sultan Shoreline Master Program

- b. **Extension for Substantial Progress.** The City of Sultan may at its discretion, with prior notice to parties of record and the Department of Ecology, extend the two-year time period for the substantial progress for a reasonable time up to one year based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.
- c. **Five-Year Permit Authorization.** If construction has not been completed within five (5) years of approval by the City of Sultan, the City will review the permit and, upon showing of good cause, either extend the permit for one year, or terminate the permit. Prior to the City authorizing any permit extensions, it shall notify any parties of record and the Department of Ecology. Note: Only one (1) single extension is permitted.

### B. Revision of Permits.

When an applicant desires to revise a permit, the applicant must submit detailed plans and text describing the proposed changes. If the Administrator determines that the revisions proposed are within the scope and intent of the original permit, consistent with WAC 173-14-064, the Administrator may approve the revision. "Within the scope and intent of the original permit" means all of the following:

1. No additional over-water construction is involved, except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten percent (10%), whichever is less;
2. Ground area coverage and height is not increased more than ten percent (10%);
3. Additional structures do not exceed a total of two hundred fifty (250) square feet;
4. The revision does not authorize development to exceed height, setback, lot coverage, or any other requirement of the City of Sultan Shoreline Master Program;
5. Additional landscaping is consistent with conditions (if any) attached to the original permit;
6. The use authorized pursuant to the original permit is not changed; and
7. No substantial adverse environmental impact will be caused by the project revision.

If the sum of the proposed revision and any previously approved revisions do not meet the criteria above, an application for a new Shoreline permit must be submitted. If the revision involves a Conditional Use or Variance which was conditioned by the Department of Ecology, the revision also must be reviewed and approved by the Department of Ecology (see WAC 173-14-064).

The City of Sultan or the Department of Ecology decision on revision to the permit may be appealed within twenty-one (21) days of such decision, in accordance with RCW 90.58.180 and WAC 173-14-064.

Construction allowed by the revised permit that is not authorized under the original permit is undertaken at the applicant's own risk until the expiration of the appeals deadline.



## City of Sultan Shoreline Master Program

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### **VI. NONCONFORMING DEVELOPMENT, DEVELOPMENT and BUILDING PERMITS, and UNCLASSIFIED USES**

#### **A. Nonconforming Development**

Nonconforming development is a shoreline use or structure which was lawfully constructed or established prior to the effective date of the Act or the Master Program, or amendments thereto, but which does not conform to present regulations or standards of the Master Program or policies of the act. In such cases, the following standards shall apply:

1. Nonconforming development may be continued provided that it is not enlarged or expanded and said enlargement does not increase the extent of nonconformity and by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses;
2. A nonconforming development which is moved any distance must be brought into conformance with the Master Program and the Act;
3. If a nonconforming structure is damaged to an extent not exceeding seventy-five (75) percent replacement cost of the nonconforming structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one year of the date of damage, with the exception that, single family nonconforming development may be one hundred (100) percent replaced if restoration is completed within three years of the date of damage;
4. If a nonconforming use is discontinued for twelve (12) consecutive months or for twelve (12) months during any two-year period, any subsequent use shall be conforming; it shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;
5. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed; and
6. An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the Act and the Master Program, but which does not conform to the present lot size or density standards may be developed so long as such development conforms to all other requirements of the Master Program and the Act.
7. A use which is listed as a conditional use but which existed prior to adoption of the Master Program for which a Conditional Use Permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of the Master Program to the site and for which a Conditional Use Permit has not been obtained shall be considered a nonconforming use.



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8. A structure for which a Variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

### **B. Development and Building Permits**

No building permit or other development permit for a project in Sultan's shorelands shall be issued for any parcel of land developed or divided in violation of this Master Program. All purchasers or transferees of property shall comply with provisions of the Act and this Master Program and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Master Program including any amount reasonable spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Master Program as well as cost of investigation, suit and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor may, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease and recover cost of investigation and reasonable attorney's fees occasioned thereby from the violator.

### **C. Unclassified Uses**

Uses that are not classified in *Chapter 5* may be authorized as Conditional Uses provided the applicant can demonstrate compliance with the criteria listed in Section III.B.3 and all other applicable policies and regulations of this Master Program.

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## **VII. ENFORCEMENT AND PENALTIES**

### **A. Enforcement.**

1. The City of Sultan Enforcement and Penalties Code, as codified in Chapter 16.132 of the Sultan Municipal Code, Ordinance 630 § 2 -1995, 7/18/95, (Appendix C) are herein referenced by this master program. Any conflicts between the referenced ordinances and the SMP are resolved in favor of the regulation that is most protective of the ecological functions.
2. Enforcement action by the department or local government may be taken whenever a person has violated any provision of the act or any master program or other regulation promulgated under the act. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action.

### **B. Civil Penalty.**

1. A person who fails to conform to the terms of a substantial development permit, conditional use permit or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty by local government. The department may impose a penalty jointly with local government, or alone only upon an additional finding that a person:



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- a. Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or
  - b. Has been given previous notice of the same or similar type of violation of the same statute or rule; or
  - c. The violation has a probability of placing a person in danger of death or bodily harm; or
  - d. Has a probability of causing more than minor environmental harm; or
  - e. Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.
2. In the alternative, a penalty may be issued to a person by the department alone, or jointly with local government for violations which do not meet the criteria of subsection (1)(a) through (e) of this section, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

- a. A description of the condition that is not in compliance and a specific citation to the applicable law or rule;
  - b. A statement of what is required to achieve compliance;
  - c. The date by which the agency requires compliance to be achieved;

Notice of the means to contact any technical assistance services provided by the agency or others; and

Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

Furthermore, no penalty shall be issued by the department until the individual or business has been given a reasonable time to correct the violation and has not done so.

3. Amount of penalty. The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.
4. Aiding or abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.
5. Notice of penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department and/or the local government, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order



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the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

6. Application for remission or mitigation. Any person incurring a penalty may apply in writing within thirty days of receipt of the penalty to the department or local government for remission or mitigation of such penalty. Upon receipt of the application, the department or local government may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

When a penalty is imposed jointly by the department and local government, it may be remitted or mitigated only upon such terms as both the department and the local government agree.

### C. Criminal Penalty

In addition to incurring civil liability under RCW 90.58.210, any person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of this chapter or any of the master programs, rules, or regulations adopted pursuant thereto shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment:

PROVIDED, that the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars:

PROVIDED FURTHER, That fines for violations of RCW 90.58.550, or any rule adopted thereunder, shall be determined under RCW 90.58.560.

### D. Public and Private Redress

Any person subject to the regulatory program of the Master Program who violates any provision of the Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.

The city attorney may bring suit for damages under this section on behalf of the city. Private persons shall have the right to bring suit for damages under this section on their own behalf and on behalf of all persons similarly situated.

If liability has been established for the cost of restoring an area affected by violation, restoration shall be accomplished within a reasonable time at the expense of the violator as established by the courts.

In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

### E. Delinquent Permit Penalty

A person applying a permit after commencement of the use or activity may, at the discretion of the City be required, in addition, to pay a delinquent permit penalty not to exceed three (3) times the appropriate permit fee:



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Provided, that a person who has caused, aided or abetted a violation within two (2) years after the issuance of a regulatory order, notice of violation or penalty by the department or the City against said person may be subject to a delinquent permit penalty not to exceed ten (10) times the appropriate permit fee. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

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### **VIII. MASTER PROGRAM – REVIEW and AMENDMENTS**

#### **A. Master Program Review**

This Master Program shall be periodically reviewed as necessary to reflect changing local circumstances, new information or improved data and changes in State statutes and regulations. This review process shall be consistent with WAC 173-19 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

#### **B. Amendments to Master Program**

Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173.26 WAC. Amendments or revision to the Master Program, as provided by law, do not become effective until approved by the Department of Ecology.

Proposals for shoreline environment redesignation (i.e., amendments to the shoreline maps and descriptions), must demonstrate consistency with the criteria set forth in WAC 173-16-040 (4).



## City of Sultan Shoreline Master Program

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# Shoreline Restoration

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## INTRODUCTION

This restoration plan has been prepared in accordance with the Washington State Department of Ecology shoreline management guidelines. The guidelines direct local government review and updates of shoreline master programs.

A significant feature of the guidelines is the requirement that local governments include within their shoreline master program, a “real and meaningful” strategy to address restoration of shorelines. WAC 173-26-186(8).

The state guidelines emphasize that any *development must achieve no net loss of ecological functions*. The guidelines go on to require a *goal of using restoration to improve the overall condition of habitat and resources* and makes “planning for and fostering restoration” an obligation of local government. From WAC 173-26-201(2)(c):

Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2)(f), where such functions are found to have been impaired based on analysis described in WAC 173-26-201 (3)(d)(i). It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local government should identify restoration opportunities through the shoreline inventory process and authorize, coordinate and facilitate appropriate publicly and privately initiated restoration projects within their master programs. **The goal of this effort is master programs which include planning elements that, when implemented, serve to improve the overall condition of habitat and resources within the shoreline area of each city and county.**

WAC 173-26-2012(f) states further that “...master programs provisions should be designed to achieve overall improvements in shoreline ecological functions over time when compared to the status upon adoption of the master program.”

For guidance on preparation of a Restoration Plan, the city looked to WAC 173-26-186, WAC 173-26-201(2)(c) and (f) and *Restoration Planning and the 2003 Shoreline Management Guidelines*, A Department of Ecology Report, in addition to other resources listed at the end of this chapter.





## City of Sultan Shoreline Master Program

Restoration planning should be focused on tools such as economic incentives, broad funding sources such as Salmon Restoration Funding, volunteer programs, and other strategies. WAC 173-26-186(8)(c) and WAC 173-26-201(2)(f) (explaining the “basic concept” of restoration planning).

Furthermore, because restoration planning must reflect the individual conditions of a shoreline, restoration planning provisions contained in the guidelines expressly note that a restoration plan will vary based on:

- Size of jurisdiction
- Extent and condition of shorelines
- Availability of grants, volunteer programs, other tools
- The nature of the ecological functions to be addressed

The restoration chapter is designed to meet the requirements for restoration planning outlined in the Ecology guidelines, in which restoration planning is an integrated component of shoreline master programs that include inventorying shoreline conditions and regulation of shoreline development.

The restoration plan builds off of the City of Sultan Shoreline Characterization which provides a comprehensive inventory and analysis of shoreline conditions in Sultan, including rating specific functions and process of each shoreline segment.

This restoration plan provides a vision for ecological restoration, includes goals, objectives and opportunities. It also establishes city strategies for implementation, including recognition of existing and ongoing programs, and it provides a framework for long-term monitoring of shoreline restoration and shoreline conditions.

While this restoration plan includes broad objectives, specific implementation measures, budgets, schedules, and individual monitoring programs will be needed for individual restoration projects as they occur. Periodically, it is important for the city to evaluate the effectiveness of this plan and to adapt to changing conditions. At a minimum, this restoration plan (as well as the entire Shoreline Master Program) will be reevaluated according to the schedule adopted by the state Legislature.

### Vision Statement

The vision statement establishes the overarching idea of the future restored ecosystem and provides a basis for the framework, including the restoration goals. The Characterization Report identifies impaired ecological processes and functions. The majority of processes and functions on Sultan shorelines are impaired based on the analysis, and they are not operating as they should. Goals that “promote restoration” of these ecological functions must be included in the master program. This vision statement seeks to make clear the intent of addressing ecological restoration.

**Restoration Vision:** *The degraded processes of the Sultan Shoreline will be restored to the extent that when protected under the policies of this plan, a net improvement to the shoreline ecosystem is obtained to benefit water quality, vegetation, and the residents of Sultan. Restoration occurs through a combination of public and private opportunities that enhance the shoreline through improvements to the key processes.*





## City of Sultan Shoreline Master Program

### Restoration Goals

- Protect and improve water quality
- Reduce impacts of flooding events
- Preserve natural areas and vegetation
- Preserve and restore habitat functions
- Preserve and improve physical and visual public access to the shoreline

### Alteration of Key Processes

There are six key processes that have been altered in the Sultan shoreline jurisdiction. The summary of key processes comes from sections 4.10 and 4.11 in the 2005 Sultan Shoreline Characterization Report. The key processes for the Sultan shoreline are:

- Nutrient Delivery and Removal
- Groundwater Flow
- Surface Water Flow
- Sediment Delivery and Removal
- Wood Delivery
- Fish and Wildlife Habitat

These processes are being threatened by development and logging outside of the city, as well as by changes within the city such as loss of vegetation and increased impervious surfaces. Segments of the Sultan shoreline are described below, along with the restoration opportunities for these segments.

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## SEGMENTS OF THE SULTAN SHORELINE

The City of Sultan shoreline is divided into 5 segments, A through D and the UGA segment. Only segments A through D are included in the Shoreline Master Program, since they are within the city limits. These segments are further divided into opportunity areas, based on the type of restoration that could take place, see Table 2. These segments were determined primarily by water body and current land uses and zoning. There are five shoreline environment designations found in the Sultan SMP – Urban Center, Shoreline Residential, Urban Conservancy, Natural, and Aquatic.

### Sultan River

Segment A is on the west side of the city, along the Sultan River. This area is characterized by large land areas mostly used as parks and open space and, there are many mapped wetlands in this area. The SMP designation is predominantly natural, with patches of urban and rural designations. Most of the segment is in private residential ownership, with developments away from the river.

### Confluence of Sultan and Skykomish Rivers

Segment B is in the southwest corner of the city at the confluence of the Sultan and Skykomish Rivers. This segment contains a variety of land uses; it is part of the downtown urban core and is also the location of a utility use. The area is designated urban and contains many wetlands. Since this segment is at the confluence of two major rivers, it often experiences flooding events. The park in this area is frequently used and could use some improvements to protect the shoreline functions.



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### Skykomish River

Segment C is along the south side of the city. This segment is primarily residential, and is designated as urban and rural. This segment has experienced the most growth and conversion of riparian land to residential, resulting in more impervious surfaces. There is a boat launch located within this segment.

### Wallace River

Segment D is in the southeast side of the city. This segment is designated as natural and currently contains riparian forest and wetlands. The predominant land use in this segment is commercial.

### UGA Area

The UGA segment is outside of the Sultan City limits and is outside the jurisdiction of the Sultan SMP, however it is important since it is upstream from other Sultan shorelines. The predominant land use is residential, and is adjacent to the Sultan River.

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## RESTORATION OPPORTUNITIES

Restoration opportunities are identified below by segment. A complete table of opportunities by segment is listed after this section, see Table 2. A lot of these restoration opportunities are associated with publicly owned lands in parks or river access points. These areas are also highlighted in Figures 12-15.

### Open Space and Parks, Low-Density Residential (Segment A)

In segment A there are 6 separate opportunity areas identified in the shoreline characterization. These opportunity areas are identified as areas for enhancement, protection and/or restoration. These areas have been identified for vegetation, habitat, wetlands, and flood areas. Segment A contains two existing parks, Reese Park – 32 acres and Osprey Park - 90 acres. In all, Segment A contains 1.3 miles of the Sultan River in the shoreline jurisdiction. These two parks could potentially be enhanced, and shoreline access could be developed. Much of the segment is located within floodplain on both private and public lands which would require buffering. This segment shows the highest need since there are more opportunities available and more processes at risk.

**Opportunity Area A-1 (Enhancement).** Encourage planting of native vegetation and limit clearing and disturbance on privately-owned residential properties with shoreline frontage.

**Opportunity Area A-2 (Protection and Enhancement).** City-owned land within Reese Park along the length of the right (east) bank of the Sultan River offers continued potential for habitat preservation. Disturbed areas offer opportunities for habitat enhancement.

Along with Opportunity areas A-3 and A-4, A-2 falls within the Sultan River floodplain and has the potential for channel migration and avulsion. Areas A-2, A-3, and A-4 are all areas with the potential for allowing riverine processes to act unhindered in order to create a mosaic of riverine habitats and are opportunities for protection. A remnant oxbow along the western edge of A-2 offers potential for off-channel habitat or forested wetland enhancement.

**Opportunity Area A-3 (Restoration).** The *Snohomish River Basin Chinook Salmon Near Term Action Agenda* (SBSRF, 2001) makes several general recommendations, one of which is the restoration or



## City of Sultan Shoreline Master Program

enhancement of the area, functions, and values of degraded or destroyed wetlands to improve watershed processes and fish habitat. Wetlands located within privately-owned pasture in this shoreline planning segment offer potential future opportunities for restoration or enhancement from emergent to future forested wetland.

Additional areas to the east and south of A-3 within the shoreline offer opportunities for potential wetland and/or riparian habitat restoration from pasture to future forested habitat. Adequate buffer areas will be needed to protect existing wetland area A-3, and this additional area would provide an important opportunity for such buffering.

Protection of the floodplain, which extends between the main channel of the Sultan River all the way to Trout Lake Road in this segment, will ensure protection of the processes of overbank flooding and hyporheic flows (subsurface flows that extend for sometimes significant distances from the obvious river channel). These processes support the hydrology of existing wetlands and streams.

**Opportunity Area A-4 (Protection and Enhancement).** City-owned land within Osprey Park along the length of the right (east) bank of the Sultan River offers opportunity for habitat preservation and restoration. This segment is located within an area noted to offer significant rearing habitat for salmonids. Recommendations from *Snohomish River Basin Chinook Salmon Near Term Action Agenda* (SBSRF, 2001) include enhancing riparian areas with additional native vegetation, especially conifers. Areas dominated by alders could be underplanted or replanted with conifers as the alders die off (SBSRF, 2001).

**Opportunity Area A-5 (Protection and Restoration).** A culvert barrier has been identified in area A-5 along Winters Creek. Protection of the entire area of A-5 has a high potential to improve salmonid and wildlife habitat. This area is identified as part of "Focus Area IX," an area with potential for protection and acquisition, in the *Snohomish River Basin Chinook Salmon Near Term Action Agenda* (SBSRF, 2001).

**Unlabeled Opportunity Area (Protection).** Although located outside of the shoreline jurisdictional boundary, protection of outwash deposits in the upper Winters Creek watershed (as indicated by mapped surficial geology, Figure 7) would protect water flow processes originating outside of the shoreline jurisdiction but would sustain hydrology to riparian wetlands and Winters Creek within the shoreline jurisdiction, as well as wetlands at the base of the steep till slopes to the north.

### **Urban and Utility Uses, River Access (Segment B)**

In segment B three opportunity areas have been identified for restoration and acquisition. Areas have been identified to restore vegetation and acquire frequently flooded areas. Segment B contains two parks, River Park – 6 acres and Sportsman's Park – 5 acres. Most of the land within this segment is publicly owned and provides access to the rivers. However, this is a frequently flooded area that experiences a lot of erosion. This segment could benefit from vegetation restoration. Restoration in this area is more likely to succeed since a lot of it is publicly owned land and could more easily be restored.

**Opportunity Area B-1 (Restoration).** Sportsman's Park, located adjacent to the City's Wastewater Treatment Plant, is used as a picnic area and for fishing access. Denuded areas could be planted with riparian vegetation, such as Pacific and Sitka willow, Pacific ninebark, and beaked hazelnut, all species



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that are already present in this area. Access to the water could be restricted to one or two areas to reduce the potential for disturbance and erosion.

**Opportunity Area B-2 (Restoration).** River Park, along the east bank of the Sultan River, has a lawn to the shoreline. The river bank could be planted with riparian vegetation, as recommended for B-1 above. This reach of the Sultan River floods most of the adjoining lands, on both sides of the river. The wetland swale within this park could be planted with a diversity of wetland species to provide improved habitat and water quality functions.

**Opportunity Area B-3 (Acquisition and Restoration).** This area has been called out in the City of Sultan Repetitive Flood Loss Mitigation Plan as a frequently flooded area. Options include property acquisition that would allow the potential for increased flood storage as well as increased wildlife habitat. Recommendations include replanting with native vegetation, especially conifers, in riparian areas. Increasing vegetative cover in urban areas can serve as an effective tool to control stormwater. These replanted areas should have a maintenance plan until the plants are established (SBSRF, 2001).

### **Residential, Boat Launch (Segment C)**

Four opportunity areas have been identified in segment C for enhancement, protection and restoration for vegetation and habitat. Segment C is already fairly developed on the north shore which is located within the city limits. Most of the lands are in private ownership and have been developed, so there are not many opportunities for city sponsored restoration. Opportunities that do exist include vegetation enhancement. The only public amenity/access in segment C is a public boat launch.

**Opportunity Area C-1 (Enhancement).** This area includes privately-owned residential properties with shoreline frontage. The City could encourage planting of native vegetation and limit clearing and disturbance along the banks.

**Opportunity Area C-2 (Protection and Restoration).** These two areas offer opportunities for habitat protection and restoration, within the limits of the future projected land use (low-moderate to moderate density development) (Figure 14). The westernmost area is mapped as wetland on the NWI, and both areas retain native trees and shrubs.

**Opportunity Area C-3 (Enhancement).** Limited opportunities exist along this reach; however, plantings of native shrubs could enhance riparian functions in Area C-3.

**Unlabeled Opportunity Area (Protection).** Although located outside of the shoreline jurisdiction, protection of the terrace area mapped in Figures 6, 7, and 8 is important to maintaining the hydrology of critical areas, including riparian and associated wetlands along the Wagleys Creek corridor. The terrace area has a high potential for supporting existing wetlands and for expanding wetland areas.

### **Industrial and Residential (Segment D)**

In segment D three areas have been identified for vegetation and floodplain protection. There is one park, Cemetery Park – 1.5 acres, but it is privately owned and retains the right to future development. There is also a commercial development in this segment.



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**Opportunity Area D-1 (Protection).** The Snohomish River Basin Chinook Salmon Near Term Action Agenda (SBSRF, 2001) identifies “Focus Area XI,” which includes the Wallace River from its mouth to Gold Bar, as offering potential for acquisition and protection of forested riparian areas. The report notes that this area is under development pressure.

The pasture area immediately north of area D1, in Snohomish County, on the north shore of the Wallace River, appears to present an opportunity for wetland restoration and offers an inter-jurisdictional restoration opportunity. Though elevation data was not available this pasture area appears to be within the floodplain for the Wallace River; additionally, due to its location below a till slope, groundwater discharge at the base could provide hydrology for restored or enhanced wetlands on the site. Existing wetlands on this pasture area indicate that hydrology is present; a ditch running through the middle of the pasture directly to the Wallace River is an additional indication that this site may be fairly wet.

**Opportunity Area D-2 (Protection).** Area D-2 includes residential property bounded by US 2 and commercial business to the west, north, and east. Retention of native trees and shrubs, especially along the steep slopes, is recommended to reduce impacts on water temperature and protect the adjacent floodplain.

**Unlabeled Opportunity Area (Protection).** Although located outside of the shoreline jurisdiction, protection of the terrace area mapped in Figures 6, 7, and 8 is important to maintain the hydrology of critical areas falling within the shoreline jurisdiction, including the wetlands located at the base of the of the outwash slopes adjoining the Wallace River. The terrace area has a high potential for supporting existing wetlands and for expanding wetland areas. Protection of the floodplain along the Wallace River will ensure protection of the processes of overbank flooding and hyporheic zones.

### **Residential (UGA Segment)**

In the UGA segment, areas have been identified for habitat and vegetation restoration. There are also areas of wetlands that receive flow from area creeks that are used for salmon habitat. Most of this land is privately owned, and zoned for future residential development.

**Opportunity Area UGA-1. (Enhancement / Restoration).** This area is referred to as CIP Number EV-SU-8 in the Snohomish County Drainage Needs Report. The area is defined as the riparian corridor along the east bank of the Sultan River in the City’s UGA, approximately 100-feet wide. The area currently has cleared or sparsely forested areas that lack large woody debris potential. Snohomish County recommends selective plantings of native trees and shrubs in this area (up to two acres). Planting native woody vegetation would provide future in-stream large woody debris, decrease temperatures in the river, contribute to stabilization of the bank, support and enhance wildlife habitat, and add hydraulic roughness to the floodplain (Snohomish County, 2002). Implementation of this recommended CIP would require coordination with private landowners. The City could work with Snohomish County and residents of the UGA to help implement the CIP.

**Opportunity Area UGA-2. (Protection).** This area is referred to as CIP Number EV-SU-9 in the Snohomish County Drainage Needs Report. This area is also known as “Kein’s side channel.” This area is a side channel of the Sultan River with associated wetlands on the west side of the river, outside of the City’s UGA. The area also receives flow from Ames Creek and supports salmon use (chum spawning and



## City of Sultan Shoreline Master Program

coho overwintering). The area is zoned by Snohomish County for Rural Residential development, and is vulnerable to impacts from future development (Snohomish County, 2002). Snohomish County recommends acquiring the side channel and bar (approximately 12 acres) to protect existing instream spawning and rearing habitat, riparian habitat, and associated wetlands. While this area is outside the City's UGA, the recommended CIP is an important opportunity area since management of adjacent areas in the City's jurisdiction will contribute to conditions in the Sultan River overall.

As the City identifies areas for annexation within the UGA, it could further evaluate conditions in these areas with respect to the elements of this shoreline inventory for the purposes of administering the Shoreline Management Act in newly incorporated areas.

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### EXISTING AND ONGOING PROJECTS

Existing and ongoing outreach organizations have been identified for the Sultan shoreline. These groups are currently involved in shoreline issues and are stakeholders in the Shoreline Master Program. Table 1 below lists ongoing and potential outreach groups for the Sultan shoreline jurisdiction. These organizations could be used as resources for shoreline restoration. Some of these groups have previously been involved in other related projects or may have resources to assist the City in furthering the goals and policies of the Sultan SMP.

The majority of the current restoration efforts in the City of Sultan are related to flood management. Some of these projects include:

- Acquiring properties in the repetitive flood loss areas along the Sultan and Skykomish Rivers
- Floodwall levee construction along the Sultan River
- Wetland connectivity for wetlands associated with Wagley's Creek
- Riparian restoration along Wagley's Creek in the Industrial Park

The City could also benefit from a community education program and incentives to identify and develop restoration opportunities on private property. This could be done through school education and class projects, and by informing residents affected by the Sultan SMP.

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### OUTREACH

The table below identified existing and potential outreach groups with interests in Sultan Shorelines. These groups are currently involved in shoreline issues and are stakeholders in the Shoreline Master Program.





## City of Sultan Shoreline Master Program

**Table 1 - City of Sultan Shoreline Stakeholders**

| Organization  | Name                              | Phone Number                     | Email or Website   |
|---|-----------------------------------|----------------------------------|--|
| Tulalip Tribe   | Abby Hook                         | 360-651-4802                     | ahook@tulaliptribes-nsn.gov<br>7515 Totem Beach Rd<br>Tulalip, WA 98271  |
| Project Lead,<br>Snohomish County<br>SMP                    | Karen Stewart                     | 425-388-3311<br>ext. 2420        | <a href="mailto:Karen.stewart@co.snohomish.wa.us">Karen.stewart@co.snohomish.wa.us</a>   |
| Adopt-a-stream, in<br>Everett                               |                                   | 425-316-8592                     | <a href="http://www.streamkeepers.org">www.streamkeepers.org</a>   |
| Dept. of Fish and<br>Wildlife, Regional<br>Contact          | Darick White                      | 425-379-2321                     |  |
| Habitat Bank  | Steve Sego                        | 206-321-0995                     | <a href="http://www.habitatbank.com">www.habitatbank.com</a>   |
| Snohomish PUD (for<br>the dam)                              | Bruce Meaker                      | 425-782-1722                     | <a href="mailto:bfmeaker@snopud.com">bfmeaker@snopud.com</a>   |
| Sultan High School<br>Science Class                         | Science Teacher                   | 360-793-9860                     |  |
| Sultan Economic<br>Development Board                        | Ken Mayes                         | 360-793-2560                     | <a href="mailto:product@amayesingwoodworks.com">product@amayesingwoodworks.com</a> ,<br><a href="http://www.amayesingwoodworks.com">www.amayesingwoodworks.com</a> |
| Riverfront property<br>owners (Skywall<br>Drive, Dyer Road) |                                   |                                  |  |
| Werner Paddle   | Andy, Bruce Furrer<br>(President) | 360-793-9488                     | <a href="mailto:andy@wernerpaddles.com">andy@wernerpaddles.com</a> ,<br><a href="mailto:bruce@wernerpaddles.com">bruce@wernerpaddles.com</a> ,                     |
| Area Habitat Biologist,<br>WDFW                             |                                   | 425-379-2309 o<br>425-379-2323 f |  |

## OPPORTUNITY AREAS

Opportunity areas for the Sultan shoreline have been identified in the Shoreline Characterization Report. These opportunity areas are intended as sites for restoration of current natural processes and ecological functions, not as sites for future mitigation.

Below in Table 2, these degraded areas, opportunity areas, and restoration opportunities are summarized by type and category by segment. Opportunity types describe the type of restoration that could be done to the identified area. These would be options such as enhancing the site by planting new vegetation, protecting habitat by providing for appropriate functions, restoring wetlands functions for recharging, and acquiring properties in the floodplain.

Opportunity categories relate to the four functions described in the section above. For the City of Sultan these are divided into vegetation and habitat, wetlands, floodplains and geologically hazardous areas.



## City of Sultan Shoreline Master Program

**Table 2 - Shoreline Restoration Segments**

| Segment | Opportunity Area     | Opportunity Type            | Opportunity Category          | Specific Opportunities  |
|---------|----------------------|-----------------------------|-------------------------------|---|
| A       | A-1                  | Enhancement                 | Vegetation                    | Limit clearing and encourage native vegetation  |
| A       | A-2 Reese Park       | Protection and enhancement  | Habitat, wetland              | Off channel habitat or forested wetland enhancement                                       |
| A       | A-3                  | Restoration                 | Habitat, wetlands, floodplain | Future forested wetland, buffer areas   |
| A       | A-4 Osprey Park      | Protection and enhancement  | Vegetation, habitat           | Under planting of alders with conifers  |
| A       | A-5                  | Protection and restoration  | Habitat                       | Salmonid and wildlife habitat   |
| A       | A-unlabeled          | Protection                  | Wetlands                      | Protection of outwash deposits  |
| B       | B-1 Sportsman's Park | Restoration                 | Vegetation                    | Restrict access to the water to reduce the potential for disturbance and erosion          |
| B       | B-2 River Park       | Restoration                 | Vegetation and wetlands       | Planting wetland swale with a diversity of species  |
| B       | B-3                  | Acquisition and restoration | Flooding and habitat          | Increase vegetative cover   |
| C       | C-1                  | Enhancement                 | Vegetation and wetlands       | Planting of native vegetation   |
| C       | C-2                  | Protection and restoration  | Habitat and wetlands          | Retention of native trees and shrubs  |
| C       | C-3                  | Enhancement                 | Vegetation                    | Planting of native shrubs   |
| C       | C-Unlabeled          | Protection                  | Wetlands                      | Protection of the terrace area  |
| D       | D-1                  | Protection                  | Wetlands                      | Protection from development   |
| D       | D-2                  | Protection                  | Vegetation                    | Retention of vegetation to reduce impacts to water temperature and protect the floodplain |
| D       | D-Unlabeled          | Protection                  | Wetlands, floodplain          | Protection of the floodplain to protect overbank flooding and hyporheic zones             |

### FUNDING GROUPS

Below, Table 3 identifies potential funding groups for Sultan Shoreline Restoration. The second column identifies funding categories for each group and the last column identifies the opportunity type for each funding group. The groups in this table can be matched up with the opportunities listed in the table above.





## City of Sultan Shoreline Master Program

Table 3 - Potential Funding Groups for Shoreline Restoration

| Funding Group  | Funding Category   | Eligibility                                      | Deadline       | Contact   | Restoration Goal  | Opportunity Type    |
|--|--|--|----------------|---|---|---------------------|
| National Fish and Wildlife Foundation  | Conserve fish, wildlife, plant habitats  | Local governments, WA State                      | June 1/Oct 15  | Suzanne Piluso<br>503-417-8700<br><a href="mailto:Suzanne.piluso@nfwf.org">Suzanne.piluso@nfwf.org</a>  | Preserve and Restore Habitat Functions                                  | Habitat             |
| Water Quality – DOE  | Water quality, wastewater treatment source, wetland habitat preservation funding, public education | Local governments, recognized tribes             | Feb 3          | Jeff Nejedly<br>360-407-6566  | Protect and Improve Water Quality                                       | Wetlands            |
| Flood Control – DOE  | Fish habitat protection, enhancement   | Cities   | Feb 1          | Bev Huether<br><a href="mailto:bhue461@ecy.wa.gov">bhue461@ecy.wa.gov</a>   | Reduce Impacts of Flooding Events                                       | Flooding Habitat    |
| Community Salmon Fund – King County NFWF   | Fund habitation protection and restoration to benefit watershed health                             | Local governments, WA State, South Snohomish Co. | Aug 15/Sept 15 | Nick Pearson<br>206-691-0700<br><a href="mailto:npearson@evergreenfc.com">npearson@evergreenfc.com</a>  | Preserve and Restore Habitat Functions                                  | Habitat             |
| National Fire Plan   | Reduce fuels on lands at risk  | Cities   | Feb 11         | Lauren Maloney<br>503-808-6587<br><a href="mailto:lauren_maloney@or.blm.gov">lauren_maloney@or.blm.gov</a>  | Preserve Natural areas and Vegetation                                   | Vegetation          |
| F&W Species of Concern   | Land acquisition, habitat conservation, to conserve threatened and endangered species              |  | Dec 17         | Joanne Stellini<br><a href="mailto:Joanne_stellini@fws.gov">Joanne_stellini@fws.gov</a>   | Preserve and Restore Habitat Functions                                  | Habitat             |
| Cooperative Endangered Species Fund  | Conserve threatened or endangered species, protect lands for habitat conservation                  | Not for habitat restoration or enhancement       | March 31       | Elizabeth Rodrick<br>360-902-2696<br>Brad Pruitt<br>360-902-1102  | Preserve Natural Areas and Vegetation                                   | Vegetation          |
| National Resource Conservation Service   | Wetlands easements and restoration   | Landowners, tribes                               | No date listed | Leslie Deavers, USDA<br>202-720-1067  | Protect and Improve Water Quality                                       | Wetlands            |
| Assessment and Watershed Protection Grants - EPA   | Erosion and sediment control management  | Local governments, WA State                      | June 21        | Katie Flahive<br>202-566-1206<br><a href="mailto:flahive.katie@epa.gov">flahive.katie@epa.gov</a>   | Protect and Improve Water quality                                       | Floodplain Flooding |
| Aquatic Lands Enhancement Account - DNR  |  |  |                | Leslie Ryan<br>Phone: (360) 902-1064<br>Email: <a href="mailto:leslie.ryan@wadnr.gov">leslie.ryan@wadnr.gov</a>                                     | Reduce Impacts of Flooding Events                                       | Flooding            |
| Bring Back the Natives – National Fish and Wildlife Foundation                                 |  |  |                | Pam McClelland<br>Phone: (202) 857-0166<br>Email: <a href="mailto:mcclelland@nfwf.org">mcclelland@nfwf.org</a>                                      | Preserve Natural Areas and Vegetation                                   | Habitat Vegetation  |
| Landowner incentive program - Washington State Department of Fish and Wildlife, Lands Division |  |  |                | Ginna Correa or Jeff Skriletz<br>Phone: (360) 902-2478 or (360) 902-8313<br><a href="http://wdfw.wa.gov/lands/lip">http://wdfw.wa.gov/lands/lip</a> | Preserve and Improve Physical and Visual Public Access to the Shoreline | Habitat Vegetation  |
| Regional Fisheries Enhancement Groups - Washington State Department of Fish and Wildlife       |  |  |                | Kristi Lynett<br>Phone: (360) 902-2237<br>Email: <a href="mailto:lynetksl@dfw.wa.gov">lynetksl@dfw.wa.gov</a>                                       | Preserve and Restore Habitat Functions                                  | Habitat             |
| Salmon   |  |  |                | Rollie Geppert  | Preserve and  | Habitat             |



## City of Sultan Shoreline Master Program

|  |   |  |  |  |                                   |                     |
|--|---|--|--|--|-----------------------------------|---------------------|
| Recovery Funding Board - Interagency Committee for Outdoor Recreation                                    |   |  |  | Phone: (360) 902-2636<br>Email: Salmon@iac.wa.gov                            | Restore Habitat Functions         |                     |
| Conservation Futures Fund  |   |  |  | Snohomish County Parks and Recreation<br>425-388-6600                        |                                   | Vegetation Habitats |
| Snohomish Conservation District  | Conservation Reserve Enhancement Program (CREP) |  |  | Jamie Bails<br>Phone: 425-335-5634 ext. 106<br>Email: jaimeb@snohomishcd.org | Conservation Easements            | Vegetation Habitat  |
| Wetland Protection, Restoration, and Stewardship Discretionary Funding - Environmental Protection Agency |   |  |  | Christina Miller<br>Phone: (206) 553-6512<br>Email: miller.christina@epa.gov | Protect and Improve Water Quality | Vegetation Habitat  |

### TIMELINE FOR IMPLEMENTATION

The City of Sultan currently has a few ongoing and existing outreach projects. These can be added to by implementing the identified projects listed in the table above. As stated in the restoration opportunities section above, Segment A is most in need of restoration and Segment B is most likely to have successful restoration, and should be considered higher priority in the restoration process. These factors could be taken into consideration when implementing restoration projects.

Table 4 below lists the restoration project timeline; projects are ranked by short term, medium term, and long term. These projects should be considered to be ranked by priority. The funding groups listed above have application deadlines which also need to be taken into consideration when timing projects.

**Short term** restoration projects include those that could be implemented by local landowners and volunteers and that would benefit the areas most in need. These projects could be implemented in Segments A and B where there is more need for restoration due to flooding and there are also larger areas of publicly owned lands, such as parks. Areas in Segment A are most in need of restoration and have a higher priority – this includes habitat and wetlands restoration in areas such as Reese Park and Osprey Park. Segment B is also high priority for restoration, and has a high chance of success due to the large areas of public ownership in this segment. These projects could be implemented almost immediately or within a few months, depending on grant cycles. This would include:

- National Resource Conservation Service for wetland easements and restoration
- Water Quality Funding under the DOE for wetland habitat preservation and public education
- Fish and Wildlife Species of Concern for land acquisition and habitat preservation
- The Landowner Incentive Program under the Washington State Department of Fish and Wildlife



## City of Sultan Shoreline Master Program

**Medium term** restoration projects could include those that enhance Sultan shorelines that have been designated or acquired previously. These could also be implemented in segment D where there are public access lands that are not likely to be developed in the near future. This would include:

- Flood Control Funding under the Department of Ecology for habitat protection and enhancement.
- Aquatic Lands Enhancement Account funding under the Department of Natural Resources.

**Longer term** restoration projects could be those that require coordination with other jurisdictions or that cover larger land areas. These projects may be more difficult to implement and could require more planning. These would include:

- Community Salmon Fund to benefit watershed health
- National Fire plan to reduce vegetation at risk
- Cooperative Endangered Species Fund to protect lands for habitat conservation
- EPA Assessment and Watershed protection grants for erosion and sediment control
- Bring Back the Natives with the National Fish and Wildlife Foundation

**Table 4 - Restoration Project Timeline**

|   | Restoration Goal  | Strategy for Implementation                          | Short Term (1 – 3 years) | Medium Term (3-5 years) | Long Term (5-10 years) |
|---|---|--|--------------------------|-------------------------|------------------------|
| Wetland Easement and Restoration (NRCS)                 | Preserve and Restore Habitat Functions                                  | Backyard Sanctuary Program                           | *                        |                         |                        |
| Wetland habitat preservation and public education (DOE) | Preserve and Restore Habitat Functions                                  | Community Volunteers, Resource Directory             | *                        |                         |                        |
| Land Acquisition (F&W)                                  | Preserve and improve physical and visual public access to the shoreline | Shore Stewards Education                             | *                        |                         |                        |
| Landowner Incentive Program (F&W)                       | Multiple Goals  | Shore Stewards Education, Backyard Sanctuary Program | *                        |                         |                        |
| Flood Control Funding (DOE)                             | Reduce Impacts of Flooding Events                                       | Capital Facilities Program                           |                          | *                       |                        |
| Aquatic Lands Enhancement (DNR)                         | Preserve and Restore Habitat Functions                                  | Volunteer Coordination, Backyard Sanctuary Program   |                          | *                       |                        |
| Watershed Health (Community Salmon Fund)                | Protect and Improve Water Quality                                       | Resource Directory, Backyard Sanctuary Program       |                          |                         | *                      |
| Reduce Vegetation at Risk (National Fire Plan)          | Preserve Natural Areas and Vegetation                                   | Resource Directory, Shore Stewards Education         |                          |                         | *                      |



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|  | Restoration Goal                       | Strategy for Implementation                    | Short Term (1 – 3 years) | Medium Term (3-5 years) | Long Term (5-10 years) |
|--|--|--|--------------------------|-------------------------|------------------------|
| Habitat Conservation (Cooperative Endangered Species Fund) | Preserve and Restore Habitat Functions | Resource Directory, Backyard Sanctuary Program |                          |                         | *                      |
| Erosion and Sediment Control (EPA)                         | Protect and Improve Water Quality      | Capital Facilities Program                     |                          |                         | *                      |
| Bring Back the Natives (NFWF)                              | Preserve and Restore Habitat Functions | Volunteer Coordination, Resource Directory     |                          |                         | *                      |

### STRATEGIES FOR IMPLEMENTATION

This section discusses programmatic measures for the City of Sultan designed to foster shoreline restoration and achieve a net improvement in shoreline ecological processes, functions, and habitats. With projected budget and staff limitations, the City of Sultan does not anticipate leading most restoration projects or programs. However, the City's SMP represents an important vehicle for facilitating and encouraging restoration projects and programs that could be led by local private and non-profit entities. The discussion of restoration mechanisms and strategies below highlights programmatic measures that the City could implement, as well as parallel activities that would be led by other governmental and non-governmental organizations.

The city currently has a lot of public open space located within its shorelines, however current zoning does not reflect these open spaces. Although these areas are zoned residential, development is not likely. If the city were to create a less intensive zone for these open spaces or to rezone these areas to conservancy or natural designations, this would offer significant habitat protection and conservation.

#### Volunteer Coordination

Another way the city could accomplish restoration projects is by using community volunteers. Volunteers could be recruited for project implementation and monitoring and the city would provide equipment and expertise. The city would also need to fund a volunteer coordinator to organize projects, solicit various environmental groups and individual volunteers to complete the projects and partner or coordinate with other government entities on projects. This would be a good opportunity for the Sultan High School class listed in the outreach section.

#### Capital Facilities Program

The City could develop shoreline restoration as a new section of the city's Capital Facilities Program, even if not immediately funded, to ensure that they are considered during the City's budget process.

Shoreline restoration could also be linked to capital facilities projects that take place in the city's shorelines, such as when there are updates to the waste water treatment plant, highway construction on State Route 2, and parks improvements.



## City of Sultan Shoreline Master Program

### Shore Stewards Education

Shore Stewards are shoreline property owners and residents of waterfront communities with shared beach access who voluntarily follow 10 wildlife-friendly guidelines in caring for their beaches, bluffs, gardens and homes. These guidelines help them create and preserve a healthy shoreline environment for fish, wildlife, birds and people. This program was created to help shoreline residents feel more connected to the nearshore ecosystem because they feel that when people understand the natural processes at work on their beaches, they may play a more active, positive role in the preservation of healthy, fish-friendly wildlife habitats.

The 10 guidelines for shoreline living are:

1. Use water wisely.
2. Maintain your septic system.
3. Limit pesticide and fertilizer usage.
4. Manage upland water runoff.
5. Encourage native plants and trees.
6. Know permit procedures for shoreline development.
7. Develop on bluffs with care.
8. Minimize bulkheads, docks and other structures.
9. Respect intertidal life.
10. Preserve eelgrass beds and forage fish spawning habitat.

Shore Stewards was created in 2002 with grant funding by the Island County Marine Resources Committee. The pilot program was launched on Camano Island by a dedicated group of Washington State University (WSU) Beach Watchers, who wrote the resource-packed Shore Stewards Guide. Shore Stewards is now expanding to other counties of Puget Sound. This would be a good opportunity for the riverfront property owners listed in the outreach table. This would include residents of Skywall Drive and Dyer Road in shoreline segment B.

### Resource Directory

Develop a resource list for property owners that want to be involved in restoration. Two examples of grant programs that could be included are below, others are included in the funding groups table above.

*Landowner Incentive Program (LIP)* – This is a competitive grant process to provide financial assistance to private individual landowners for the protection, enhancement, or restoration of habitat to benefit species-at-risk on privately owned lands. Check the LIP website after mid-August for information about the next application cycle that will be open September through November 2005. Please direct questions to Ginna Correa at [corregcc@dfw.wa.gov](mailto:corregcc@dfw.wa.gov).

*Salmon Recovery Funding Board (SRFB) Grant Programs* – SRFB administers two grant programs for protection and/or restoration of salmon habitat. Eligible applicants can include municipal subdivisions (cities, towns, counties, ports, conservation districts, utility, park and recreation, and school districts), Tribal governments, state agencies, nonprofit organizations, and private landowners. All projects require lead entity approval, and the lead entity for your region should be contacted before applying to explain the process. Applications for funding are due to the SRFB on September 30, 2005.



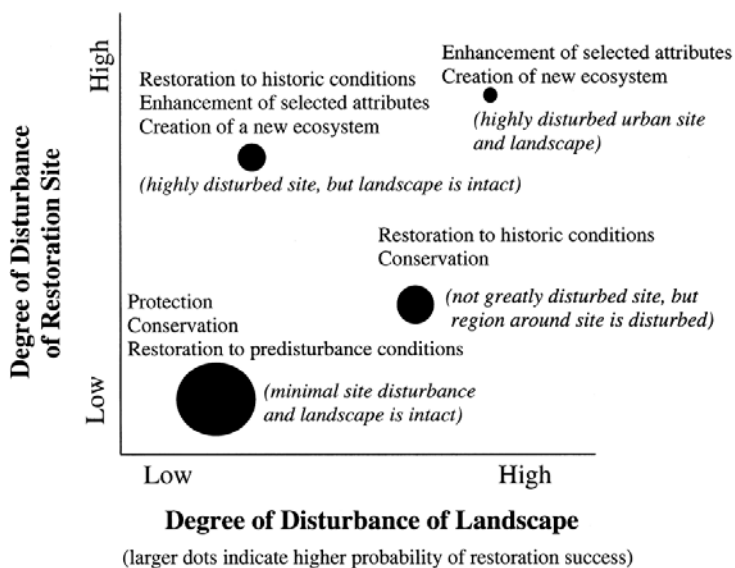
## City of Sultan Shoreline Master Program

### Backyard Sanctuary Program

Encourage participation in Washington Department of Fish and Wildlife backyard sanctuary program. Since the City recognizes that there are important opportunities to improve shoreline ecological conditions and functions through non-regulatory, volunteer actions by shoreline residents and property owners it might examine the potential for property tax breaks for shoreline property owners who actively manage their property for habitat protection or enhancement. To encourage volunteer actions that better shoreline ecological functions and values, shoreline property owners actively participating in the WDFW backyard sanctuary program or some similar program could receive, for example, a 5% credit on their City property taxes.

### EVALUATION CRITERIA

When a project is proposed for implementation by the city, other agency or by a private party, the restoration project should be evaluated to ensure that the project's objectives are consistent with those of the Restoration Plan and, if applicable, that the project warrants implementation above other candidate projects. (It is recognized that, due to funding sources or other constraints, the range of any individual project may be narrow.)



It is also expected that the list of potential projects may change over time, that new projects may be identified and existing opportunities may become less relevant as restoration occurs and as other environmental conditions, or our knowledge of them, change.

When evaluating potential projects, priority should be give to projects most meeting the following criteria:



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- Restoration meets the goals for shoreline restoration.
- Restoration of processes is generally of greater importance than restoration of functions.
- Restoration avoids residual impacts to other functions or processes.
- Projects address a known degraded condition.
- Conditions that are progressively worsening are of greater priority.
- Restoration has a high benefit to cost ratio.
- Restoration is feasible, such as being located on and accessed by public property or private property that is cooperatively available for restoration. Restoration should avoid conflicts with adjacent property owners.
- There is public support for the project.
- Avoids property conflicts.

The city should consider developing a project “score card” as a tool to evaluate projects consistent with these criteria. The project scorecard from the Lower Columbia River Estuary Partnership could be used as a starting point.

### Project Monitoring

Project monitoring will be taking place in the City of Sultan through the city’s Critical Areas Regulations. The Critical Area Regulations will monitor individual projects taking place in the city’s shorelines. These monitoring efforts include: critical areas studies, mitigation plans, buffer requirements, review criteria for development activities, and performance standards.

Critical area studies are required under SMC 16.80.130, Ordinance 918-06, 11/4/06 (Appendix B) for developments, and are to be completed by a qualified professional. These studies are to include a discussion on the existing functional values of the critical area, and a discussion of the changes that could result from the development. Mitigation plans are required under SMC 16.80.140, Ordinance 918-06, 11/04/06 (Appendix B) to address restoration, rehabilitation, and compensation.

These mitigation plans are to include: a baseline study, goals and objectives, replacement of lost functional values, and contingency provisions. Review criteria for critical areas is required under SMC 16.80.170, Ordinance 918-06, 11/4/06 (Appendix B), this includes evaluation of proposed developments under a hierarchy of goals.

In addition to project monitoring required for individual restoration and mitigation projects; the city should conduct system-wide monitoring, to the degree practical, recognizing that individual project monitoring does not provide an assessment of overall shoreline ecological health. The following three prong approach is suggested:

1. Track information using the city’s GIS system as activities occur (both restoration and mitigation) for the individual shoreline segments, such as:
  - Removal of fill
  - Vegetation
  - Bulkheads/armoring

The city may require project proponents to monitor as part of project mitigation, which may be incorporated into this process.





## City of Sultan Shoreline Master Program

2. Re-review status of environmental processes and functions at the time of periodic SMP updates.
  - Review progress by segment to evaluate the key processes
  - Review segment progress towards the restoration goals
3. Periodically review the regional ongoing monitoring programs, such as:
  - Snohomish County Monitoring
  - Watershed health

As monitoring occurs, the city should periodically reassess environmental conditions and restoration goals. Those ecological process and functions that are found to be worsening may need to become elevated in priority to prevent loss of critical resources. Alternatively, successful restoration may reduce the importance of some restoration objectives in the future.

# Appendix A

## State Environmental Policy Act and Flood Damage Prevention

### Sultan Municipal Code 17.04 (Ord. 714-00) and 17.08 (Ord. 808-03)

#### 17.08.010 Statutory authorization.

The Legislature of the State of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city of Sultan does ordain as set forth in this chapter. (Ord. 808-03)

#### 17.08.020 Findings of fact.

A. The flood hazard areas of the city of Sultan are subject to periodic inundation that may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in floodplains resulting in increases in flood heights and velocities, and by the occupancy in flood hazard lands of structures that are inadequately elevated, floodproofed, or otherwise unprotected from flood damage. (Ord. 808-03)

#### 17.08.030 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters;

D. Control filling, grading, dredging and other development that may increase erosion or flood damage; and

E. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. 808-03)

#### 17.08.040 Objectives.

The objectives of this chapter are:

A. To protect human life and health;

- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize the number of blighted areas that could be created by floods;
- F. To ensure that potential homebuyers are notified that property is in a flood area; and
- G. To prevent the loss of federal assistance to the city of Sultan due to a violation of federal flood control requirements. (Ord. 808-03)

#### **17.08.060 General provisions.**

A. Lands to Which These Performance Standards Apply. These performance standards shall apply to all areas of special flood hazards within the jurisdiction of the city of Sultan.

B. Basis for Establishing the Areas of Special Flood Hazard. The area of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas," dated November 8, 1999, and any revisions thereto, with accompanying flood insurance rate map (FIRM) are adopted by reference and declared to be a part of these performance standards.

C. Establishment of Permit. A permit shall be required in conformance with the provisions of these standards prior to the commencement of any development activities.

D. Compliance. No structure or land shall hereafter be located, extended, constructed or structurally altered without full compliance with the terms of these standards and other applicable laws.

E. Abrogation and Greater Restrictions. These performance standards are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these standards and any other conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation. In the interpretation and application of these standards, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally constructed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state of Washington or federal laws.

G. Warning and Disclaimer of Liability. The degree of flood protection required by these performance standards is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. These standards do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. These standards shall not create liability on the part of the city of Sultan or by any officer or employee thereof for any flood damages that result from reliance on these standards or any administrative decision lawfully made thereunder. (Ord. 808-03)

#### **17.08.070 Administration.**

A. Designation of the Building and Zoning Official. The building and zoning official is hereby designated to administer and implement the provisions of these performance standards.

B. Permit Procedure. Application for a permit shall be made to the building and zoning official prior to any development activities, and shall include, but not be necessarily limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing facilities; the location of the proposed development activity; proposed cuts and filling of any land area; existing and/or

proposed storage of materials; existing and/or proposed stormwater drainage facilities; and the locations of all of the foregoing. Specifically, the following information is required:

1. Application Stage.

a. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;

b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

c. Certificate from a registered professional engineer or architect registered in the state of Washington that the nonresidential floodproofed structure will meet the floodproofing criteria contained in these performance standards; and

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage. Provide a floor elevation or floodproofing certification after the lowest floor is completed. Upon placement of the lowest floor, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the building and zoning official's office a certification of the elevation of the lowest portion of the horizontal structural members of the lowest floor, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

3. When floodproofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The building and zoning official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey, or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project. (Ord. 808-03)

**17.08.080 Duties and responsibilities of the building and zoning official.**

The duties of the building and zoning official shall include, but not be limited to:

A. Permit Review.

1. Review all permits to assure that the permit requirements of these standards have been satisfied.

2. Advise the permittee that additional federal, state of Washington, or Snohomish County permits may be required, and if these specific permit requirements are known, require that copies of such permits be provided and maintained on file with the permit.

3. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

4. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

5. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.

6. When floodproofing is utilized for a particular structure, the building and zoning official shall obtain certification from a professional engineer or architect registered in the state of Washington.

7. Where interpretation is needed to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be conflict between a mapped boundary and actual field conditions), the building and zoning official shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

8. When base flood elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

9. All records pertaining to the provisions of these performance standards shall be maintained in the office of the building and zoning official and shall be open for public inspection. (Ord. 808-03)

#### **17.08.110 Provisions for flood hazard reduction.**

A. General Standards. In all areas of special flood hazard the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. All manufactured homes shall meet the anchoring standards of subsection (B)(4)(b)(ii) of this section.

3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

4. New construction or substantial improvements shall be erected by methods and practices that minimize flood damage.

5. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into them and discharges from them into flood waters.

8. On-site waste disposal systems (septic tanks) shall be located and constructed to avoid impairment to them or contamination from them during flooding.

9. Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this section, shall meet the requirements of "new construction" as contained in this section.

B. Specific Standards. In all areas of special flood hazard where base flood elevation data have been provided, the following provisions are required:

1. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than 1.6 feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided per subsection (B)(3) of this section.

2. Nonresidential Construction. New construction or substantial improvement of any commercial, industrial, or nonresidential structure shall either have the lowest floor, including basement, elevated 1.6 feet or more above the base flood elevation, together with attendant utility and sanitary facilities, or shall:

a. Be floodproofed to a point 1.6 feet or more above the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a professional engineer or architect registered in the state of Washington, that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design,

specifications and plans. Such certifications shall be provided to the official as set forth in SMC 17.08.070;

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standard for space below the lowest floor as described in subsection (B)(3) of this section.

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).

3. Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect registered in the state of Washington or meet the following minimum criteria:

i. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

ii. The bottom of all openings shall be no higher than one foot above grade; and

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

b. Electrical, plumbing, and other utility connections are prohibited below the base flood elevation;

c. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

d. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

#### 4. Manufactured Homes.

a. All manufactured homes to be placed or substantially improved within Zones A1 – A30, AH, and AE on the community's FIRM on sites:

i. Outside of a manufactured home park or subdivision;

ii. In a new manufactured home park or subdivision;

iii. In an expansion to an existing manufactured home park or subdivision;

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 1.6 feet above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement;

b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1 – A30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

i. The lowest floor of the manufactured home is elevated 1.6 feet above the base flood elevation, or

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

5. Floodways. Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles and has erosion potential, the following provisions shall apply:

a. Encroachments, including fill, new construction, substantial improvements, and other development, shall be prohibited, unless certification (with supporting technical data) by a professional

engineer registered in the state of Washington is provided, demonstrating that such encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

b. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

i. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and

ii. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (A) before the repair or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent.

#### **17.08.120 Standards for subdivision proposals.**

A. All subdivision proposals shall be consistent with the need to minimize flood damage;

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

D. Base flood elevation data shall be provided for subdivision proposals and other proposed development that is no less than three acres in size. (Ord. 808-03)

#### **17.08.130 Recreational vehicles.**

Recreational vehicles placed on sites within Zones A1 – A30, AH, and AE on the community's FIRM either:

A. Be on the site for fewer than 180 consecutive days; no recreational vehicles may be left in a flood zone during a flood warning or watch.

B. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

C. No recreational vehicle may be used as a permanent residence. (Ord. 808-03)

#### **17.08.140 Critical facility.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Ord. 808-03)



# Appendix B

## Critical Areas Regulations

### Sultan Municipal Code

#### 16.80 Ordinance 918-06

#### Chapter 16.80 CRITICAL AREAS REGULATIONS (CAR)

##### 16.80.010 Purpose.

It is the purpose of this chapter to promote the public health and general welfare by designating wetlands, streams, habitat areas, and geologically hazardous areas, and regulating development activity in these areas. Additionally, it is the intent of this chapter to adopt development regulations, required in RCW 36.70A.060, precluding land uses or development that is incompatible with critical areas designated under RCW 36.70A.170.

##### 16.80.020 Objectives.

The objectives of this chapter are to: A. Protect human life and health; B. Further the public interest in the conservation and wise use of our lands; and C. Assure the long-term conservation of resource lands.

##### 16.80.030 Applicability.

- A. The provisions of this chapter shall apply to all land uses in the City of Sultan, and all persons within the City shall comply with the requirements of this chapter.
- B. The City shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water or vegetation or to construct or alter any structure or improvement without first assuring compliance with the requirements of this chapter.
- C. Approval of a development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.
- D. When any provision of any other chapter of the Sultan Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, that provision that provides more protection to environmentally critical areas shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with federal or state laws or regulations.

##### 16.80.050 Exemptions.

The following are exempt from the provisions of this chapter:

- A. Alterations in response to emergencies that threaten the public health, safety, and welfare or that pose an imminent risk of damage to private property as long as any alteration undertaken pursuant to this subsection is reported to the department immediately. Mitigation may be required following the emergency to protect the health, safety, welfare and environment and to repair any resource damage;

C. Maintenance, operation, repair, modification, or replacement of publicly improved streets as long as any such alteration does not involve the expansion of streets or related improvements into previously unimproved rights-of-way or portions of rights-of-way;

D. Maintenance, operation, or repair of parks, trails and publicly improved recreation areas as long as any such alteration does not involve the expansion of improvements into previously unimproved areas or new clearing of native vegetation beyond routine pruning and related activities.

**16.80.060 Critical area markers, signs and fencing.**

The city may require fencing, signs and survey markers as need to delineate and protect critical areas. If found to be necessary, permanent fencing shall be required at the edge of the critical area or buffer. Fencing installed in accordance with this section shall be designed to not interfere with fish and wildlife migration and shall be constructed in a manner that minimizes critical areas impacts.

**16.80.070 Notice on title.**

The owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of development, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by the City with the county property records office. The required contents and form of the notice shall be determined by the city. The notice shall inform the public of the presence of critical areas, buffers or mitigation sites on the property, of the application of this chapter to the property and that limitations on actions in or affecting such critical areas or buffers may exist. The notice shall run with the land.

**16.80.080 Critical area tracts and designations on site plans.**

A. Critical area tracts shall be used to protect those critical areas and buffers listed below in development proposals for subdivisions, short subdivisions, planned unit developments or binding site plans and shall be recorded on all documents of title of record for all affected lots:

1. All landslide hazard areas and buffers that are one acre or greater in size;
2. All wetlands and buffers; and
3. All streams and buffers.

B. Any required critical area tract shall be held in an undivided interest by each owner of a building lot within the development with this ownership interest passing with the ownership of the lot or shall be held by an incorporated homeowner's association or other legal entity which assures the ownership, maintenance, and protection of the tract, or dedicated to the City, at the City's discretion.

**16.80.100 Classification of streams and wetlands.**

A. Stream Classifications. Streams are classified based on the water typing criteria in WAC 222-16-031 and are summarized below:

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

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

- a. Are diverted for domestic use by more than one hundred (100) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the Department of Natural Resources to be a valid appropriation of water and only considered Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by fifty (50%), or whichever is less;
- b. Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality.
- c. Are within a federal, state, local or private campground having more than thirty (30) camping units: provided that the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within one hundred (100) feet of a camping unit.
- d. Are used by fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:
  1. Stream segments having a defined channel twenty (20) feet or greater within the bankfull width and having a gradient of less than four percent (4%).
  2. Lakes, ponds, or impoundments having a surface area of one (1) acre or greater at seasonal low water; or
- e. Are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:
  1. The site must be connected to a fish bearing stream and be accessible during some period of the year; and
  2. The off-channel water must be accessible to fish through drainage with less than a five percent (5%) gradient.

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

1. Are diverted for domestic use by more than ten (10) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the Department of Natural Resources to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by fifty percent (50%), whichever is less;
2. Are used by fish for spawning, rearing or migration. The requirements for determining fish use are described in the State Forest Practices Board Manual, Section 13. If fish use has not been determined:
  - a. Waters having the following characteristics are presumed to have fish use:
    1. Stream segments having a defined channel of two (2) feet or greater within the bankfull width and having a gradient of sixteen percent (16%) or less.
    2. Stream segments having a defined channel or two (2) feet or greater within the bankfull width and having a gradient greater than sixteen

percent (16%) and less than or equal to twenty percent (20%), and having greater than fifty (50) acres in contributing basin size, based on hydrographic boundaries.

3. Ponds or impoundments having a surface area of less than one (1) acre at seasonal low water and having an outlet to a fish stream;
4. Ponds or impoundments having a surface area greater than one half (0.5) acre at seasonal low water.
- b. The Department of Natural Resources shall waive or modify the characteristics in (a) of this Subsection where:
  1. Waters have confirmed, long term, naturally occurring water quality parameters incapable of supporting fish
  2. Snowmelt streams have short flow cycles that do not support successful life history phases of fish. These streams typically have no flow in the winter months and discontinue flow by June 1; or
  3. Sufficient information about a geomorphic region is available to support a departure from the characteristics in (a) of this Subsection, as determined in consultation with the Department of Fish and Wildlife, Department of Ecology, affected tribes and interested parties.
4. **Type 4 Water** – All segments of natural waters within the bankfull width of defined channels that are perennial non-fish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type 4 Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, non-technical observations (see State Forest Practices Board Manual, Section 23), then Type 4 Waters begin at a point along the channel where the contributing basin area is:
  1. At least thirteen (13) acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);
  2. At least fifty two (52) acres in other locations in Western Washington;
5. **Type 5 Waters** – All segments of natural waters within the bankfull width of the defined channels that are not Type 1, 2, 3, or 4 Waters. These are seasonal, non-fish habitat streams in which surface flow is not present for at least some portion of the year and are not located downstream from any stream reach that is a Type 1, 2, 3, or 4 Waters.

B. Wetlands Categories. All determinations of wetlands rating will be based on the entire extent of the wetlands, unrelated to property lines or ownership patterns.

Wetlands shall be rated according to the *Washington State Wetland Rating System for Western Washington* (Department of Ecology 2004, as revised). This document contains the definitions, methods and a rating form for determining the categorization of wetlands described below:

- Category 1.** Category 1 wetlands include those that receive a score of greater than or equal to 70 based on functions, or those that are rated Category 1 based on Special Characteristics as defined in the rating form.
- Category 2.** Category 2 wetlands include those that receive a score of 51 through 69 based on functions, or those that are rated Category 2 based on Special Characteristics as defined in the rating form.
- Category 3.** Category 3 wetlands include those that receive a score of 30 through 50 based on functions.

**Category 4.** Category 4 wetlands score less than 30 points based on functions.

**16.80.110 Regulation of small wetlands.**

Small wetlands are those that are less than 4,000 square feet.

A. Wetlands less than 1,000 square feet are exempt where it has been shown by the applicant that the wetland is not associated with a riparian corridor, they are not part of a larger wetland system, and do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife.

B. Wetlands between 1,000 and 4,000 square feet are to be evaluated using the 2004 Western Washington Wetland Rating System and the below criteria when determining whether or not to exempt these smaller wetlands:

1. Category III and IV wetlands between 1,000 and 4,000 square feet may be exempt if the following requirements are met:

- a. The wetland is not associated with a riparian corridor; and
- b. The wetland is not part of a larger wetland system; and
- c. The wetland does not score 20 points or greater for habitat in the 2004 Western Washington Rating System; and
- d. The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife.
- e. Surface water impacts are mitigated pursuant to an approved mitigation plan or the Department of Ecology Storm Water Management Manual when necessary.

C. Buffers of a small wetland may be altered only when the alteration and design will result in a net improvement of the functional value of the stream or wetland and their buffer.

1. Averaging Buffer Widths. The width of a buffer of a small wetland may be averaged, thereby reducing the width of a portion of the buffer and increasing the width of another portion, if all of the following requirements are met:

- a. Averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, groundwater recharge, shoreline protection and erosion protection, and other functions of the stream, wetland, or buffer;
- b. The total area of the buffer on the subject property is not less than the buffer which would be required if averaging were not allowed; and
- c. No part of the width of the buffer is less than 75 percent of the required width or 35 feet, whichever is greater.

2. Buffer Width Reduction. Buffer widths of a small wetland may be reduced if the buffer is enhanced in accordance with the following requirements:

- a. Buffers, or buffers required after buffer averaging, will have a minimal functional value due to existing physical characteristics;
- b. The applicant demonstrates that proposed buffer enhancement, together with proposed buffer width reduction, will result in an increase in the functional value of the buffer when compared with the functional value of the standard buffer;
- c. The applicant includes a comparative analysis of buffer values prior to and after enhancement, and demonstrates compliance with this chapter, as part of the critical area study required by SMC 16.80.060;
- d. The buffer width is not reduced below 50 percent of the standard buffer width, or 35 feet, whichever is greater, and the total buffer area reduction is not less than 75 percent of the total standard buffer area required by 16.80.120 (A) or (B) before reduction; and
- e. The functional values of the stream or wetland protected by the buffer are not decreased.

**16.80.130 Critical area study content requirements for streams or wetlands.**

A critical area study is required to be prepared by a qualified professional with experience with the relevant type of habitat for any development activity allowed under SMC 16.80.050 or 16.80.080. Depending on the characteristics of the site and the information submitted by the applicant, the City may require any or all of the following as part of the critical area study:

A. A map drawn to scale or survey showing the following information:

1. The edge of the wetland based on the State Manual for Identifying and Delineating Jurisdictional Wetlands;
2. The wetlands characteristics and plant communities based on the U.S. Fish and Wildlife Service Classification of Wetlands and Deep Water Habitats in the U.S.;
3. Stream corridors, name (if named), and stream type based on the State Department of Natural Resources' Official Water Type Maps; and
4. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that make use of the area including, but not limited to, nesting, breeding, and feeding areas.

B. A description of the streams and wetlands within 200 feet of the subject development, including buffers, drainage systems entering and leaving the site, a list of observed and documented plant and wildlife species, a description of the relative abundance of documented plant and wildlife species, and a description of the method used for flagging the wetlands edge, stream corridor, and buffers.

C. A description and illustration of proposed development activities allowed under SMC 16.80 within streams, wetlands, or buffers.

D. A description of any previous disturbances to the streams, wetlands, or buffers.

E. A summary of the methodology used to conduct the study.

F. A proposed classification of the streams and wetlands based on SMC 16.80.100 and an explanation or rationale for the proposed rating.

G. A mitigation plan which meets the requirements of SMC 16.80.140.

H. A stream relocation plan which meets the requirements of SMC 16.80.160(A)(7), if applicable.

I. A discussion of existing functional values of the stream(s), wetland(s), and buffers.

J. A discussion of the changes to stream, wetland, and buffer functional values resulting from the proposed development activity. The city will assist landowners applying for permits to develop a single-family home in gathering the required information.

K. A detailed discussion of direct and indirect potential impacts on habitat by the project, including water quality impacts.

**16.80.140 Mitigation plan requirements for streams or wetlands.**

A. Unless otherwise provided by this chapter, mitigation shall be required for loss of area or functional value of wetlands, streams, and buffers. When mitigation is required by this chapter, it shall address restoration, rehabilitation, and compensation in accordance with the following requirements:

1. Restoration is required when a wetland, stream, or buffer has been altered prior to project approval, unless the alteration was authorized by law; or when streams, wetlands, and/or buffers are temporarily affected by construction or any other temporary phase of a project;
2. Mitigation is required when a wetland, stream, or buffer is permanently altered as a result of project approval or activity;
3. Wetland acreage shall be replaced at a ratio of 6:1 for Category 1 wetlands, 3:1 for Category 2 wetlands, 2:1 for Category 3 wetlands, and 1.5:1 for Category 4 wetlands, to compensate for the loss of functional values over time, and the unproven nature of wetland creation/restoration projects;
4. On-site mitigation is preferred so as to assure, to the greatest extent feasible, that the plan results in mitigation for direct impacts resulting from the alteration;
5. Off-site mitigation within the same drainage basin will be preferred to on-site mitigation when the results can achieve greater benefits or functions than on-site mitigation, or would restore or enhance functions that are limiting or important to the health of the watershed.
6. Mitigation shall be completed prior to the completion and final approval of any development activity for which mitigation measures have been required.

B. The mitigation plan shall include:

1. A baseline study that analyzes the existing functional values of the critical area and buffer, functional values that will be lost, and the system's functional values after mitigation;
2. Specific goals and objectives, performance standards, and monitoring and maintenance measures;
3. Specify how lost functional values will be replaced;
4. Specify when mitigation will occur relative to project construction and to the requirements of permits required by other jurisdictions;
5. Contingency provisions if the performance standards are not met by the end of the monitoring period for the mitigation area for at least five years for plant installation and ten years for woody vegetation to determine whether the plan was successful;
6. Provisions for a bond or a series of bonds to assure that work is completed in accordance with the plan, and that restoration or rehabilitation is performed if any portion of the mitigation project fails within three years of implementation; and
7. Address the need for and, when appropriate, determine the width of the buffer adjacent to any altered wetland edge.

C. Mitigation plans shall be approved prior to any development activity.

**16.80.150 Buffer requirements for streams and wetlands.**

Buffers shall be required for all streams and wetlands regulated by this chapter. Required stream and wetland buffer widths are as stated in this section.

A. Standard required widths for stream buffers are as follows:

2. For a Type 2 stream: 150 feet;
3. For a Type 3 stream: 100 feet;
4. For a Type 4 stream: 50 feet; and
5. For a Type 5 stream: 50 feet.

B. Standard required widths for wetland buffers are as follows:

1. For Category 1 wetlands: 150 feet;
2. For Category 2 wetlands: 100 feet;
3. For Category 3 wetlands: 50 feet; and
4. For Category 4 wetlands: 50 feet.

C. Measurement. For streams and wetlands, the buffer shall be measured horizontally in a landward direction from the ordinary high water mark or wetland edge, respectively.

D. The Standard required widths for wetland buffers shall be increased for each category of wetland to the following widths if the habitat function scores meet the following thresholds:

1. For Category 1 wetlands: 225 feet if the habitat function score is 29 or greater;
2. For Category 2 wetlands: 225 feet if the habitat function score is 29 or greater;
3. For Category 3 wetlands: 110 feet if the habitat function score is 20 or greater; and
4. For Category 4 wetlands: there is no increase regardless of habitat function score.

E. Where increased buffers to streams or wetlands are adjacent to erosion or landslide hazard areas, the buffer shall include such areas. Where the horizontal distance of the area is greater than the required standard buffer, the buffer shall be extended to a point 25 feet beyond the top of the bank.

F. Where a legally established and constructed public roadway transects a wetland buffer, the department may approve a modification of the standard buffer width to the edge of the roadway if the isolated part of the buffer does not provide additional protection of the wetland and provides insignificant biological, geological or hydrological buffer functions relating to the wetland. If the resulting buffer distance is less than 50% of the standard buffer for the applicable wetland category, no further reduction shall be allowed.

**16.80.170 Review criteria for development activities in streams, wetlands, and buffers.**

A. The city shall evaluate each proposed development activity in a stream, wetland, or buffer in accordance with the following hierarchy of goals: avoid impacts; minimize impacts; repair and restore impacts; reduce impacts over time; or mitigate impacts through replacement, restoration, or enhancement of functions.

B. To utilize the provisions set forth in SMC 16.80.160, applicants must submit a critical area study. The city will review the critical area study and proposed development activity in accordance with the following criteria:



1. The development activity will not:
  - a. Adversely affect water quality;
  - b. Destroy, damage, or disrupt a fish and wildlife habitat area;
  - c. Adversely affect drainage or storm water detention capabilities; or
  - d. Lead to unstable earth conditions or erosion;
2. The impacts are the minimum necessary to accommodate the development activity and are fully mitigated in accordance with SMC 16.80.140;
3. Any disruption to a critical area will occur in the least sensitive area; and
4. Critical areas or buffers temporarily disrupted during construction will be restored.

**16.80.180 Stream and wetland performance standards**

Development on sites with a wetland, stream or buffers shall incorporate the following performance standards in design of the development, as applicable:

- A. Lights shall be directed away from the wetland or stream.
- B. Activity that generates noise such as parking lots, generators, and residential uses, shall be located away from the wetland or stream, or any noise shall be minimized through use of design and insulation techniques.
- C. Toxic runoff from new impervious areas shall be routed away from the wetlands or stream, and shall be 100% contained.
- D. Runoff from other impervious surfaces shall be infiltrated into the buffer.
- D. The outer edge of the wetland or stream critical area buffer shall be planted with dense vegetation to limit pet or human use

**16.80.190 Erosion hazard areas – Development standards and permitted alterations.**

- A. Land clearing, grading, filling, and foundation work in an erosion hazard area is allowed only from May 1st to September 30th, except that:
  1. Construction outside of this seasonal development limitation may be authorized if the City determines that the hazard area will not be adversely impacted by the proposed construction work or the applicant demonstrates that erosion hazards will be fully mitigated.
  2. The City may require geotechnical study of the site, grading, structural improvements, hydrology, soils and storm water retention studies, erosion control measures, restoration plans, and/or an indemnification/release agreement.
  3. Timber harvest may be allowed pursuant to an approved forest practice permit issued by the Washington Department of Natural Resources.
- B. All development proposals on sites containing erosion hazard areas shall include a temporary erosion control plan consistent with this section and the adopted surface water design manual or as otherwise specified by the department prior to receiving approval.
- C. All subdivisions, short subdivisions, planned unit developments or binding site plans on sites with erosion hazard areas shall comply with the following additional requirements:
  1. Except as provided in this section, existing vegetation shall be retained on all lots until building permits are approved for development on individual lots;
  2. If any vegetation on the lots is damaged or removed during construction of the site infrastructure, the applicant shall be required to submit a restoration plan to the city for review and approval. Following approval, the applicant shall be required to implement the plan;
  3. Clearing of vegetation on lots will only be allowed when the City determines that:
    - a. Such clearing is a necessary part of a large scale grading plan;

- b. It is not a reasonable alternative to perform such grading on an individual lot basis; and
  - c. Drainage from the graded area will meet water quality standards established by the adopted surface water design manual.
- D. Where the City determines that erosion from a development site poses a significant risk of damage to downstream receiving waters, based either on the size of the project, the proximity to the receiving water or the sensitivity of the receiving water, the applicant shall be required to provide regular monitoring of surface water discharge from the site. If the project does not meet adopted water quality standards established by law, the City may suspend further development work on the site until such standards are met.

**16.80.200      Landslide hazard areas – Development standards and permitted alterations.**

A development proposal containing or within 50 feet of a landslide hazard area shall meet the following requirements:

A. A minimum buffer of 50 feet shall be established from all edges of the landslide hazard area. The buffer shall be extended as required to mitigate a landslide hazard or as otherwise necessary to protect the public health, safety, and welfare.

B. The buffer may be reduced to a minimum of 15 feet if, based on a geotechnical study, the City determines that the reduction will adequately protect the proposed development and other properties, the hazard area and other critical areas.

1. For single-family residential building permits only, the City may waive the geotechnical study requirement if other development in the area has already provided sufficient information or if such information is otherwise readily available.

2. The geotechnical study for a landslide hazard area shall include:

- a. A description of the extent and type of vegetative cover;
- b. A description of subsurface conditions based on data from site-specific explorations;
- c. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
- d. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
- e. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;
- f. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties.
- g. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
- h. Recommendations for building siting limitations; and
- i. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

3. The city may waive or modify the requirement for a study if the applicant shows that critical areas are located off-site and access to applicable off-site property is restricted.

4. If the development proposal will affect only a part of the development proposal site, the city may limit the scope of the required study to include only that area that is affected by the development proposal.

5. If necessary to ensure compliance with this chapter, the city may require additional information from the applicant, separate from the geotechnical study.

6. A development proposal may be allowed to utilize past studies from neighboring properties, if confirmed that the study findings remain accurate and applicable to proposed development.

C. Unless otherwise provided herein or as part of an approved alteration, removal of any vegetation from a landslide hazard area or buffer shall be prohibited, except for limited removal of vegetation necessary for surveying purposes and for the removal of hazard trees determined to be unsafe by the City. The City may require the applicant to submit a report prepared by a certified arborist to confirm hazard tree conditions. Notice to the City shall be provided prior to any vegetation removal permitted by this subsection;

D. Vegetation on slopes within a landslide hazard area or buffer that has been damaged by human activity or infested by noxious weeds may be replaced with native vegetation pursuant to an enhancement plan approved by the City. The use of hazardous substances, pesticides, and fertilizers in landslide hazard areas and their buffers may be prohibited by the City; and

E. Alterations to landslide hazard areas and buffers may be allowed only as follows:

1. A landslide hazard area located on a slope 40 percent or steeper may be altered only if the alteration meets the following standards and limitations:

- a. Approved surface water conveyances, as specified in the applicable City-adopted storm water requirements, may be allowed in a landslide hazard area if they are installed in a manner to minimize disturbance to the slope and vegetation;
- b. Public and private trails may be allowed in a landslide hazard area subject to the standards and mitigations contained in this chapter 16.80.160 and 16.80.170 and requirements elsewhere in the SMC, when locating outside of the hazard area is not feasible;
- c. Utility corridors may be allowed in a landslide hazard area if a critical areas study shows that such alteration will not subject the area to the risk of landslide or erosion;
- d. Limited trimming and pruning of vegetation may be allowed in a landslide hazard area pursuant to an approved vegetation management plan for the creation and maintenance of views if the soils are not disturbed;
- e. Stabilization of sites where erosion or landslides threaten public or private structures, utilities, roads, driveways or trails, or where erosion and landslides threatens any lake, stream, wetland, or shoreline. Stabilization work shall be performed in a manner that causes the least possible disturbance to the slope and its vegetative cover; and
- f. Reconstruction, remodeling, or replacement of an existing structure upon another portion of an existing impervious surface that was established pursuant to City ordinances and regulations may be allowed provided:
  - i. If within the buffer, the structure is located no closer to the landslide hazard area than the existing structure; and
  - ii. The existing impervious surface within the buffer or landslide hazard area is not expanded as a result of the reconstruction or replacement;

F. Point discharges from surface water facilities in erosion hazard areas and onto or upstream from landslide hazard areas shall be prohibited except as allowed in the adopted surface water design manual.

**16.80.210 Habitat Management Plan.**

A. A habitat management plan is required when the priority habitats and species maps or natural heritage program maps maintained by the zoning and Building Official (City, or other information, indicates the presence of the following on the site:

1. Habitat for any critical species listed as endangered or threatened; or
2. Habitat for any critical species not already protected pursuant to Chapter 16.80 SMC.

B. All habitat management plans shall be prepared in consultation with the State Department of Fish and Wildlife. Habitat management plans for critical species listed as endangered or threatened shall be reviewed by the Department of Fish and Wildlife .

C. The City may assist Applicants seeking to develop a single-family home on an existing legal lot in preparing a habitat management plan to satisfy the requirements of subsection (A)(2) of this section.

D. Habitat Management Plan Content Requirements. Based on the characteristics of the site and information submitted by the applicant, the building and zoning official may require that all or a portion of the following be included in a habitat management plan:

1. A map drawn to scale or survey showing the following information:
  - a. All lakes, ponds, streams, and wetlands on, or adjacent to the subject property, including the name (if named), and ordinary high water mark of each, and the stream type or wetland category consistent with SMC 16.80.100(A) and (B);
  - b. The location and description of the fish and wildlife habitat area on the subject property, as well as any potential fish and wildlife habitat within 200 feet of the subject property as shown on maps maintained by the City; and
  - c. The location of any observed evidence of use by a critical species;
2. An analysis of how the proposed development activities will affect the fish and wildlife habitat area and any critical species;
3. Provisions to reduce or eliminate the impact of the proposed development activities on any fish and wildlife habitat area and critical species; and
4. The habitat management plan should also address the following issues:
  - a. Prohibition or limitation of development activities within the fish and wildlife habitat area;
  - b. Establishment of a buffer around the fish and wildlife habitat area;
  - c. Retention of certain vegetation or areas of vegetation critically important to the critical species;
  - d. Limitation of access to the fish and wildlife habitat area and buffer;
  - e. Seasonal restrictions on construction activities on the subject property;
  - f. Clustering of development on the subject property; and
  - g. The preservation or creation of a habitat area for the critical species.

**16.80.230 Density/floor area calculations and transfer of density/floor area.**

A. An owner of a site or property in the low/moderate (LMD), moderate (MD) and high density (HD) zoning districts containing critical areas shall be entitled to transfer the residential density attributable to the critical area(s), including buffers, on the property to the unconstrained portion of the same property zoning districts subject to compliance subject to the requirements of this code for residential planned unit developments, and cluster subdivisions.

B. An owner of a site or property in the urban center (UC), highway-oriented development (HO), and economic development (ED) zoning districts containing critical areas shall be entitled to

transfer the floor area attributable to the critical area(s) including buffers to the unconstrained portion of the same property subject to the requirements of the Table of Dimensional and Density Requirements footnoted as "Buildable Area Calculation – Transfer of Floor Area" in SMC 16.12.040, 16.12.050 and 16.12.060.

# Appendix C

## Administration and Enforcement and Penalties

Sultan Municipal Code 16.120

(Ord. 630 § 2)

Sultan Municipal Code 16.132

(Ord. 630 § 2 – 1995)

### *Chapter 16.120* **ADMINISTRATION**

#### **16.120.010 Continuation of planning commission.**

A. There is hereby continued a planning commission comprised of seven members appointed by the mayor and confirmed by the city council.

B. Members of the commission shall serve a term of five years and may be re-appointed for only one second five-year term. Upon the conclusion of the term of any member of the commission, such person may continue to serve for up to six months, until a new member has been appointed. No member of the commission may serve more than two consecutive five-year terms. Every member of the commission shall be reimbursed for necessary travel, subsistence, and other expenses actually incurred in the discharge of his or her duties as a member of the commission.

C. No member shall sit on the commission or vote when the commission discusses an application that the commission member or the commission member's immediate family, business partner, employer, employee, lessor, lessee, corporate officer, consultant, or an individual or corporation that has a financial relationship with, has ownership, an interest, or has business transactions currently or has had during the previous one year. Such a conflict of interest will administratively render the application as being withdrawn and the applicant shall be required to resubmit a new application.

D. After a public hearing (or waiver thereof), any member of the planning commission may be removed by the mayor with the approval of the city council for neglect of duty or malfeasance in office. Prior to any such action, however, written notice shall be given to the member involved at least 10 working days in advance of the anticipated hearing date. The notice shall state that removal is being contemplated, indicate the grounds for which such action is based, and advise the member that a public hearing has been set before the city council. No member shall be removed until such hearing (or waiver thereof by the member) has been held. (Ord. 630 § 2[16.08.010(1)], 1995)

#### **16.120.020 Planning commission – Powers and duties.**

A. The commission shall prepare and submit to the city council for adoption any additional plans and undertake any plans and studies it deems necessary and appropriate to better accomplish the objectives, intent, purpose, scope, goals, and policies of this unified development code.

B. Specific Powers of the Planning Commission to Grant Variances. The planning commission may grant variances from the strict application of any land dimension, density, or height requirements of Chapter 16.12 SMC when, by reason of exceptional narrowness, shallowness, shape, or substandard size of specific parcels of property, or by reason of exceptional topographic conditions or other extraordinary situations or conditions of specific parcels of property, the strict application of this unified development code or amendment thereto would result in a practical difficulty or unnecessary hardship upon the owner of said property, provided:

1. That such variance can be granted without substantial impairment of the intent, purpose, and integrity of this title and of the comprehensive plan of Sultan;

2. That this variance shall not permit a use of land not authorized within the zoning district, as established by this unified development code, in which the increase in the volume of a building or structure, or an increase in the density of development beyond that permitted in the zoning district, as established by this code, in which the subject property is located;

3. That there must be a finding by the commission that all of the following conditions exist:

- a. That, if the owner or lessor complied with the provisions of this unified development code, he or she would not be able to make any reasonable use of his or her property;

- b. That the difficulties or hardship are peculiar to the property in question in contrast with those of other properties in the same district;

- c. That the hardship was not the result of the applicant's own action (applicant's own action shall not include the purchase of the property); and

- d. That the hardship is not merely financial or pecuniary. (Ord. 630 § 2[16.08.010(2)], 1995)

#### **16.120.030 Permits, terms and conditions.**

A. Any development permit that is issued shall be subject to the terms and conditions imposed by the building and zoning official to ensure that such development will be in accordance with the provisions of this unified development code.

B. Reapplication. If an application for a permit is denied, the applicant may not submit another application for development of the same property sooner than 120 calendar days after the date of such denial.

C. Permit Commencement and Expiration. Any development approved pursuant to this code shall be commenced, performed, and completed in compliance with the provisions of the permits for such development stipulated by the building and zoning official, planning commission, or city council. Any development approved by a permit shall be commenced within 36 months from the date such permit is issued. Failure to complete substantial development within such period shall cause the permit to lapse and render it null and void. No extensions shall be granted. For purposes of this section, a permit shall be considered issued on the date it is signed by the building and zoning official.

D. Evidence of Ownership or Legal Interest. Upon filing an application, the applicant shall be required to show evidence in writing of his or her legal interest in and the right to perform development upon all property on which work would be performed if the application is approved, including submission of all relevant legal documents. Where the applicant is not the owner of the property, the owner must co-sign the application before it will be accepted for filing. The applicant shall have the burden of demonstrating to the satisfaction of the building and zoning official the current validity of the legal interest upon which he or she bases any part of the application before such application can be deemed to be complete. (Ord. 630 § 2 [16.08.020(2)], 1995)

#### **16.120.040 When permit is not required or may be waived.**

A. Notwithstanding any provision in this unified development code to the contrary, no minor development permit shall be required pursuant to this code for activities related to the repair or

maintenance of an object or facility, where such activities shall not result in an addition to or enlargement or expansion of such object or facility. However, this does not preclude the requirement for a building permit for such activity.

B. Where immediate action by a person is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster or serious accident, or in other cases of emergency, the requirement of obtaining a development permit prior to initiating such action under this section may be waived by the building and zoning official. The applicant shall notify the building and zoning official in writing, of the type and location of the work, the length of time necessary to complete the work, and the name of the person or public agency conducting the work. This shall be done within 30 days following the disaster, accident, or other emergency. However, this shall not preclude the requirement for building permits for such activity. (Ord. 630 § 2[16.08.020(3)], 1995)

#### **16.120.060 Application for development permits.**

All applications for development permits shall contain at least the following information; provided, however, that the applicant may request a waiver of any of the following requirements. Unless the applicant can prove to the satisfaction of the building and zoning official's office that a waiver is appropriate, he or she shall supply the following information:

A. Ten copies of a site plan, one of which shall be a mylar reproducible of the property to a scale of 100 feet to one inch, prepared by a registered engineer, architect or land surveyor illustrating the proposed development of the property and including, but not limited to the following:

1. Topographical features showing present grades and any proposed grades if present grades are to be altered. Unless otherwise required by the building and zoning official, contours at an interval not greater than five feet shall be shown;

2. Property boundary lines and dimensions including any platted lot lines within the property;

3. Location and dimensions of all existing and proposed buildings, including height in stories and feet and including total square feet of ground area coverage;

4. Location and dimensions of all existing and proposed driveways and entrances, minimum yard dimensions, and where relevant, relation of yard dimensions to the height of any side of any building or structure;

5. Location and dimensions of parking stalls, access aisles, and total area of lot coverage of all parking areas and driveways;

6. Location and dimension, including height clearance, of all off-street loading areas;

7. Location, designation and total area of all usable open space, including use of any paved areas as distinguished from grass, sodded, or other landscaped areas;

8. Location and height of fences, walls (including retaining walls), or screen planting, and the type or kind of building materials or planting proposed to be used;

9. Proposed surface stormwater drainage treatment;

10. Location of easements or other rights-of-way; and

11. Location and designation of any open storage space.

B. Ten copies of a location map, at a scale of 200 feet to one inch showing, at a minimum, the uses of all property within 200 feet of the subject property, including the following:

1. All streets, alleys or other public rights-of-way, public parks and places and all lots and lot lines, drainageways, waterways, and easements;

2. All structures and the principal use of each structure, including the type of residential, commercial, or industrial use; and

3. All off-street parking and loading areas as may be significant to the application in question.

C. Any other information as may be required by the building and zoning official to determine that the application is in compliance with this unified development code shall be furnished, including but not limited to wetlands, aquifer or groundwater recharge zones, floodplains, elevations, profiles, perspectives,



sign placement, vegetation, landscaping, or any other material necessary for a complete understanding of the application.

D. A statement in writing signed by the applicant stating that the information as shown on the plans, maps, and application is true and correct. Any failure to comply with the provisions of this section shall be good cause to deny the application and/or to revoke any permit which may have been issued for any building or use of land. (Ord. 630 § 2[16.08.020(7)], 1995)

#### **16.120.070 Regulations.**

The building and zoning official shall, in the manner required by law and after public hearings, adopt such rules and regulations pertaining to the issuance of permits as it deems necessary. The building and zoning official may thereafter, in the manner required by law, and from time to time, after public hearings, modify or adopt additional rules and regulations as deemed necessary to carry out the provisions of this unified development code; provided, any such rules and regulations issued pursuant to this code may be amended or repealed by the city council in accordance with the appropriate provisions of the Sultan Municipal Code. Such regulations shall include but are not limited to the following:

A. Procedures for the submission, review and approval or denial of permit applications, and the form of application for permits. The building and zoning official shall devise a temporary application form that shall be used upon enactment of this unified development code until such time as rules and regulations are adopted;

B. Information to be required in the application, including without limitation, proof of legal interest in the property, authority to sign the application, drawings, maps, data, and charts concerning land and uses and areas in the vicinity of the proposed development, and appropriate supplementary data reasonably required to describe and evaluate the proposed development and to determine whether the proposed development complies with statutory criteria under which it might be approved;

C. The payment of reasonable application, processing, permit and other fees necessary for the proper administration of the permitting process;

D. Standards, in addition to those set out in this code, for determining whether a project requires a major project permit;

E. Requirements for the conduct and continuance of public hearings and the methods of providing public notice on major project permits. A public notice shall, at a minimum, state the nature and location of the proposed development, the time and place of the public hearing, the date of the public hearing (which shall be, in any event, at least 10 working days following the date that the hearing was first advertised), and shall be advertised in a newspaper of general circulation, and, in addition, be given to the applicant, any person who requests such notification in writing, any person who the building and zoning official determines would be affected by or interested in such development, and the owner(s) of any/all lot(s) within 500 feet of the site of the proposed development. Additionally, a sign shall be posted on the property at least 10 working days prior to the date of the public hearing by the building and zoning official at a location that can be easily seen by the general public indicating the date, time, and location of the public hearing and the purpose for which the hearing is being held;

F. Contents of permits;

G. Notifications of decisions on applications;

H. Notices of completion and certificates of acknowledgment of compliance;

I. Modification and revocation of permits; and

J. Transfer or assignment of permits. (Ord. 630 § 2[16.08.020(8)], 1995)

#### **16.120.080 Criteria for approval of an application and issuance of a permit.**

A. A land use development permit, following the process identified in SMC 16.120.050, shall be granted by the city planner, or the city council upon acceptance of the recommendation of the hearing

examiner, as the case may be; provided, that it is found, based upon substantial evidence in the record, that the development complies with each of the following criteria:

1. The development is consistent with the goals, policies, requirements, and performance standards of this unified development code and other applicable laws and regulations;

2. The development project as proposed incorporates, to the maximum extent feasible, mitigation measures to substantially lessen or eliminate all adverse environmental impacts of the development; and

3. The applicant has presented certification that the applicant has filed and paid all taxes, penalties and interest, and that the applicant has satisfactorily made agreement to pay the taxes.

B. The issuance of a land development permit shall also require that the applicant agree in writing, to:

1. Comply and perform to all conditions of approval; and

2. Carry out minimum improvements in accordance with the provisions of this unified development code and all standards of this title.

C. Improvement Guarantees. Contemporaneous with the issuance of a permit, or upon approval of a plat, subdivision or other approval to divide land, to insure the applicant's compliance with subsection B of this section and to guarantee future compliance and performance, the applicant shall:

1. Comply with all conditions of approval and carry out all minimum improvements as required to the satisfaction of the council;

2. If acceptable or required by the council, furnish the city with a bond or other security sufficient to secure the estimated cost of construction and installation of all required road and other improvements to the satisfaction of the city engineer and/or council and compliance with the conditions of approval. The amount and time limitation of any bond or other device shall be determined by the council within 30 days of permit issuance or approval. The principal shall complete construction and installation of all improvements and comply with all conditions of approval by the date stated in the security, and in the event that such does not occur, the full amount of the security shall be forfeited to the city. The council may forfeit all or any portion of the security before its expiration date, if the applicant is not making reasonable efforts to complete the work within the term of the security;

3. Furnish a maintenance bond or other security satisfactory to the council securing to the city the successful operation of the improvements and any mitigation as required by the conditions of approval for an appropriate period of time up to two years after completion of improvements, or final plat approval, as the case may be. Upon expiration of the stated period and successful performance of the improvements and mitigation, this maintenance bond shall be release and exonerated.

D. Surety Requirement. Any bond as provided herein shall be assured by two or more sureties acceptable to the council or with a surety company as surety. The city is empowered to enforce such bonds by all appropriate legal and equitable remedies. (Ord. 779-02; Ord. 630 § 2[16.08.030], 1995)

#### **16.120.090 Occupancy permit.**

A. No land area shall be occupied or used and no building hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever until an occupancy permit has been issued by the building and zoning official, stating that the premises, building, or other development complies with all provisions of this code; except that in the case of an alteration that does not require vacating the premises or where parts of the premises are finished and ready for occupancy before the completion of the alteration, or in the case of a new structure, before its completion, a conditional occupancy permit may be issued.

B. No change or extension of use or no alteration shall be made in a nonconforming use of a building or land or water area without a building permit having first been issued by the building and zoning official that such change, extension or alteration is in conformity with the provisions of this code.

C. As-Built Plan Submittals. After completion of all required improvements and prior to final acceptance of said improvements, the subdivider shall submit:

1. To the city as-built drawings reflecting any changes to previously approved construction drawings. No changes in improvements may be made without prior approval of the city council;

2. To the utility superintendent and fire department, two copies of the plat and drawings showing the actual location of all mains, hydrants, valves and other fire improvements;

3. A statement sworn to by the subdivider and his registered engineer that the drawings show the actual location of the improvements required to be shown therein. No occupancy permit shall be issued until any and all required as-built plans have been submitted and approved by the building and zoning official.

D. Within 10 days from the date that an applicant requests, in writing, that an occupancy permit be issued on his/her development project, the building and zoning official shall render a decision as to whether or not said occupancy permit is to be issued. If the decision is not to issue the occupancy permit, the building and zoning official shall so notify the applicant including the reasons for denial of the permit. If no occupancy permit has been issued within 10 working days of the written request thereof, and the building and zoning official has not informed the applicant of approval or denial, in writing, it shall be deemed that the building and zoning official approves the request and the applicant may legally occupy the premises. (Ord. 630 § 2[16.08.040], 1995)

**16.120.100 Appeals of development permit decisions, enforcement and abatement proceedings, appeals of notices and orders to correct and/or abate,**

Notwithstanding any provision of this unified development code to the contrary, any aggrieved person may file an appeal of a decision or action by the building and/or zoning official taken pursuant to this code within 10 calendar days thereof with the hearing examiner, and such appeal shall be governed solely by the provisions of this section.

A. Procedure on Appeal. The hearing examiner, after having been duly notified that an appeal has been filed, shall give public notice of a public hearing on the appeal in a newspaper of general circulation. Such public notice shall be in the same form and shall have the same filing date requirements as prescribed in Chapter 16.124 SMC. The hearing examiner shall also serve persons notice of such hearing who own property within 300 feet of the subject property, the applicant for the development permit, the aggrieved person (if different than the applicant), any person who has requested in writing to be notified of such public hearing date, the building and zoning official, and the planning commission.

B. Effect of Filing on Appeal. The filing of a notice of appeal shall stay any proceedings in furtherance of the action appealed, unless the building and zoning official certifies in writing to the city council and the applicant that a stay poses an imminent peril to life or property, in which case the stay shall not stay further proceedings. The hearing examiner may review such certification and grant or deny a stay of the proceedings.

C. Public Hearing. A public hearing on an appeal shall be held by the hearing examiner within 20 working days after the appeal is filed with the examiner, and an action shall be taken by the hearing examiner within 15 working days after the conclusion of such public hearing. The hearing examiner may reverse, affirm or modify the decision, determination or interpretation appealed and in so modifying, shall be deemed to have all of the powers of the building and zoning official, from whichever the appeal is taken, including the power to impose reasonable conditions to be complied with by the applicant. The hearing examiner shall notify the building and zoning official, whichever is appropriate, the applicant for the permit, and the person or persons who filed the appeal of its decision by certified mail. Such notice shall be sent within five working days of the hearing examiner's action.

D. Rights of Parties. Consistent with rules adopted by the hearing examiner, appeal hearings before the hearing examiner shall allow the parties to:

1. Call and examine witnesses on any matter relevant to the issues of the hearing;
2. Introduce documentary and physical evidence;
3. Impeach any witness regardless of which party first called them to testify;
4. Rebut evidence against them;
5. Represent themselves or be represented by anyone of their choice who is lawfully permitted to serve in such capacity. (Ord. 769-01 §§ 1, 2, 3; Ord. 630 § 2[16.08.050], 1995)

**16.120.110 Calculation of time – Delivery – Notice to parties – Filing with the hearing examiner.**

A. Whenever this title states that an action or notice must be given in a certain number of calendar days, if the last calendar day for the action or notice is a weekend day or a federally recognized holiday, then the last calendar day shall be construed to include the first working day after the weekend or holiday, and the deadline shall be 5:00 p.m. current local time of that first working day.

B. Whenever this title states that an action or notice must be given "within" a period of time from a decision, action or notice, the first calendar day for the counting of the calendar days shall be as follows:

1. If the number of days involved is less than 15 calendar days, the first day shall be:
  - a. If the notice or decision is personally served on the party, then the day after service; and
  - b. If the notice or decision is mailed, then the third day after the date the notice or decision is deposited into the United States mail properly addressed with required postage;
2. If the number of days involved is 15 calendar days or more, the first day shall be:
  - a. If the notice or decision is personally served on the party, the day after service; and
  - b. If the notice or decision is mailed, then the day after the notice or decision is deposited into the United States mail properly addressed with required postage.

C. Each decision or notice shall contain a statement concerning rights to contest or appeal the decision or notice, and among other information the statement shall state the date of the notice or decision, the date the appeal, contest or appeal period is expected to begin, the last date and time to file an appeal or notice when the party to whom the notice must go is open for business, and the location to file an appeal or notice.

D. In the event the statement specified in subsection C of this section contains an error, the party relying on the statement shall be entitled to the longer time. Therefore, if the "last date" in the statement is earlier than the time as calculated under this section, the party shall be entitled to the time provided by this section. But if the "last date" in the statement is later than the date that would be calculated under this section, the party shall be entitled to, and the actual time shall be extended to the date and time set out in the statement; provided, however, that if the error is in the statement of the year, the correct year shall apply.

E. Whenever this title states that something must be filed with the hearing examiner, filing shall be accomplished by filing with the clerk/treasurer of the city. The date of filing shall be the date of actual delivery to, or receipt of mail by, the city clerk/treasurer. (Ord. 790-02)

**Chapter 16.132**  
**ENFORCEMENT AND PENALTIES**

**16.132.010 Administration.**

The building and zoning official, or his duly authorized representative, is authorized to utilize the procedures of this code to enforce against violations of any land use or other code within his administrative jurisdiction. The building and zoning official shall have the power to render interpretations of this title and to adopt and enforce rules and supplemental regulations to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code. (Ord. 630 § 2 [16.14.010], 1995)

**16.132.020 Declaration of nuisance.**

All violations of this unified development code are determined to be detrimental to the public health, safety and welfare, and are nuisances. All conditions which are determined by the building and zoning official or his duly authorized representative to be in violation of this code shall be subject to the provisions of this title and shall be corrected by any reasonable and lawful means, as provided in this title. (Ord. 630 § 2[16.14.020], 1995)

**16.132.030 Right of entry.**

A. Whenever necessary to make an inspection to enforce or determine compliance with the provisions of this unified development code, or whenever the building and zoning official or his duly authorized inspector has cause to believe that a violation of this code has been or is being committed, an inspector may enter any building, structure, property or portion thereof at reasonable times to inspect the same.

B. If such building, structure, property or portion thereof is occupied, the inspector shall present identification credentials, state the reasons for the inspection, and demand entry.

C. If such building, structure, property or portion thereof is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and demand entry. If the inspector is unable to locate the owner or other such persons, and has reason to believe that conditions therein create an immediate and irreparable land use or safety hazard, he shall make entry.

D. It is unlawful for any owner or occupant or any other person having charge, care, or control of any building, structure, property, or portion thereof, after proper demand has been given, to fail or neglect to permit prompt entry thereon.

E. Unless entry is consented to by the owner or person in control of any building, structure, property or portion thereof or conditions are believed to exist which create an immediate and irreparable land use or safety hazard, the inspector, prior to entry, shall obtain a search warrant as authorized by applicable law. (Ord. 630 § 2[16.14.030], 1995)

**16.132.040 Abatement proceedings – Authorized.**

In addition to or as an alternative to any other judicial or administrative remedy provided in this chapter or by law or other code, the building and zoning official or duly authorized representative may order a violation of this code to be abated. The building and zoning official or duly authorized representative may order any person who creates or maintains a violation of this code, or rules and regulations adopted thereunder, to commence corrective work and to complete the work within such times as the building and zoning official determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, the building and zoning official or duly authorized representative may proceed to abate the violations and cause the work to be done. The costs thereof shall be charged as a lien against the property and as both a joint and separate personal obligation of any person who is in violation. (Ord. 630 § 2[16.14.040], 1995)

#### **16.132.050 Abatement proceedings – Legal relief.**

Notwithstanding the existence or use of any other remedy, the building and zoning official may seek legal or equitable relief to enjoin any acts or practices or abate any conditions which constitute or will constitute a violation of this unified development code or rules and regulations adopted thereunder. (Ord. 630 § 2[16.14.050], 1995)

#### **16.132.060 Technical review committee.**

A. There is established the enforcement technical review committee consisting of two designated representatives from the council and two representatives from the planning commission and the building official. The committee shall meet as required to carry out the functions specified in this title.

B. The functions of the committee are to provide oversight to the decisions of the building and/or zoning official to assure coordinated enforcement in cases involving multiple violations and to assure consistent and proportional enforcement of the city's code. (Ord. 769-01 § 4; Ord. 630 § 2[16.14.060], 1995)

#### **16.132.065 Appeals.**

All appeals shall be heard by the hearing examiner upon filing a notice of appeal in accordance with SMC 16.120.100. The provisions of SMC 16.120.100 shall apply to any appeal, except the notice provisions of SMC 16.120.100(A) shall not apply. The notice provisions of SMC 16.124.010 also shall not apply. The decision of the hearing examiner shall be final, subject only to a right of appeal to the superior court under the provisions of the Land Use Petition Act. (Ord. 769-01 § 5)

#### **16.132.070 Misdemeanor.**

As an alternative to any other judicial or administrative remedy provided in this title or by law or other code, any person who fully or knowingly violates the rules and regulations of this unified development code adopted thereunder, or any order issued pursuant to this code, or by each act of commission or omission procures, aids, or abets such violation, is guilty of a misdemeanor and upon conviction shall be punished by a fine, the amount of which shall be established by city council resolution. Each day such violation continues shall be considered an additional misdemeanor offense. (Ord. 630 § 2[16.14.070], 1995)

#### **16.132.080 Civil penalties – Procedures.**

A. Any person or organization who violates the rules and regulations of this unified development code, or who, by any act of commission or omission procedures, aids or abets such violation shall be subject to civil penalties as provided in this chapter.

B. Civil penalties may be directly assessed by the building and zoning official by means of a notice and order issued pursuant to Chapter 16.136 SMC or may be recovered by legal action filed in the appropriate court of jurisdiction by the prosecuting attorney on behalf of the city.

C. Civil penalties assessed by means of a notice and order shall be collected in accordance with the lien, personal obligation, and other procedures specified in this title. Civil penalties assessed in a legal action in the appropriate court of jurisdiction shall be collected in the same manner as judgments in civil actions. (Ord. 630 § 2[16.14.080], 1995)

#### **16.132.090 Civil penalties – General requirements.**

A. Any person engaged in the development, management, sale, rental, or use of property solely for the purpose of financial gain shall be deemed to be engaged in noncommercial ventures for purposes of this chapter.

B. Each and every day or portion thereof during which any violation is committed, continued, permitted, or not corrected shall be deemed a violation for purposes of this code. Civil penalties for failure to obtain any required permit shall begin to accrue on the first day activity subject to the permit requirement is commenced and shall cease to accrue on the day the permit is obtained. Civil penalties for violation of any order to cease violation shall begin to accrue on the first day the said order is posted and shall cease on the day the violation is actually stopped. (Ord. 630 § 2[16.14.090], 1995)

#### **16.132.100 Civil penalties – Schedules.**

A. A civil penalty for a violation of this unified development code by a person engaged in commercial ventures as defined in SMC 16.132.080 shall be assessed at a rate to be established by city council resolution.

B. A civil penalty for a violation of a person engaged in noncommercial ventures as defined in SMC 16.132.080 shall be assessed at the rate established by city council resolution. (Ord. 630 § 2[16.14.100],

# Appendix D

## Uniform Development Code and Signs

### Sultan Municipal Code

16.48 (Ord. 630 § 2 – 1995),  
16.56 (Ord. 630 § 2 – 1995),  
16.60 (Ord. 630 § 2 – 1995),  
16.92 (Ord. 630 § 2 – 1995),  
22.06 (Ord. 806-03 § 1)

#### *Chapter 16.48* **SUPPLEMENTAL STANDARDS FOR HOME OCCUPATIONS**

##### **16.48.010 Purpose.**

It is the intent in this chapter to allow for and to regulate the establishment of a home occupation in a residential neighborhood. It is also the intent in this section to regulate the operation of a home occupation so that residential neighbors will not be adversely impacted by its existence. (Ord. 630 § 2 [16.10.010(4)(a)], 1995)

##### **16.48.020 Standards.**

A home occupation is allowable as an accessory use in a bona fide dwelling unit in any residential area. All provisions of this code pertaining to residential uses shall be met. In addition, all of the following standards shall apply.

A. No outdoor display or storage of materials, goods, supplies, or equipment shall be allowed.

B. There shall be no changes to the exterior of the building nor any visible evidence that the residence also contains a home occupation.

C. A home office use shall not generate nuisances such as on-street parking, noise, electrical interference, or hazards.

D. There shall be no more than one person outside of the immediate household residing in the subject dwelling unit employed in the home occupation.

E. The maximum area devoted to a home occupation shall be 25 percent of the gross floor area of the dwelling unit. (Ord. 630 § 2[16.10.010(4)(b)], 1995)



**Chapter 16.56**  
**NONRESIDENTIAL PERFORMANCE STANDARDS**

**16.56.010 Application.**

This chapter contains performance standards that apply to nonresidential uses. Nonresidential land uses regulated in this section include commercial, tourism, office, light and heavy industry, and certain public/semi-public uses. These standards regulate building development and are applied over and above those standards imposed by other sections of this unified development code. These supplemental standards are necessary for those land uses having characteristics that may have negative impacts without the additional regulations. (Ord. 630 § 2[16.10.020], 1995)

**16.56.020 Categories of use.**

The following categories of land use shall be subject to the standards contained in this section.

A. Public/semi-public: institutional uses and public services uses only.

B. Office uses.

C. Commercial uses: general commercial, commercial recreational, automobile-oriented commercial (gas stations, auto repair shops, tire shops, etc.), home building supply outlets, plant and landscape nurseries, and shopping centers.

D. Industrial uses: industrial, wholesaling, warehousing, and distribution activities.

E. Tourist facilities: hotels, bed and breakfast inns, and entertainment activities. (Ord. 630 § 2 [16.10.020(1)], 1995)

**16.56.030 Performance standards.**

The development of a nonresidential use shall be allowed only in full compliance with the standards of this and other relevant sections of this code.

A. Subdivision of Land. Any land, proposed to be subdivided for the purposes of nonresidential activity shall adhere to all of the requirements for the subdividing of land in the city contained in Chapter 16.28 SMC.

B. Building Placement.

1. There is no minimum required distance between adjacent buildings on the same lot; provided, that when a building exceeds two stories in height, the minimum distance from an adjacent building or property line shall be increased by two feet for each story above two.

2. Certain nonresidential development in the UC zoning district may build up to the right-of-way line of the abutting roadway. These are enumerated in the table of dimensional and density requirements for the UC zoning district contained within this code. However, buildings, signs, or other structures shall not be placed in the sight triangle specified in the landscape performance standards.

3. Where any lot in the LMD, MD, or HD zoning districts is proposed for nonresidential development, a landscaped buffer shall be required along the property line boundary. If, however, a nonresidential development is proposed to be built in these zoning districts immediately adjacent to an existing nonresidential use, no landscaped buffer will be required along the common property line of the existing and proposed nonresidential development. The buffer shall be no less than 15 feet wide and consist of a least three rows of plantings that shall be installed in a staggered manner 10 feet on center. The plant species selected shall attain a height of at least six feet at maturity.

4. Access driveways to any commercial development on an individual parcel in the LMD, MD, HD, and HOD zoning districts shall be at least 75 feet apart from each other, measured from centerline to centerline. However, where driveways are each one-way and each being no more than 12 feet wide, the two driveways shall be counted as a single unit of access for the purposes of this code.

C. In no case shall any commercial development be permitted on minor streets in the LMD and MD zoning districts. In these zoning districts, commercial development shall only be allowed on collector or arterial roadways, as defined by the adopted city of Sultan comprehensive plan. (Ord. 630 § 2[16.10.020(2)], 1995)

#### **16.56.040 Supplemental standards for drive-through facilities.**

A. Purpose. Supplemental standards are provided for uses with drive-through facilities to ensure protection from potential traffic hazards. These standards are to be applied in addition to all other applicable standards of this code.

B. Standards.

1. Driveways proposed to service commercial development shall be separated 75 feet or more between properties. Where driveways are each one-way and each no more than 12 feet wide, the two driveways shall be counted as a single unit. When, because of existing development, it is mathematically impossible to achieve this requirement for a proposed commercial project, the applicant shall attempt to secure an access easement from an adjoining commercial development. If this is impossible to secure (as evidenced by a written denial by both adjoining property owners of the request), the building and zoning official may permit a waiver of this requirement. However, in doing so, any new access driveway shall be located as far as possible from all existing access drives.

2. Approach lanes for the drive-through facilities shall have the following minimum widths: one lane – 12 feet; two or more lanes – 10 feet per lane.

3. Minimum linear distance for stacking of automobiles in the drive-through window lanes (measured from the commercial window at the building location):

- a. One drive-through window = 10 feet;
- b. Two drive-through windows = 10 feet;
- c. Three drive-through windows = 95 feet;
- d. Four drive-through windows = 80 feet;
- e. Five drive-through windows = 65 feet.

4. The minimum distance from the proposed drive-through facility to the right-of-way shall be 65 feet, where no turns are required. This distance shall be measured from the drive-through station farthest from the main building. Where turns are required in the exit lane, the minimum distance from any drive-through window to the beginning point of the turn shall be 34 feet. The minimum turning radius shall be 17 feet.

5. The minimum distance from a drive-through facility to any residential building shall be 25 feet. This distance shall be measured at the narrowest point between the main building, an off-street parking area, or vehicle lanes, whichever is closer.

6. Alleys or driveways in residential areas adjacent to drive-through facilities shall not be used for circulation of customer traffic. (Ord. 630 § 2[16.10.020(3)], 1995)

#### **16.56.050 Supplemental standards for mixed-use or split-use development.**

A. When a parcel of land is proposed to accommodate a building that contains two or more uses in the LMD, MD, HD, UC or HOD zoning districts it shall not be necessary that the minimum land area requirements for each use be met.

B. However, where a building containing two or more uses is proposed to be built, the following conditions must be met:

1. Every use or activity proposed to be included is allowed in the zoning district where the building is proposed to be built;

2. The minimum lot area, dimensional and density requirements (setbacks, lot coverage, etc.) for the most restrictive use proposed in the building must be met;

3. To compute the number of off-street parking spaces required for such a development, it will be necessary to calculate the requirements for each use and total them (unless it is demonstrated that certain proposed future uses shall not utilize the parking area at the same times, i.e., schools and churches); and

4. If off-street loading and unloading space(s) is required for any use, it must be provided. (Ord. 630 § 2[16.10.020(4)], 1995)

#### **16.56.060 Supplemental standards for recreational vehicle parks.**

A. The maximum permitted gross density for any recreational vehicle park shall be 20 units per acre.

B. Space allocations for recreational vehicles shall be on a basis of 1,000 square feet per vehicle, the minimum dimensions of which shall be 32 feet wide by 30 feet long.

C. The space shall abut on a driveway not less than 20 feet in width, which shall have unobstructed access to a public street or highway.

D. Recreation vehicles shall be parked on each space so that there will be at least 12 feet of clearance between RVs, six feet between RVs and any adjoining property lines, and 12 feet between RVs and any building or structure.

E. Each recreation vehicle strip shall include a strip of ground 10 feet wide along one side for automobile parking purposes.

F. All recreation vehicle park roads must be surfaced, at least with rock and gravel.

G. No less than 15 percent of the total site shall be defined recreational space. Said space shall be readily accessible to all patrons and shall be maintained in such a manner as to present a neat and clean appearance.

H. No rental of any recreational vehicle space shall be for a period to exceed two weeks.

I. Every recreational vehicle space shall meet health department minimum requirements with regard to provisions for potable water and sanitary sewage facilities.

J. Any recreational vehicle park may provide an office, convenience commercial store, and on-site residence for the manager of the operation. However, in no case shall the land area for these facilities exceed a total of 10,000 square feet. (Ord. 630 § 2[16.10.020(5)], 1995)

### ***Chapter 16.60*** ***OFF-STREET PARKING AND*** ***LOADING STANDARDS***

#### **16.60.010 Purpose and intent.**

Off-street parking areas are required for all new uses of land so that all uses will have adequate parking for the occupants, employees, visitors, customers, and/or patrons and they will not have to rely on the public rights-of-way for this function.

Off-street loading areas are required for all uses (except residential) to provide adequate space off of the city's rights-of-way for the temporary parking of motor vehicles (primarily trucks) while loading or unloading. (Ord. 630 § 2[16.10.030(1)], 1995)

#### **16.60.020 General requirements.**

No building or structure in any district shall be erected or enlarged, nor shall any building, structure or land be used, designed or arranged for any purpose without provisions for such off-street parking and/or loading facilities as required by this code, nor shall any off-street parking or loading area, whether required by this code or voluntarily provided, be developed other than in the manner set forth herein.

Seasonal parking facilities are exempt from the requirements of this chapter and need not be developed in the manner set forth herein.

For the purpose of these standards, 153 square feet of area shall be deemed a parking space for one vehicle. The minimum dimensions for each parking space shall be eight and one-half feet wide by 18 feet long. The maximum permitted dimensions for each parking space (except for designated handicapped spaces) shall be 10 feet wide by 20 feet long. On corner or through lots, (A) parking space may not be included within the area of any of required yards lying adjacent to either street, and (B) in no case shall any required off-street parking space be allowed to back out directly onto any arterial right-of-way (a residential garage or carport space shall be considered an off-street parking space).

The access aisles within any off-street parking area shall be a maximum of 24 feet wide. The primary internal circulation system of an off-street parking lot, where no parking spaces are provided directly off this internal roadway, shall have a maximum width of 30 feet.

All parking spaces and access driveways shall be paved or otherwise surfaced with an all-weather surface, and shall be graded and drained so as to dispose of surface water that might accumulate within or upon such area. No surface water from any parking area shall be permitted to drain onto adjoining property.

Required loading spaces shall not be construed as supplying off-street parking space. In case of a use not specifically mentioned, the requirements for off-street parking facilities for a use that is mentioned, and to which said unmentioned use is similar, shall apply (this determination shall be made by the building and zoning official). (Ord. 765-01 § 10; Ord. 630 § 2 [16.10.030(2)], 1995)

#### **16.60.030 Timing of the provision of required off-street parking and off-street loading spaces.**

Off-street parking and loading spaces shall be provided at the time any use of land is established; or at the time that an occupancy permit is requested at the completion of construction of any building or structure; or at the time any building, structure, or land is altered or enlarged in any manner to increase the amount off-street parking or loading spaces as required by this code. However, when the use of any building or land existing at the time of adoption of this code is changed to a use in which the parking requirements are calculated differently from the method of calculation for the former use, only such additional parking as may result by reason of the different calculation need be provided for the changed use. (Ord. 630 § 2[16.10.030(3)], 1995)

#### **16.60.040 Requirement to retain off-street parking and loading space.**

The requirements for off-street parking and loading shall be a continuing obligation of the owner or his assignee of the real estate on which any use is located as long as the use continues, and is a use that requires off-street parking or loading. It shall be unlawful for an owner of any building or land use activity affected by the off-street parking and loading requirements to discontinue, change, reduce or dispense with, or cause the discontinuance, change, or reduction of the required off-street parking or loading space. It shall be unlawful for any individual, firm, or corporation to use such building or land without acquiring such area as is required and permitted to fulfill the off-street parking and loading requirements. Whenever off-street parking is required, and cannot be provided on the same lot as the principal building, and is located on another parcel or property provided for and utilized for off-street parking, said parcel of property shall be owned by the owner of the principal building or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during, or as long as off-street parking is required for such principal building, in accordance with the terms of this code. (Ord. 630 § 2[16.10.030(4)], 1995)

#### **16.60.050 Permitted reductions in off-street parking requirements.**

Off-street parking space required under these standards may be reduced at the time the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change. Such reduction may not be below the requirements set forth in these standards. (Ord. 630 § 2[16.10.030(5)], 1995)

#### **16.60.060 Location of off-street parking and loading areas.**

The required off-street parking and loading areas shall be located on the same lot or parcel of land they are intended to serve. However, if the required off-street parking spaces cannot be provided, in whole or in part, on the same lot on which the principal building is located, such required off-street parking may be located on another lot or parcel of land within 1,000 feet of the premises to be served, provided:

A. The owner of such parking area enters into a written agreement with the city of Sultan providing that the land comprising the parking area shall never be disposed of, nor the use changed, except in conjunction with the sale of the building that the parking area serves, so long as the facility is required; and

B. The owner agrees to bear the expense of recording the agreement and agrees that said agreement shall bind his heirs, successors, and assigns. (Ord. 630 § 2[16.10.030(6)], 1995)

#### **16.60.070 Limitations on vehicular storage.**

Except as otherwise provided in this chapter, off-street parking spaces required herein may be occupied by the occupants, employees, or patrons of the property or by visitors, or by delivery vehicles incidental to the principal use, but not by vehicles being repaired, stored or displayed for sale or hire. (Ord. 630 § 2[16.10.030(7)], 1995)

#### **16.60.080 Determination of seating capacity at places of assembly.**

In stadiums, sport arenas, houses of worship and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities. (Ord. 630 § 2[16.10.030(8)], 1995)

#### **16.60.090 Collective off-street parking provisions.**

Nothing in these standards shall be construed to prevent the collective provision of off-street parking facilities for two or more structures or uses; provided, that the total of such off-street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately; provided also, that the requirements set forth hereinbefore as to maximum distances between parking facilities and principal structures or uses served shall apply to each structure or use participating in the collective provisions for parking. (Ord. 630 § 2[16.10.030(9)], 1995)

#### **16.60.100 Joint-use parking requirements.**

A. Places of Public Assembly. Parking spaces already provided to meet off-street parking requirements of stores, office buildings, schools, and industrial establishments, situated on the same site as places of public assembly, and that are not normally in use between the hours of 6:00 p.m. and midnight and are made available for other parking, may be used to meet not more than 50 percent of the total requirements of parking spaces. Written agreement is required for such joint-use parking arrangements between the officials of the place of public assembly and the owner or manager of the other development and parking area on the site.

B. Mixed Use Developments. In the case of mixed uses (such as shopping centers), the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as specified above for joint use. (Ord. 630 § 2 [16.10.030(10)], 1995)

**16.60.110 Requirements for retail trade, personal service, and business service establishments and offices, hotels, night clubs, and health clubs in the UC zoning district.**

To promote more compact urban settlements, the city of Sultan is encouraging the development of activity nodes that require less of a reliance on the private automobile. To that end, as can be seen in the tables of dimensional and density requirements for the UC zoning district, front and side yard setbacks are not required for retail trade, personal service, and business service establishments and offices, night clubs, and health clubs. In furtherance of this goal, the off-street parking requirements for these categories of uses, as well as hotels and bed and breakfast inns/guesthouses, as contained in the off-street parking table contained in this chapter, are reduced by 50 percent when they are proposed to be located in the UC zoning district. (Ord. 630 § 2[16.10.030(11)], 1995)

**16.60.120 Development and maintenance of off-street parking areas.**

For every parcel of land hereafter used, off-street parking shall be developed and maintained by the owner in accordance with the following requirements:

A. Minimum Distances and Setbacks. No part of any off-street parking area containing five or more vehicle spaces, shall be closer than 10 feet to any dwelling, school, hospital, or other institution for human care. If on the same lot with a principal structure, the parking area shall not be located within the front yard or side street yard setback area required for such structure.

B. Bumper Guard and/or Bollard Requirements. There shall be provided a bumper guard and/or bollard of either wood, metal or concrete not more than two feet in height and securely anchored into the ground on all sides of the parking area where there is required a protective fence or wall. Any required bumper guard and/or bollard shall be located at such distance so that automobiles will not strike the protective fence or wall. As an alternative, a concrete beam serving the same purpose may be provided.

C. Off-Street Parking Area Surfacing Requirements. Any off-street parking area containing more than five vehicle spaces shall be surfaced with an asphaltic, bituminous, cement, or other properly bound pavement so as to provide a durable and dustless surface, and shall be graded and drained so as to dispose of all surface water accumulation within the off-street parking area.

D. Lighting. Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises used for residential purposes in any district.

E. Entrance, Exit, and Maneuvering Space. Vehicular drives providing entrance and exit to the street system from the off-street parking area shall have a minimum pavement width of 22 feet. This requirement shall not apply to single-family detached residences. The right turn radius on the side of the driveway exposed to entry or exit by right-turning vehicles shall be a minimum of 17 feet. Maneuvering areas shall be sufficient to permit vehicles to enter and leave the parking lot in a forward motion except for single-family detached dwelling units.

F. Other Design Requirements.

1. Off-street parking areas for all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing up unreasonable distances, or making other dangerous or hazardous turning movements.

2. Circulation areas for off-street parking lots shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles, and without adversely interfering with the normal functioning of the parking lot.

3. The parking spaces shall be appropriately demarcated with painted lines or other markings.
4. Off-street parking areas shall be properly maintained in all respects. They shall be kept in good condition (free from pot holes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
5. Handicapped parking spaces shall be provided in all required off-street parking areas, at a rate of two percent of the total required parking spaces, but in no case less than one space, and adequately posted to be in conformance with all appropriate federal and state laws.
6. No speed-bumps shall be installed within 100 feet of the point of access from the off-street parking lot to the street. (Ord. 630 § 2 [16.10.030(12)], 1995)

#### **16.60.130 Plan requirement.**

A plan shall be submitted to the building and zoning official with every development permit application for any building or use that is required to provide off-street parking and loading. The plan shall accurately depict the required number and location of parking space, other spaces in excess of the requirements, access aisles, driveways, vehicle turn-around or backup areas, areas designated for trash collection, off-street loading spaces (if required), the distance of the off-street parking facilities to the structure or uses they are intended to serve, as well as the relationship of the parking lot to the street system into which the motor vehicles utilizing the parking areas will discharge. (Ord. 630 § 2[16.10.030(13)], 1995)

#### **16.60.140 Minimum required off-street parking spaces.**

The minimum number of required off-street parking spaces shall be determined from the following table, except for the provisions enumerated in SMC 16.60.110. Requirements for any use not specifically mentioned shall be the same as the use most similar to the one sought. When units of measurement determining the required off-street parking spaces result in a fractional space, then such fraction equal to or greater than one-half shall be interpreted as one off-street parking space.

#### **16.60.150 Off-street loading space requirements.**

A. On the same premises with every building, structure or part thereof erected and occupied for manufacturing, storage, warehousing, goods display, department store, wholesale store, retail sales outlet, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly involving the receipt and distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services to avoid interference with the public use of the streets and alleys.

Each such loading and unloading space shall be an area at least 12 by 50 feet with a 15-foot height clearance, and shall be provided as specified below for gross nonresidential (hotel rooms shall be defined as residential floor area for the purposes of this requirement) floor area, except that:

1. No spaces are required for structures with less than 10,000 square feet of gross floor area.
2. One space is required for structures with more than 10,000 but less than 20,000 square feet of gross floor area.
3. Additional off-street loading spaces shall be provided at a rate of one space for each additional 20,000 square feet or increment thereof.
4. No more than seven loading spaces shall be required, except for warehouse and industrial buildings.

B. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from the roadway serving the property, and the

loading/unloading operations can be completed without obstructing or interfering with any roadway traffic or any off-street parking space or parking lot aisle.

C. No area allocated to loading/unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for off-street loading/unloading facilities.

D. For restricted limited manufacturing (conversion of existing improvements) off street loading space shall only be required as specified in subsection A of this section to the extent practicable on the available lot. The acquisition of new or additional land shall not be required. (Ord. 792-02 § 2; Ord. 630 § 2[16.10.030(15)], 1995)

## **Chapter 16.92**

### **STORMWATER MANAGEMENT PERFORMANCE STANDARDS**

#### **Intent.**

A. The purpose of this chapter is to protect, maintain and enhance both the immediate and the long-term health, safety, and general welfare of the citizens of Sultan, while allowing landowners reasonable use of their property.

B. The intent of this chapter is:

1. To protect the chemical, physical and biological quality of ground and surface waters.
2. To encourage the protection of natural systems and the use of them in ways which do not impair their beneficial functioning.
3. To perpetuate groundwater recharge.
4. To reduce erosion loss of valuable topsoils and subsequent sedimentation of surface water bodies.
5. To protect the habitat of fish and wildlife.
6. To prevent significant loss of life and property due to flooding.
7. To reduce the capital expenditures associated with floodproofing and the installation and maintenance of storm drainage systems.
8. To minimize the adverse impact of development on the water resources of the city of Sultan.

C. The city acknowledges that under certain circumstances it will not be possible or practical to meet all of the objectives of this chapter. In these cases, developments will be evaluated to determine the methods and approaches by which the developer proposes to mitigate any adverse effects which may otherwise result from the practical inability to meet all of the objectives of these performance standards.

D. The city adopts the most recent Department of Ecology Stormwater Management Manual for the Puget Sound Basin. Said manual as it now reads or is hereafter amended is incorporated into the Sultan Municipal Code by this reference. (Ord. 744-00; Ord. 630 § 2[16.10.110(1)], 1995)

#### **16.92.020 Exemptions.**

A. General. For the purpose of these performance standards, the following activities shall be exempt from the formal permitting procedure of this chapter:

1. Maintenance work on utility or transportation systems; provided, such maintenance work does not alter the purpose and intent of the system as constructed.
2. Maintenance work performed on existing stormwater detention/retention structures and drainage channels for the purpose of maintaining public health and welfare.
3. Maintenance or renewal of existing pavement, or maintenance of existing buildings, or for small properties having an impervious surface area of 3,000 square feet or less.



B. Emergency Exemption. This chapter shall not be construed to prevent the accomplishing of any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency, including but not limited to fire and hazards resulting from violent storms, or when the property is in imminent peril and obtaining a permit is impractical. For purposes of this code, action must be taken within 30 days of an emergency to qualify as an emergency exemption. A report of any emergency action shall be made to the building and zoning official by the owner or person in control of the property on which the emergency action was taken as soon as practicable, but no more than 10 days following such action. Remedial action may be required by the building and zoning official. (Ord. 630 § 2[16.10.110(2)], 1995)

#### **16.92.030 Permit requirements – Waivers.**

The permit requirements of this chapter may be waived by the building and zoning official for certain small projects as enumerated herein which, by their nature, do not substantially change the total rate, volume, or quality of stormwater runoff within a drainage basin.

A. Applicability. The permit requirements of this chapter may be waived by the building and zoning official for the following site development activities:

1. A single-family detached residence and accessory structures on a parcel of record, and not part of a residential subdivision development or not within a sensitive area.

2. The one time construction or addition of any structure or pavement not exceeding 3,000 square feet of impervious area on or parallel to the ground.

3. The establishment of a seasonal parking facility pursuant to and in compliance with a conditional use permit obtained in accordance with Chapter 21.04 SMC. A waiver under this subsection once granted shall remain in effect so long as the permit holder does annual before and after soil testing at one location designated by the building and zoning official and the results of said testing show the absence of hazardous materials at clean up concentrations. If testing shows the presence of hazardous materials at concentrations requiring clean up, the building and zoning official may revoke the waiver and/or may direct the permit holder to take such other actions as best management practices would require.

B. Stormwater Certifications. The permit requirements of this chapter may be waived by the building and zoning official for those development activities meeting the criteria given in subsection (A) of this section; provided, the owner/developer files a notice of intent with the building permit application and files a letter of certification with the building and zoning official, which contains the following:

1. The name, address and telephone number of the developer and owner(s).
2. A description of the improvement.
3. The address and legal description of the development.
4. A statement signed by the owner/developer that certifies that the development activity will:
  - a. Not obstruct the natural flow of stormwater runoff.
  - b. Not drain stormwater runoff onto adjacent lands or wetlands not now receiving runoff from the project area.
  - c. Not concentrate the discharge of runoff onto adjacent lands in such a manner as to present a flooding hazard or cause soil erosion.
  - d. Not adversely affect adjacent lands and structures.
  - e. Provide a positive drainage outlet from the site.
  - f. Not adversely impact adjacent wetlands and/or watercourses.
  - g. Employ measures to control soil erosion on the site.

5. Such other information as may be required by the building and zoning official. A certificate of occupancy for any development activity may be withheld by the building and zoning official in cases where the owner/developer fails to provide the stormwater certifications given above or where it can be shown that the owner/developer has not completed the construction consistent with the statements contained in the certifications. (Ord. 765-01 § 12; Ord. 630 § 2[16.10.110(3)(a)], 1995)

#### **16.92.040 Stormwater management permits.**

A stormwater management permit shall be applied for and obtained from the building and zoning official prior to commencement of development or redevelopment activity on land for which a permit waiver has not been issued and is described in SMC 16.92.030(A).

A. Applicability. A stormwater management permit is required for the development or redevelopment on land with more than 3,000 square feet of impervious area (roof, parking, etc.).

B. Application for Stormwater Management Permit. Anyone desiring to develop land shall apply for a stormwater management permit. In addition, the applicant shall submit copies of the following items which shall be prepared by a registered professional engineer.

1. A location map showing the location of the site with reference to such landmarks as major waterbodies, adjoining roads, estates, or subdivision boundaries.

2. A detailed site plan showing the location of all existing and proposed pavement and structures.

3. Topographic maps of the site before and after the proposed alterations.

4. Information regarding the types of soils and groundwater conditions existing on the site.

5. General vegetation maps of the site before development and a plan showing the landscaping to be performed as part of the project.

6. Construction plans and specifications necessary to indicate compliance with the requirements of these standards.

7. Runoff computations based on the most critical situation (rainfall duration, distribution, and antecedent soil moisture condition) using rainfall data and other local information applicable to the affected area.

8. Storage calculations showing conformance with the requirements of these standards.

9. Sufficient information for the building and zoning official to evaluate the environmental qualities of the affected waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts.

10. Such other supporting documentation as may be appropriate, including maps, charts, graphs, tables, specifications, computations, photographs, narrative descriptions, explanations, and citations to supporting references.

11. Additional information necessary for determining compliance with the intent of these standards as the building and zoning official may require.

C. Performance Standards. The performance standards for the development or redevelopment on parcels for which a stormwater management permit is required shall be as follows:

1. All projects shall provide treatment of stormwater. Treatment BMPs (best management practices) shall be sized to capture and treat the water quality design storm, defined as the six-month, 24-hour return period storm. The first priority for treatment shall be to infiltrate as much as possible of the water quality design storm, only if site conditions are appropriate and groundwater quality will not be impaired. Direct discharge of untreated stormwater to groundwater is prohibited. All treatment BMPs shall be selected, designed, and maintained according to the adopted Washington State Department of Ecology's Stormwater Management Manual.

Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.

Stormwater discharges to streams shall control streambank erosion by limiting the peak rate of runoff from individual development sites to 50 percent of existing condition two-year, 24-hour design storm while maintaining the existing condition peak runoff rate for the 10-year, 24-hour and 100-year, 24-hour design storms. As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and groundwater quality is protected. Streambank erosion control BMPs shall be selected, designed, and maintained according to an approved manual.

Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.

2. The cumulative impact of the discharge from the site on downstream flow shall be considered in analyzing discharge from the site.

3. Where possible, natural vegetation shall be used as a component of drainage design. The manipulation of the water table should not be so drastic as to endanger the existing natural vegetation that is beneficial to water quality.

4. Runoff from higher adjacent land shall be considered and provisions for conveyance of such runoff shall be included in the drainage plan.

5. No site alteration shall cause siltation of wetlands, pollution of downstream wetlands, or reduce the natural retention or filtering capabilities of wetlands. This shall be deemed to include the requirement that no herbicides, pesticides, or fertilizers may be used within 150 feet of any stream or aquifer recharge area.

6. Stormwater runoff shall be subjected to best management practice (BMP) according to the Washington State Department of Ecology's guidelines prior to discharge into natural or artificial drainage systems.

7. All site alteration activities shall provide for such water retention and settling structures and flow attenuation devices as may be necessary to insure that the foregoing standards and requirements are met.

8. Design of water retention structures and flow attenuation devices shall be subject to the approval of the building and zoning official pursuant to the standards herein.

9. Runoff shall be treated to remove oil and floatable solids before discharge from the site in a manner approved by the building and zoning official.

10. Erosion by water shall be prevented throughout the construction process.

11. For the purpose of this section, it is presumed that the lowering of the water table to construct detention/retention basins and to permanently protect road construction does not conflict with the stated objectives of these standards, if all of the following are met:

a. The development site is not in a sole-source aquifer protection area or wellhead protection area.

b. If ditches, underdrains or similar devices are used to lower the water table, the lateral volumetric effect will be calculated, and the volume will be deducted from that allowed for retention areas.

c. The high water table may be lowered to two feet below the undisturbed ground in the vicinity of roads for the purpose of protecting the sub-base and base of the roadway.

d. The lowering of the water table has no adverse effect on wetlands as defined in this section.

e. The lowering of the water table does not increase flows to the detriment of neighboring lands.

D. Review Procedure. The building and zoning official will ascertain the completeness of the stormwater management permit application within 10 working days of receipt. Completeness shall only be insofar as all required exhibits have been

submitted and shall not be an indication of the adequacy of these exhibits. Within 30 working days after the determination has been made that a completed permit application package has been submitted, the planning commission shall approve, with specified conditions or modifications if necessary, or reject the proposed plan and shall notify the applicant accordingly. If the planning commission has not rendered a decision within 60 working days after plan submission, the plan shall be deemed to be approved.

The planning commission, in approving or denying a stormwater management permit application, shall consider as a minimum the following factors:

1. The characteristics and limitation of the soil at the proposed site with respect to percolation and infiltration.

2. The existing topography of the site and the extent of topographical change after development.

3. The existing vegetation of the site and the extent of vegetational changes after development.

4. The plans and specifications of structures or devices the applicant intends to employ for on-site stormwater retention or detention with filtration, erosion control and flow attenuation.

5. The impact the proposed project will have on the natural recharge capabilities of the site.

6. The impact the proposed project will have on downstream water quantity and, specifically, the potential for downstream flooding conditions.

7. The continuity of phased projects. (Projects that are to be developed in phases will require the submission of an overall plan for the applicant's total land holdings.)

8. The effectiveness of erosion control measures during construction.

9. Permits required by any governmental jurisdiction to be obtained prior to the issuance of a permit under this section.

10. The adequacy of easements for drainage systems in terms of both runoff conveyance and maintenance.

11. The method of handling upland flow which presently discharges through the site.

12. The maintenance entity responsibility for upkeep of the system upon its completion. (Ord. 630 § 2[16.10.110(3)(b)], 1995)

#### **16.92.050 Automatic rejection of permit.**

Should 60 working days elapse from the date of mailing by the planning commission's appointed official a request for additional information or plan amendment without response by the applicant, or his/her engineer, the agency may immediately deny the permit applicant based on the inadequacy of the information presented. A request by the applicant to hold the application in abeyance shall be considered for a period not to exceed one year from the date of the original application. If no additional information is received within that one-year period, the planning commission may deny the application based upon the information presented.

In the event that the plan is approved with specified conditions or modifications, the applicant shall then have the opportunity to amend the plan in accordance with the requirements of the planning commission within 60 working days following the mailing date of the request. In the event that the applicant does not comply with the planning commission's requirements within 60 working days, the planning commission may deny the application based upon the inadequacy of the plan and information previously presented. (Ord. 630 § 2 [16.10.110(3)(c)], 1995)

#### **16.92.060 Application for preliminary review for modification to existing development.**

A. General. Any persons proposing to make any change in the size of any existing structure may submit an application for preliminary review to the building and zoning official to determine the requirement for a stormwater management permit. Those applications that shall be considered by the building and zoning official must be within the following parameters:

1. There shall be no change in the volume of stormwater nor shall the rate of stormwater runoff be affected;

2. The construction of any structure not otherwise exempt shall not exceed 1,000 square feet of impervious surface on or parallel to the ground;

3. The development shall not consist of the construction of new paved area;

4. The development shall not consist of the construction of any drainage improvements; and

5. The development shall not involve the alteration of the shape of land.

B. Application Requirements. The application for preliminary review shall contain sufficient information regarding the proposed improvements to adequately define the features of the project which impact the location, rate and the volume of stormwater runoff. Such information shall include, but may not be limited to:

1. Name, address and telephone number of the applicant.

2. Location map, address, legal description of the proposed improvement.

3. Statement expressing the scope of the proposed project.

4. Schedule of proposed improvements.

5. Sketch showing existing and proposed structures, paving, and drainage patterns.
6. Erosion control and drainage plan.

C. Review Procedure. The application for preliminary review shall be reviewed by the building and zoning official to determine whether a project is exempt, whether a permit waiver is possible or whether a water quality permit or stormwater management permit shall be required. Within 30 working days after receipt of the application for preliminary review, the building and zoning official will notify the applicant whether the project is exempt or what further application procedures are to be followed. (Ord. 630 § 2[16.10.110(4)], 1995)

#### **16.92.070 Request for appeal.**

If the applicant feels aggrieved due to rejection or modification, or any other action of the planning commission or building and zoning official, he or she may petition the city council for a hearing before them. Such petition shall be filed within 45 working days from the date of the mailing of the notice. (Ord. 630 § 2[16.10.110(5)], 1995)

#### **16.92.080 Permit duration.**

Any development activity for which a permit is issued under this chapter that is not commenced within one year from the date of permit issuance and/or which is not complete within two years from the date of permit issuance shall automatically be null and void, unless otherwise extended by the planning commission. (Ord. 630 § 2 [16.10.110(6)], 1995)

#### **16.92.090 Plan adherence.**

The applicant shall be required to adhere strictly to the plan as approved. Any changes or amendments to the plan must be approved in writing by the planning commission, in accordance with the procedures set forth in SMC 16.92.030 and 16.92.040. After the completion of the project, the planning commission may require from the owner/applicant that the professional engineer in charge certify compliance with terms of the permit or submit as-built plans, if the completed project appears to deviate from the approved plan. The filing of an application for a permit shall constitute a grant and consent by the owner for enforcement officials to enter and inspect the project to insure compliance with the requirements of this chapter. (Ord. 630 § 2[16.10.110(7)], 1995)

#### **16.92.100 Maintenance.**

A. General. The installed on-site retention/detention systems and drainage facilities required by these standards shall be maintained by the owner. The owner shall be required to execute a written system maintenance agreement that shall permit the city of Sultan:

1. To have adequate ingress and egress to inspect the premises at reasonable times; and
2. If necessary, take corrective action should the owner fail to properly maintain the system(s).

B. Failure to Maintain. Should the owner fail to properly maintain the stormwater management system(s), the building and zoning official shall give written notice to the owner of record as appears on the latest property tax rolls by certified mail of the nature of the violation and order the corrective action necessary. Should the owner fail, within 30 working days from the date of the notice, to take corrective action to the satisfaction of the building and zoning official or appeal the notice and order, the city of Sultan may enter upon the lands, take such corrective action as the official may deem necessary, and place a lien on the property of the owner for the cost thereof.

C. City Maintenance. Certain off-site systems as may be identified by the city's stormwater management plan, which are to provide general public benefits, may be accepted by the city for

maintenance. The selection of such systems to be maintained shall be made by the public works department. All areas and/or structures to be maintained by the city must be dedicated by plat or separate instrument and accepted by resolution of the city council. (Ord. 630 § 2[16.10.110(8)], 1995)

#### **16.92.110 Inspections.**

A. The holder of any permit or approval issued subject to a detailed drainage plan shall arrange with the city engineer for scheduling the following inspections:

1. Initial Inspection. Whenever work on the site preparation, grading, excavations or fill is ready to be commenced, but in all cases prior thereto;
2. Rough Grading. When all rough grading has been completed;
3. Bury Inspection. Prior to burial of any underground drainage structure;
4. Finish Grading. When all work including installation of all drainage structures and other protective devices has been completed;
5. Planting. When erosion control planting shows active growth.

B. In certain circumstances, not all of the above inspections may be necessary. It shall be the discretion of the city engineer to waive or combine any of the above inspections as dictated by conditions. The city engineer shall inspect the work and shall either approve the same or notify the applicant in writing in which respects there has been failure to comply with the requirements of the approved plan. Any portion of the work which does not comply shall be promptly corrected by the applicant. (Ord. 630 § 2[16.10.110(9)], 1995)

### **Chapter 22.06 SIGN STANDARDS**

#### **22.06.010 Purpose.**

The purpose of this chapter is to establish sign regulations that are intended to:

- A. To promote and protect the general public health, safety, welfare, and aesthetics of the community by regulating existing and proposed signs.
- B. Promote the community's appearance by regulating the number, design, character, location, type, and quality of materials, scale, illumination and maintenance of signs to maximize their positive visual impact.
- C. Promote the effective identification of businesses while maintaining an attractive and inviting cityscape.
- D. Promote signs that identify uses and premises without confusion.
- E. Reduce possible traffic and safety hazards through good signage. (Ord. 806-03 § 1)

#### **22.06.020 Definitions.**

For the purpose of this chapter, the terms set out in this section shall have the meanings indicated:

1. "Abandoned sign" is a sign which represents or displays any reference to a business or use which has been discontinued for more than six months or for which no valid business license has been issued by the city.
2. "A-board, sandwich board, and similar signs" means small type signs, either single or double face, portable or permanently installed, upon which is generally placed advertising copy denoting products being offered upon the premises on which such signs are placed.

3. "Advertising copy" means any letters, figures, symbols, logos, trademarks or similar devices which identify or promote the sign user or any product or service; or which provides information about the sign user, the premises, the building or the products or services available.

4. "Animated sign" means a sign which contains wind, electronic, or mechanically operated moving parts or which flashes or simulates motion by the use of electric lights.

5. "Awning – retractable" means a hood or cover projecting from, but not a permanent part of, an exterior wall of a building and supported by that wall and that is collapsible, retractable, or capable of being folded against the face of the supporting building.

6. "Awning – fixed" means a hood or cover projecting from, but not a permanent part of, an exterior wall of a building and supported by that wall, and is held in place with rigid frames and covered with a flexible material.

7. "Banner" means a temporary sign made of cloth, fabric, paper, and nonrigid plastic or similar types of material and displayed from a building or structure.

8. "Bench sign" means any sign which is painted or affixed to any portion of a bench and shall be no larger than the area reasonably necessary to accommodate a functional bench.

9. "Billboard" means a preprinted or hand painted changeable advertising copy sign which directs attention to businesses, commodities, services, or facilities which are not primarily sold, manufactured, or distributed from the property on which the sign is located. The term "billboard" includes both the structural framework which supports a billboard and any billboard faces attached thereto.

10. "Canopy" means any structure, other than an awning, made of cloth or metal with metal framework attached to a building or carried by a framed supported by the ground.

11. "Campaign/political sign" is a noncommercial temporary sign displaying a message relating to a candidate, political party, or public issue.

12. "Changeable copy/message sign" means a sign designed to allow the changing of copy through manual, mechanical, or electrical means including time and temperature and date sign, message center or reader board where different copy changes of a public service or commercial nature are shown on the same lamp bank.

13. "Change" means a change of a sign which consists of relocating the sign, or replacing 25 percent or more of the advertising copy or sign face and structural material in the sign. Normal maintenance is not a change which requires a permit.

14. "Commercial sign" means a sign displayed for the purpose of identifying a commercial use, or advertising any good, product, service, business, or other enterprise that is regularly offered for trade or sale.

15. "Directional sign" means a sign permanently erected and permitted by the city or state which serves solely to designate the direction to or location of any place, area, or to direct and regulate traffic. "Directional sign" also means a sign providing notice about the time and place of regular civic meetings and religious activities and services. "Directional sign" also means a sign which has only information (informational directional sign) on exit and entrance or parking and contains no form of advertising copy, or the name of the advertiser, is not greater than four square feet in area and does not exceed three feet in height.

16. "Display sign" means a case or cabinet or other device having a window or transparent material and which is either freestanding or mounted on the exterior of a building structure.

17. "Electrical sign" means a sign or sign fixture in which electrical wiring and connections for fixtures are used as part of the sign.

18. "Existing sign" means a sign in existence prior to the enactment of this chapter.

19. "Exterior/wall sign" means a sign attached to and supported by a wall or facade of a building or structure, with the exposed face of the sign parallel to the wall or facade and extending no more than 18 inches from the wall or facade. Any sign placed behind glass, or affixed to a window of a building and located in such a manner as to have an obvious intent to capture interest of persons outside the building, shall be considered a wall sign and shall be treated in the same manner.

20. "Facade" means the entire building front or the street sidewall of a building from the grade of the building to the top of the parapet or eaves and the entire width of the building elevation.

21. "Flashing sign" means an illuminated sign which changes intensity of lighting and/or switches on and off in a constant pattern or in which lighting is not maintained stationary and with constant intensity and color.

22. "Freestanding sign" means an exterior sign which is self-supported by use of poles, uprights, or braces in a fixed location, and in or on the ground, and is not attached to a building, but not including A-board or sandwich board signs.

23. "Frontage – primary" means as follows:

a. In a building containing only one business, primary frontage shall be the width of that side of the building which contains the main public entrance to that business.

b. In a building containing more than one business, all of which businesses have their main public entrances on the same side, primary frontage shall be the width of that side of the building which contains those public entrances.

c. In a building containing more than one business, where those businesses have their main public entrances on more than one side of the building, each side shall constitute a primary frontage. Each primary frontage shall be the width of that frontage.

24. "Frontage – secondary" means as follows, in a building containing one or more businesses, and having all main public entrances on one side, one secondary frontage may be designated by the building owner. That frontage shall be the width of that side of the building as designated.

25. "Gas station price sign" means a sign advertising the price of fuel and containing no other business advertising.

26. "Governmental sign" is a sign posted and displayed by a governmental agency that is necessary to protect and regulate the public health and safety. Governmental signs include traffic signs, directional and informational signs for public health and safety facilities and public safety warning or hazard signs.

27. "Grade" means the elevation as measured at relative level from the top-of-curb or center of the street, whichever is greater in the immediate vicinity of the sign.

28. "Ground sign" means a type of freestanding sign which is erected on the ground and which contains no free air space between the ground and top of the sign.

29. "Hanging sign" means a sign suspended from an awning, canopy, or marquee.

30. "Identification sign" means a sign limited to the name, address, and number of a building, institution, or person or activity carried on in the building.

31. "Incidental sign" means a small information sign not exceeding four square feet in area indicating goods, services, products, credit cards, hours of operation, or facilities which are available on the premises and is primarily intended for the convenience of the public.

32. "Illegal sign" is a sign which was erected without first complying with all ordinances and regulations in effect at the time of its erection and use.

33. "Illuminated sign" means a sign designed to give forth an artificial light, or designed to reflect light from an external source.

34. "Illumination – external" means an exterior lighting source located away from a sign which lights the sign, but is not readily visible.

35. "Illumination – internal" means a light source concealed or contained within the structure which becomes visible in darkness through a translucent surface.

36. "Joint use sign" means a sign which is designed and constructed to be used by more than one business.

37. "Mansard roof sign" means signs which are structurally incorporated into a sloped roof or roof-like facade architecturally capable of being treated as a building wall.

38. "Marquee" means a permanent roof or hood structure attached to, supported by, and projecting from a building over the public right-of-way or public place. It provides protection from weather elements, but does not include a projecting roof.



39. "Mural" is a picture painted directly on a building, or to surfaces mounted on the building, or its appurtenances.

40. "Multiple tenant building" means a single structure housing more than one retail business, office or commercial venture.

41. "Noncommercial sign" means a sign which is devoted to religious, charitable, cultural, political, artistic, governmental or educational messages, and that is not primarily associated with a good, product, or service offered for sale or trade. Noncommercial signs include, but are not limited to, signs advertising incidental and temporary commercial activities conducted by governmental agencies, schools, churches, and nonprofit civic or service clubs, and residential property owners and tenants.

42. "Nonconforming" means a sign or sign structure legally erected prior to this code that does not conform to the provisions as contained in this chapter.

43. "Obsolete sign" means a sign advertising a business no longer conducted or product no longer sold.

44. "Off-premises or remote sign" means a sign, including a billboard, which is not located on the property where the business depicted by the sign is located, and which is not directly related to the use or activity operated on the site of the sign.

45. "On-premises sign" means a sign which displays only advertising copy strictly incidental to the lawful use of the premises on which it is located and shall, depending upon the zoning district in which it is located, contain any of the following:

a. The name of the owner, occupant, management, or firm occupying the premises;

b. The address and use;

c. The kind or name of the business and/or the brand name of the principal commodities sold or produced on the premises;

d. Other information relative to a service or activity involved in the conduct of the business (also includes owner identification or business sign). Any commercial or noncommercial sign which advertises or relates to a good, product, service, place, thing, event, or meeting that is lawfully offered, sold, traded, provided, located or conducted at the location upon which the sign is posted or displayed.

46. "Permanent sign" is a fixed or portable sign intended for continuous use or intermittent display for periods exceeding 60 days in any calendar year.

47. "Pole sign" means an exterior sign which is self supported by use of a single supporting structure or single pole, in a fixed location, and in or on the ground, and is not attached to a building.

48. "Portable sign" means any sign which is readily capable of being moved or removed, whether attached or affixed to the ground or any structure, that is designed, constructed, and typically intended for temporary display. Portable signs include, but are not limited to:

a. Signs posted or displayed upon a movable chassis or support with or without wheels;

b. A-frame signs;

c. Wooden, cardboard, metal, or plastic "stake" or "yard" signs;

d. Posters or banners affixed to windows, railings, overhangs, trees, hedges, or other structures or vegetation;

e. Signs mounted on vehicles parked and visible from the public right-of-way, except signs mounted upon vehicles that are being primarily used for normal day to day commercial or noncommercial transportation purposes, and not primarily for advertising or display purposes, and except for signs advertising for sale the vehicle upon which the sign is posted;

f. Searchlights;

g. Balloons or inflatable signs over 24 inches in diameter and similar devices of a carnival nature.

49. "Projecting sign" means a two-sided sign projecting more than 15 inches from a structure or building which is supported by a wall of the structure.

50. "Real estate sign" means a temporary sign erected by the owner or his agent advertising the real estate upon which the signs are located for rent, for lease or for sale.

51. "Roof sign" means a sign erected upon or above the parapet of a building or structure. Mansard roof signs shall not be included.

52. "Sign" means any communication device, structure, fixture, illuminated or nonilluminated, which is visible from any public right-of-way, and using graphics, pictures, symbols or written copy, that is intended to direct attention to and to promote the sale of products, goods, services, events, or to identify a building. The term "signs" shall not include the following:

a. Flags, pennants or insignia of nations, or an organization of nations, states or cities, or fraternal, religious and civic organizations or any educational institutions except when such flags are used in connection with a commercial promotion or as an advertising device.

b. Placards, banners, pennants, merchandise, pictures or models of products or services incorporated into a window display.

c. Works of fine art and painted murals which in no way identify a product or business and which are not displayed in conjunction with a commercial enterprise, which enterprise may benefit or realize direct commercial gain from such display.

d. One nameplate per public entrance per business of no more than two square feet per face which is suspended under a canopy or mounted on the face of the building.

e. Temporary decorations or displays clearly incidental and customary and commonly associated with national, local or religious holiday celebrations if erected entirely on private property and not displayed for a period of more than 10 days (40 days for the Christmas/New Year holiday) coinciding with that holiday; provided, however, there shall be no flashing lights permitted in the urban center, highway oriented development or economic development zoning districts.

f. Signs not visible beyond the boundaries of the lot or parcel upon which they are located or from any public thoroughfare or right-of-way.

g. Traffic and other official signs of any public or governmental agency.

h. Commemorative plaques and historical site or structure signs.

i. Billboards signs located on the outfield fence of the Mariner's Field located at the Sultan High School.

j. Special event signs; provided, that all of the following conditions are met:

i. The promoter of the event or grand opening shall have met with the city to obtain a determination that the proposed sign(s) fall within the definition of a special event sign.

ii. No such sign shall include moving parts or flashing lights.

iii. No such sign shall create a hazard.

iv. No such sign shall be erected or displayed more than 30 days before the special event or grand opening it announces or 14 days thereafter.

v. All such signs shall be removed within 14 days following the conclusion of the special event or grand opening.

k. Temporary, nonilluminated real estate signs limited to one in all residential zones and not exceeding six feet in area per sign face.

l. Temporary, nonilluminated construction signs limited to one sign in residential areas not exceeding 32 square feet in area per face, and two signs in commercial and industrial zoning district not exceeding 32 square feet in area per face per street frontage.

53. "Sign area" means the entire area of the structure on which advertising copy is to be placed. It shall include the total height and width of the structure. Sign supporting structures which are part of the sign display shall be included in the area rectangle. Architectural embellishments and decorative features which contain no written or advertising copy shall be included in determining the sign area. Where a sign is affixed to or otherwise displayed on a structure which is not in itself a sign, such as a wall, marquee, canopy, or awning, the sign area shall be a rectangle formed by the greatest height and width of the advertising copy. The area of all ground signs shall be measured by determining the sum of the area of the advertising copy as noted above, and that portion of the sign structure which exceeds one and one-half times the area of the sign face.

54. "Sign face" means the area of display surface used for the message.

55. "Sign height" means the vertical distance measured from the adjacent street grade or upper surface of the nearest street curb, other than elevated roadways, which permits the greatest height to the highest point of the sign.

56. "Sign package review" means a process by which building design, commercial development design, and signs are integrated into one architectural set of plans that are submitted for planning review and/or building permits.

57. "Special event sign" means a sign that displays information concerning a special event, festivals, carnivals, grand openings, or annual sales occurring no more than twice within any 12-month period.

58. "Temporary sign" is an allowed portable sign intended for short-term use, not to exceed 60 days in a calendar year.

59. "Window sign" means a sign affixed to a window for advertising purposes. (Ord. 806-03 § 1)

#### **22.06.030 Sign classifications and permitted signs.**

A. Exempt Signs. The following types of signs and devices shall be exempt from the permit requirements of this chapter; provided, that all applicable standards or conditions are met:

1. Political signs; provided, that such of these signs that relate to a particular election shall be removed no later than 10 days after the election to which the signs pertain and do not exceed 32 square feet in area.

2. Those signs identified as exempt in the definition of "sign," which are as follows:

a. Flags, pennants or insignia of nations, or an organization of nations, states or cities, or fraternal, religious and civic organizations or any educational institutions except when such flags are used in connection with a commercial promotion or as an advertising device.

b. Placards, banners, pennants, merchandise, pictures or models of products or services incorporated into a window display.

c. Works of fine art and painted murals which in no way identify a product or business and which are not displayed in conjunction with a commercial enterprise, which enterprise may benefit or realize direct commercial gain from such display.

d. One nameplate per public entrance per business of no more than two square feet per face which is suspended under a canopy or mounted on the face of the building.

e. Temporary decorations or displays clearly incidental and customary and commonly associated with national, local or religious holiday celebrations if erected entirely on private property and not displayed for a period of more than 10 days (40 days for the Christmas/New Year holiday) coinciding with that holiday; provided, however, there shall be no flashing lights permitted in commercial areas.

f. Signs not visible beyond the boundaries of the lot or parcel upon which they are located or from any public thoroughfare or right-of-way.

g. Traffic and other official signs of any public or governmental agency.

h. Commemorative plaques and historical site or structure signs.

i. Billboards signs located on the outfield fence of the Mariner's Field located at the Sultan High School.

j. Special event signs; provided, that all of the following conditions are met:

i. The promoter of the event or grand opening shall have met with the city to obtain approval for the proposed sign(s) to ensure they fall within the definition of a special event sign.

ii. No such sign shall include moving parts or flashing lights.

iii. No such sign shall create a hazard.

iv. No such sign shall be erected or displayed more than 30 days before the special event or grand opening it announces or 14 days thereafter.

v. All such signs shall be removed within 14 days following the conclusion of the special event or grand opening.

k. Temporary, nonilluminated real estate signs, limited to one in all residential zones, and not exceeding six feet in area per sign face.

1. Temporary, nonilluminated construction signs, limited to one sign in residential areas, not exceeding 32 square feet in area per face; and two signs in commercial and industrial zoning district, not exceeding 32 square feet in area per face per street frontage.

m. Real estate directional signs in all zoning districts not exceeding six square feet in area per face or four feet in height.

**B. Prohibited Signs. It is unlawful to erect or maintain:**

1. Abandoned signs.

2. Signs which interfere with the view of traffic signs, signals or devices and approaching or merging traffic.

3. Animated signs. No sign shall be animated, revolve or rotate either mechanically or by illumination, except the movement of the hands of a clock, electronic message displays, and barber poles.

4. Signs which are significantly distracting to vehicle operators, such as those containing flashing, moving or intermittent lights, or signs with a concentrated light source or reflecting frames or surface(s) of such intensity or glare that it may create a safety hazard to motorists or pedestrians.

5. Signs erected, maintained, or painted upon trees, rocks, or other natural features.

6. Signs which are structurally unsafe, or improperly maintained or otherwise in violation of the Uniform Building Code, other city ordinances, and state codes.

7. Private signs on utility poles as prohibited by RCW 70.54.100.

8. Pinwheels, twirlers, propellers, and flashing or blinking lights; flares.

9. Portable temporary signs of the following types:

a. Signs posted or displayed upon a movable chassis or support, with or without wheels.

b. Posters outside of the business establishment.

c. Signs mounted upon vehicles as specified in SMC 22.06.020(48) of the definition for portable signs, of a commercial nature.

d. Searchlights.

e. Inflatable signs and balloons over 12-inch in diameter, and similar devices of a carnival nature.

f. Billboards.

g. Signs which by reason of their size, location, movement, content, shape, coloring or manner of illumination obscure, imitate, or may be confused with lawfully posted governmental signs such as traffic control signs, signals, or devices.

11. Signs in dilapidated or hazardous condition.

12. Roof signs.

**C. Permitted Signs.**

1. Signs in the residential districts (low/moderate density (LMD), moderate density (MD), and high density (HD)) may include and shall be limited to the following:

a. No off-premises signs are permitted except for real estate directional signs in conjunction with subsection (C)(1)(b) of this section.

b. Real estate signs shall be limited to one per street frontage not exceeding six square feet in area per face or four feet in height.

c. One identification sign per multifamily dwelling, manufactured home park, and subdivision, not exceeding 25 square feet in area per face, provided it has only indirect illumination and does not exceed a height of five feet.

d. One identification sign per public or semi-public use, provided such sign does not exceed 35 square feet in area per face or five feet in height and has only indirect illumination.

e. Conditional uses within the above zoning districts may be allowed one wall or ground sign, as part of the conditional use approval process (Chapter 21.04 SMC), providing the size of the sign does not exceed 25 square feet in area or five feet in height and has only indirect illumination.

f. Home occupation or commercial nameplate identification signs, or combination nameplate and street identification signs, not exceeding four square feet. Signs larger than four square feet shall be allowed if approved by the design review board; provided, the owner can show burden of proof that site is

unique and a larger sign is needed due to topography of property or access to site. No sign shall exceed eight square feet.

g. Internally illuminated signs are prohibited.

2. Signs in the urban center (UC) zone may include and shall be limited to the following:

a. Off-premises signs are prohibited.

b. On-premises signs shall include wall signs, marquee signs, and projecting signs only. A mansard roof sign shall be considered a wall sign in this district. Projecting signs shall be limited to one per street frontage and shall not exceed an area of 25 square feet per sign face.

c. Wall and marquee signs shall not exceed a total sign area of two square feet per lineal foot of building frontage; except that in no event shall the sign allowance for any one building be less than 60 square feet regardless of frontage.

d. Signs attached to marquees projecting over public property shall be constructed on noncombustible materials.

e. Wall signs and projecting signs shall be constructed of noncombustible materials, or wood of one-inch nominal thickness. Approved plastics may be used in the construction of electric signs.

f. One freestanding sign per business or complex may be permitted for properties with street frontage on Highway No. 2, provided the area of the sign does not exceed one square foot per lineal foot of street frontage not to exceed 150 square feet in area and not to exceed 20 feet in height.

g. Portable signs as defined in SMC 22.06.035.

h. Public directory/directional signs located in the public right-of-way, established by the city, not exceeding 25 square feet in area and eight feet in height.

3. Signs in the highway-oriented development (HOD) zone may include and shall be limited to the following:

a. Only on-premises signs are permitted, except that off-premises directional signs with a sign area of 40 square feet per face and eight feet in height, limited to four square feet of signage for each individual business or advertiser and outdoor advertising signs not exceeding 100 square feet in area per sign face and 20 feet in height are permitted.

b. Single-Tenant Building.

i. One freestanding sign with a total sign area of one square foot per lineal foot of street frontage not to exceed 100 square feet in area per sign face and 20 feet in height;

ii. A projecting sign may be used in lieu of a freestanding sign, but shall be limited to one-half of the area allowed for a freestanding sign on that frontage, and in no case shall exceed 36 square feet in area per sign face;

iii. Wall or marquee signs shall not exceed a total sign area of two square feet per lineal foot of building frontage, but at least 60 square feet of sign area shall be permitted, but each business in the complex/building shall be allowed at least 32 square feet in sign area regardless of their location or building frontage;

iv. Portable signs as stated in SMC 22.06.035.

c. Multibuilding Complexes or Multitenant Buildings.

i. One freestanding sign with a total sign area of one and one-half square feet of sign area per one foot of street frontage not to exceed 150 square feet in area per sign face and 20 feet in height;

ii. There shall be not more than one freestanding or projecting sign per street frontage, except that if a complex has more than 300 lineal feet of street frontage, they shall be allowed one additional freestanding sign, not to exceed 100 square feet in area per sign face and 20 feet in height. The signs must be located at least 150 feet apart;

iii. A projecting sign may be used in lieu of a freestanding sign, but shall be limited to one-half the area allowed for the freestanding sign on that frontage, and in no case shall exceed 36 square feet in area per sign face. A projecting sign and a freestanding sign shall not be permitted along the same street frontage;

iv. The total allowable sign area for wall and marquee signs shall not exceed three square feet per lineal foot of building frontage, but each business shall be allowed at least 60 square feet regardless of the length of the building frontage;

v. Changing message center signs or other similar electrically or electronically controlled sign with advertising are allowed;

vi. Portable signs as stated in SMC 22.06.035.

4. Signs in the economic development (ED) zone may include and shall be limited to the following:

a. Only on-premises signs are permitted except that off-premises directional signs with a sign area of 40 square feet per face and eight feet in height and limited to four square feet of signage for each individual business or advertiser and outdoor advertising signs with a sign area of 100 square feet per side are permitted.

b. One freestanding sign shall be permitted with a maximum sign area of one square foot for each one foot of street frontage, not to exceed 50 square feet in area per sign face and 20 feet in height.

c. One wall sign shall also be permitted, in addition to a freestanding sign, with a maximum sign area of one square foot for each one foot of building frontage, not to exceed 50 square feet in area. In lieu of a freestanding sign, one additional wall sign is permitted not to exceed 50 square feet in area.

d. Portable signs as stated in SMC 22.06.035. (Ord. 806-03 § 1)

#### **22.06.035 Portable signs.**

Portable signs are permitted, subject to the regulations set forth below.

A. Size and Height. No sign shall exceed six square feet in area per face with a maximum height of three feet.

B. Setbacks. Portable signs shall maintain a 15-foot side yard setback in all districts and shall not obstruct traffic visibility at street, highway, or driveway intersections.

C. Location. Portable signs shall be located on the business premises advertised except in the UC (urban center) zone where they may be located 150 feet off the business premises provided the location does not create a hazard to pedestrian movement on the sidewalk, or the use of the adjacent street, including on-street parking spaces.

D. Number of Signs Permitted.

1. Single-Tenant Building. No more than one portable sign shall be allowed for each street frontage for any single-tenant building.

2. Multibuilding Complexes or Multitenant Buildings. For multibuilding complexes or multitenant buildings no more than one portable sign shall be allowed for each 50 feet of continuous street frontage; provided, that a minimum 25-foot separation must be maintained between signs.

E. Anchoring. All signs shall be anchored in a manner which both prevents the sign from being moved or blown over from its approved location and also allows for the prompt removal of the sign.

F. Illumination. No portable identification sign may be illuminated.

G. Hazard. No portable sign or associated apparatus shall be situated or used in a manner which creates a hazard to the public. The city retains the right to revoke any permit and to remove a portable sign that, in the judgement of the city officials, may create an accident or hazardous situation. The determination to remove a portable sign or revoke a permit for a portable sign may be appealed to the city council by filing a written request therefor within 10 days of the removal of the sign or the revocation of the permit. The permit shall not be restored, nor the sign replaced, until a determination by the city council has been made.

H. Permit and Permit Sticker Required. No portable sign may be installed or utilized without first obtaining a permit therefor from the city of Sultan building official. Applications for permits may be made according to such procedures and upon such forms as may be established by the building official. A valid city-issued permit sticker shall be affixed to the sign in the location determined appropriate by the building official prior to installation of any portable sign. (Ord. 806-03 § 1)

#### **22.06.040 Application and permits.**

A. Permit Requirement. No sign governed by the provisions of this chapter shall be displayed, erected, relocated, or altered without first obtaining a sign permit. When such a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms and conditions of said permit without prior written approval from the building and zoning official.

B. Application for Permit. An application for a sign permit shall be made by the owner of the property or his authorized agent, except for political signs or other signs not requiring a permit. The permit application shall contain a legal description of the property where the sign is proposed to be located; the name, address, and telephone number of the owner or his/her authorized agent; the name, address, and telephone number of the sign installer/erector; the type of sign surface area, and value of the sign proposed; the signature of the applicant; a drawing to scale showing the design and location of the sign, and an indication as to the material to be used to construct the sign, its color, and how it is proposed to be affixed to the property; and any other pertinent information deemed necessary by the building and zoning official's office to ensure compliance with these standards.

C. Statement of Authorization. Any application for a sign permit that is signed by an individual other than the property owner shall be accompanied by a notarized statement of authorization consenting to the sign placement by the owner of record or, if the property or building upon which the sign to be located is leased, a copy of the executed lease shall accompany the application form. Off-premises signs shall require a notarized statement from the property owner authorizing the placement of the sign. (Ord. 806-03 § 1)

#### **22.06.050 Design and construction standards.**

A. Plans and Specifications. Plans and specifications for any proposed sign shall be prepared and submitted in triplicate to accompany the application. Such plans and specifications shall be drawn to scale and, at a minimum, include the following:

1. Sign dimensions;
2. Lot frontage on all public rights-of-way;
3. Maximum and minimum height of the sign, as measured from the finished ground floor grade;
4. The location of the sign in relation to property lines, public rights-of-way, easements, buildings, and any other existing signs on the property;
5. Dimensions of the sign's supporting members;
6. For illuminated signs, the type, placement, intensity, and proposed hours of operation;
7. All construction and electrical specifications, if any, of the proposed sign;
8. Lineal footage of building frontage;
9. Contact and number for dial-a-dig location;
10. For ground and pole sign footing and foundation details and specifications.

B. Existing Signs. The number, type, location, and surface area of all existing signs on the same property and/or building upon which the proposed sign is to be located shall be indicated.

C. Revocation of Permit. If the work involving the erection of any sign is found, upon inspection, to not be proceeding in accordance with the drawings and specifications contained in the sign permit application, and/or is proceeding in violation of these standards, or any other codes and laws of the city of Sultan, the owner or his/her authorized agent shall be notified of the violation in writing by the building and zoning official's office. If the owner or his authorized agent fails or refuses to make corrections within 15 working days of being notified, it shall be the duty of the building and zoning official's office to revoke such permit and serve notice upon such owner. It shall be unlawful for any person to continue with any work associated with sign erection/installation after such notice is issued.

D. Revocation of Permit for Nonuse. If work has not commenced within 90 working days from the date of the issuance of the sign permit, the permit shall become null and void. If construction of a sign has

commenced under a sign permit, but is then suspended for a period of at least 60 working days, such permit shall become null and void. If any sign permit has been declared null and void and the owner, developer, or tenant decides to reinstate action on the construction/installation of the sign, it shall be necessary for him/her to reapply in writing for a new permit. All requests for extensions of the time limit and all approvals (or denials) for these requests shall be in writing.

E. Inspection. The building and zoning official's office may make or require any inspections of any sign construction or installation to ensure compliance with these standards and other pertinent laws. (Ord. 806-03 § 1)

## **22.06.060 Structural requirements and sign design.**

A. Landscaping. The purpose of this subsection is to establish aesthetic standards that will lead to an attractive appearance along public rights-of-way through the use of landscaping.

1. A landscaped area shall be provided and maintained in a neat and orderly manner at the base of every freestanding or ground sign, in addition to any other required landscape standards.

2. Said landscaped area shall contain a minimum of one square foot for each square foot of sign surface area.

3. Real estate, permitted banners, and pennants, all permitted temporary signs, and political signs are exempt from this requirement.

### **B. Sign Locations.**

1. No sign shall be attached to a gutter, drainpipe, or fire escape, nor shall any sign be installed that impedes access to a roof. No sign shall encroach into a means of egress as identified in the Uniform Building Code.

2. No sign shall be installed in any location where, by reason of its position, it will obstruct the view of any authorized traffic signal, sign, or other traffic control device.

3. No sign shall be attached to any public tree, utility pole, traffic sign device and restraining object.

4. All signs, except for political signs and temporary noncommercial social event signs, shall pertain to a permitted use on the property upon which they are installed.

5. No business, office, or industrial use shall have more than two signs per public right-of-way frontage.

6. There shall be a clearance of at least nine feet between the ground and the bottom of the sign and no sign shall overhang within two feet of the vertical projection of a public right-of-way or curb line in the urban center district.

### **C. Traffic Hazard. No sign shall hereinafter be erected, installed, operated, used, or maintained that:**

1. Due to its position, shape, color, format, or illumination, obstructs the view of or may be confused with an official traffic sign, signal, or device.

2. Contains display lights resembling the flashing lights customarily associated with emergency situations, such as those used by police, fire, ambulance, or any other emergency vehicle.

3. Uses, in a manner which may confuse motor vehicle operators, the words "stop," "warning," "turn," or similar words implying the existence of danger or the need to stop or maneuver.

4. Obstructs the view of motor vehicle operators entering or exiting a public roadway from any parking area, service drive, or other thoroughfare.

5. Obstructs visibility at street intersections for motorists.

6. Is placed within the public right-of-way.

### **D. Compliance with Other Codes. All signs hereafter erected shall comply with all applicable provisions of all other codes as related to location, structural design, and construction.**

1. All freestanding and ground signs erected within the right-of-way of State Highway No. 2 or within the required building setback areas of properties adjacent to State Highway No. 2 shall incorporate break away design standards into the design and construction of the sign(s) as recommended by the Washington State Department of Transportation.

### **E. Other Specifications.**



1. No sign shall be erected or installed so as to obstruct any fire escape, require exits, or window or door opening intended as a means of egress from a building.
2. No sign shall be erected or installed that interferes with any opening required for ventilation.
3. No sign shall be erected or installed that creates a potentially unsafe situation because of its proximity to electrical conductors.
4. Signs and their supporting structures shall maintain clearance and noninterference with all surface and underground facilities and conduits for potable water, wastewater, gas, fuel, electricity, or communications equipment or lines. The placement of any sign shall not interfere with any stormwater drainage facility or channel.
5. No visible angle or other supporting frame structure for the support of projecting, and/or canopy signs are prohibited except for structures designed to be an integral part of the sign.
6. Signs shall not contain more than three cabinets or modules. (Ord. 806-03 § 1)

#### **22.06.070 Sign variance procedure.**

A. The hearing examiner may approve or approve with modification the application for a variance from the provisions of the sign code if:

1. The applicant is unable to obtain signage consistent with this chapter due to special circumstances or conditions related to the size, topography, location or other physical characteristics of the premises, and that such special circumstances or conditions are not the direct result of the actions or omissions of the applicant. For purposes of this section, such special circumstances may include the proximity of the premises to any state highway, but shall not include proximity to local streets and roads.

2. The variance shall not constitute a grant of a special privilege inconsistent with the limitation upon signage and other uses of other properties in the vicinity and zone in which the property, on behalf of which the application was filed, is located.

3. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated.

B. A nonrefundable sign permit variance fee shall be collected at the time of application submittal. Fees will be set by resolution by the city council.

C. Any person aggrieved by the decision of the hearing examiner on a variance application shall have the right to appeal that decision to the Snohomish County superior court. (Ord. 806-03 § 1)

#### **22.06.080 Nonconforming use and discontinuance of use.**

A. A legal, nonconforming sign existing on the effective date of this sign code shall be allowed to continue in existence without abatement provided all of the following criteria are met:

1. The sign was lawfully constructed, erected, posted or displayed in full compliance with all development regulations and standards then in effect; and

2. The sign does not present a threat to the public health and safety.

B. A legal, nonconforming sign shall immediately be brought into compliance with the applicable provisions of this sign code upon any of the following events:

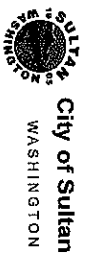
1. Any change in the use classification of the primary building or structure to which the sign advertises or relates, as determined by reference to the most current version of the Uniform Building Code as adopted by reference.

2. Any significant modification or repair to the structure, frame, or support of the nonconforming sign. For purposes of this section, "significant modification or repair" shall mean modification or repair that exceeds 50 percent of the fair market value of the sign.

3. Any relocation or replacement of a nonconforming sign.

C. A legal, nonconforming sign shall not be expanded or enlarged to any degree without bringing the sign into conformance with the provisions of this sign code.

D. Where the use of a legal nonconforming sign is abandoned or discontinued for a continuous period of 180 days, such sign shall lose its nonconforming status and shall be immediately removed or brought into compliance with the provisions of this sign code. For commercial signs, a nonconforming sign shall be considered to be abandoned or discontinued upon the close, expiration, or termination of the commercial location or activity to which the sign relates. (Ord. 806-03 § 1)



Sultan Shoreline  
Master Program  
DRAFT



- City Limits
- Existing UGA
- Proposed Environment Designations
- Aquatic
- Natural
- Shoreline Residential
- Urban Conservancy
- Urban Center

0 500 1000 Feet

This map was prepared by BHC Consultants, Inc. for the City of Sultan, Washington. It is based on aerial photography and other data provided by the City of Sultan. BHC Consultants, Inc. is not responsible for the accuracy or completeness of the information shown on this map. The City of Sultan is responsible for the accuracy and completeness of the information shown on this map.

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SHORELINE  
ENVIRONMENT  
DESIGNATIONS

# Potential Cumulative Impacts to City of Sultan Shoreline Environments

May 2006

## **Introduction**

The Shoreline Management Act guidelines require local shoreline master programs to regulate new development to maintain no net loss of shoreline ecological functions. While some impacts are immediate and can be directly addressed through avoidance and mitigation, other impacts are cumulative in nature. Individually, the action may not result in a significant impact, but the composite of many similar actions over time may lead to a significant cumulative impact to the ecosystem. For example, the creation of a small area of impervious surface may have only a negligible impact on the environment. The creation of numerous impervious surfaces that in total result in a significant change in the amount of such surface throughout a watershed over time could lead to significant impacts, such as: water quality degradation, increased peak storm flows, channel erosion, decreased vegetation and habitat areas, increased local temperatures, and other potential impacts.

The guidelines state that, "To ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, master programs shall contain policies, programs, and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts.

Evaluation of such cumulative impacts should consider:

- (i) current circumstances affecting the shorelines and relevant natural processes;
- (ii) reasonably foreseeable future development and use of the shoreline; and
- (iii) beneficial effects of any established regulatory programs under other local, state, and federal laws."<sup>1</sup>

In addition to the Shoreline Master Program under Shoreline Management Act (SMA), developments in the City of Sultan are also regulated under the City's Comprehensive Plan and the City's Critical Areas Regulations, both required under the Growth Management Act (GMA).

Other state and federal regulations also apply to the city's shoreline jurisdiction when local developments will affect critical areas or large areas adjacent to shorelines. Some of these state and federal regulations include, but are not limited to: the Endangered Species Act (ESA) to protect and recover federally listed species; the Clean Water Act (CWA) to protect water quality and regulate excavation and dredging; Hydraulic Project Approval (HPA) regulates projects that change waters of the state and affect fish habitat; and the National Pollution Discharge and Elimination System (NPDES) which regulates discharges into surface waters.

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<sup>1</sup> WAC 173-26-186(8)(d)

## **Relationship to SEPA**

The State Environmental Protection Act (SEPA) requires an assessment of environmental impacts. This cumulative impact analysis is a supplement to the environmental review done under SEPA and is intended to address cumulative rather than isolated or individual impacts that might not otherwise be considered as part of the environmental checklist.

The SEPA review process is intended to provide a list of possible environmental impacts that may occur as a result of a project or change in policy. This helps identify potential impacts that may need to be mitigated, conditioned, or this may result in the denial of a project or proposal. This cumulative impact analysis is intended to look at impacts as a whole on the basis of whether or not multiple similar projects collectively result in gradual, but significant impacts. While SEPA looks at impacts by topic and the effects they may have as a whole for the project area, the cumulative impacts analysis examines impacts that may result from multiple projects over time.

## **Assumptions**

This analysis is looking at foreseeable impacts over time. These impacts are being looked at segment by segment, as done in the rest of the SMP document and in the Sultan Shoreline Characterization Report. Site specific impacts are also expected to be addressed on a case-by-case basis during individual project reviews. The segments used in this analysis are pre-determined areas based on water body that have previously been analyzed for alterations to key processes. It is assumed that available lands in the shoreline jurisdiction have little potential for new development due to current adopted land use regulations.

## ***Reasonably Foreseeable Future Development***

Cumulative impacts to the shoreline environment may result from a wide range of possible actions. Consistent with the guidelines, an appropriate evaluation of cumulative impacts on ecological functions will consider reasonably foreseeable future development and use of the shoreline that is regulated by the shoreline master program, as well as actions that are caused by unregulated activities and development exempt from permitting. The guidelines, "[R]ecognize that methods of determining reasonably foreseeable future development may vary according to local circumstances, including demographic and economic characteristics and the nature and extent of local shorelines."<sup>2</sup> The focus of foreseeable development is on those actions that have been identified as potential impacts to the shoreline environment and that are or would be foreseeable based on past development patterns, dependent on shoreline regulations.

The Sultan shoreline is unlikely to experience much more development, as much of the property is in public ownership or is currently built out. Few vacant parcels remain that could potentially be developed, and in these cases utilities and streets already exist as the result of earlier land subdivision. Therefore, a different pattern of

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<sup>2</sup> WAC 173-26-186(8)(d)

development is unlikely to be created in the Sultan shoreline that will result in additional cumulative impacts.

Below these conditions are described by segment, and areas within them likely to experience development and what types of development are expected. At the end of this document is a table explaining in detail what kinds of developments could take place and the functions that would be at risk due to this development. The table also describes how these developments would be offset by the proposed policies and regulations of the Sultan Shoreline Master Program.

### ***Condition of Segments***

The 2005 Shoreline Characterization Report provides a comprehensive description of shoreline conditions by segment. This report was originally completed in May 2003, and the 2005 version contains updated information and maps.

The City of Sultan is located to the northeast of the confluence of the Sultan and Skykomish Rivers. The majority of the land within the City of Sultan is zoned residential. The areas along the shorelines are mostly built out, and most of the newer development is taking place to the west of the city and in the plateau area in the northeast section of the city. The Sultan and Wallace Rivers are both designated as "shorelines of the state" and the Skykomish River is designated as a "shoreline of statewide significance."

The City of Sultan is located in Water Resource Inventory Area (WRIA) 7, the Snohomish River Basin, Skykomish River Watershed. Rivers falling within the City's Shoreline Master Program jurisdiction include the Skykomish, Sultan, and Wallace Rivers. The Sultan and Wallace Rivers are both tributary to the Skykomish River. Winters Creek is a tributary to the Sultan River, located in the west portion of the City. Winters Creek headwaters are in the northwest portion of the City. It flows south and discharges to the Sultan River in the city limits. Wagleys Creek is a tributary to the Skykomish River, located in the east portion of the City. Wagleys Creek headwaters are located northeast of the City's UGA. This stream flows south from its source into the City's UGA. Above approximately 200 feet in elevation, the stream meanders in and out of the UGA. Wagleys Creek then flows west in the City at the base of the plateau to its Rivers (Figure 3). Due to mean annual flows less than 20 cfs, Winters Creek and Wagleys Creek are not regulated shorelines of the state.

Major alterations to surface water flow on the Sultan River include Culmback Dam and Spada Reservoir in the Upper Sultan River Basin. The City of Everett maintains a series of smaller dams on Champlain Creek below Lake Champlain, which is a tributary to the Sultan River. Shallow groundwater is generally found at depths beginning at 0 or 1-foot and no more than 5 feet below the surface throughout the City's UGA. Mapped aquifer recharge areas correspond generally to the floodplain areas of the Sultan, Skykomish, and Wallace Rivers, and flood zones associated with the lower reaches of Wagleys Creek.

Most of the wetland areas identified in the City UGA are associated with Winters Creek and the Sultan River floodplain, or are found on the higher plateau in the eastern part of the City draining to Wagleys Creek. Wetlands in the Skykomish and Wallace River floodplains are less prevalent in the City's UGA. However, NWI maps indicate that forested wetlands do occur along the north bank of each river, in or adjacent to the city limits. Outside of the City's UGA, large areas of hydric soils and mapped wetlands occur associated with Wagleys Creek and Wallace River to the east and along the mainstem of the Skykomish River to the east and west of the UGA boundaries. Processes and functions of wetlands within the City may affect wetlands and other aquatic resources downstream of the City along the lower mainstem of the Skykomish River.

### **Segments of the Shoreline Inventory**

The City of Sultan shoreline is divided into five segments, A through D and the UGA segment. These shoreline segments were identified in the City of Sultan Shoreline Characterization Report. These segments were determined primarily by water body and current land use and zoning. These segments are described below by location, land use, shoreline environment, at risk areas, and potential for future development.

**Segment A** is to the west of the city, along the Sultan River. This area is characterized by large land areas mostly used as parks and open space, and there are many mapped wetlands in this area. The SMP designation is predominantly conservancy, with patches of urban and rural designations. At risk areas include shoreline vegetation enhancement areas, habitat protection, restoration of wetland areas, floodplain protection, and habitat protection. The wetland areas in this segment are important since they feed into the Sultan River and are impacted by upland areas.

Segment A is the most likely to experience development impacts. The majority of the existing developments are single family homes, and the majority of the existing zoning is for low to moderate residential development, although a lot of the segment is publicly owned. Only a few new residences could be built in this area, which would result in the extension of utilities, but no additional streets. Most of the shoreline along the Sultan River is unaltered due to the location of several city parks along the riverfront.

**Segment B** is southwest of the city at the confluence of the Sultan and Skykomish Rivers. This segment contains a variety of land uses; it is part of the downtown urban core and is also the location of a utility use. The area is designated urban and contains many wetlands. At risk areas in segment B include vegetation restoration areas and restoration of frequently flooded areas.

Segment B is not very likely to experience the impacts of new developments. Much of the land in this segment at the confluence of the two rivers is in public ownership. This area is susceptible to flooding, which has decreased vegetation cover and could lead to more runoff into the river system.

**Segment C** is along the south side of the city. This segment is primarily residential, and is designated as urban and rural. This segment is experiencing growth and conversion of riparian land to residential, resulting in more impervious surfaces. At risk areas in segment C are vegetation enhancement areas and habitat protection and restoration areas.

Segment C is also more likely to experience residential development; there are several vacant parcels in this segment that are zoned for low/moderate density residential which is allowed under the SMP. Only several new residences could result from further development in this segment, this would also result in the extension of utility services and potentially a few road extensions. This segment could also potentially have some public access.

**Segment D** is in the southeast side of the city. This segment is designated as conservancy and currently contains riparian forest and wetlands. The predominant land use in this segment is commercial. At risk areas in segment D are flood protection areas, associated wetlands, and vegetation protection areas.

## ***Ecological Functions at Risk from Future Developments***

### **Vegetation and Habitat**

Fish and wildlife habitat have been inventoried as part of the shoreline characterization for the City of Sultan. Segment A contains bands of coniferous and deciduous vegetation along both sides of the Sultan River in the park areas. Winters Creek also provides riparian habitat for wildlife on the shores of the creek. Wetlands in the vicinity of the Sultan River and Winters Creek could potentially provide fish habitat with some restoration. Segment B does not offer many opportunities for habitat due to disturbances from public uses. Segment C offers few opportunities as well since vegetation is limited to trees without low vegetation, although with some protection and restoration these areas could offer opportunities. Segment D offers more opportunities for habitat since this segment is undeveloped and not proposed for future development. Vegetation along this segment is deciduous and coniferous forest. This segment of shoreline is also the location of federally threatened species such as bald eagle and salmon. The UGA segment contains areas that have been cleared and have the potential for woody debris.

Preservation of native vegetation helps protect watershed processes, reduces flood damages, and provides open space for the City. Enhanced vegetation could offer better opportunities for in stream habitats. Current city policy does not provide for options such as density transfers, conservation easements, and restoration assistance.

### **Wetlands**

Wetland areas have been inventoried as part of the shoreline characterization for Sultan. Segment A contains the largest acreage of wetlands, approximately 73 acres. These wetlands are associated with the shorelines of Winters Creek and the Sultan





River. The majority of these wetlands are proposed to be protected by the SMP; however there is an area that extends into privately owned land outside of the shoreline area which are currently protected under the city's Critical Areas Regulations, and will be protected by the SMP once it is adopted. These wetlands are important to groundwater recharge and stream flow for Winters Creek. Improvement of these wetlands would also help improve fish habitat. Segment B also contains wetlands along the Sultan River. This is an area that frequently experiences flooding and could benefit from species diversification to improve water quality. In segment C wetlands are important to stream flow for Wagleys Creek and the Skykomish River. Plans for wetland protection are not specified for this area. Wetlands make up the majority of segment D. This area experiences flood overflow and groundwater discharge. Segment D does not contain any developable parcels. The majority of the segment is in public ownership as Cemetery Park, the rest of the segment is commercially developed. The UGA segment also contains wetlands that are fed by area streams and support salmon habitats, this area is important since it is upstream from segment A. This area is vulnerable to potential residential development.

Protection of wetlands is important for decreasing stream temperatures, erosion control, distribution of nutrients, and maintaining a flow regime. Wetlands in the city's shoreline jurisdiction need to be protected as well as those that are outside of the shorelines, but feed into the area rivers.

### **Floodplains**

Segment A does not have any identified frequently flooded areas. However, it does contain floodplains and hyporheic flows that support the area wetlands and streams. Segment B contains the majority of the frequently flooded areas in Sultan's shoreline as identified in the City's Repetitive Flood Loss Mitigation Plan. The City also has a Comprehensive Flood Hazard Management Plan which addresses flood prevention and mitigation for this area. Restoration for this area could be accomplished through vegetation planting to control storm water and maintenance. Segment C does not contain frequently flooded areas, but the area south of the Skykomish does experience frequent flooding, this is addressed in the City's Comprehensive Flood Hazard Management Plan. There are not any frequently flooded areas in Segment D or in the UGA segment.

Floodplain management is important for maintaining habitats and wetlands, ecological functions need to be considered in flood control projects and in pursuing non-structural alternatives. Developing floodplain management policies which help minimize more vulnerable development and encourage more compatible uses will also help maintain habitats and wetlands.

### **Geologically Hazardous Areas**

There are not any soils identified within segment A that contains slopes of 15% or more, there are also no steep slope areas in the shoreline identified in the city's jurisdiction critical areas mapping. Due to a wide channel migration zone and intact riparian forest, the slopes along the shoreline in segment A are not very steep and tend



to be stable. Segment B as well does not contain any steep slopes according to soils and critical areas analysis. Segment C does not contain any steep slopes either. Segment D does not contain any soils with slopes greater than 15%, however it does contain steep slopes according to the critical areas mapping.

Shoreline stability is important to minimizing flooding damage. Sound shoreline slopes with intact vegetation are alternatives to structural devices.

### ***Key Processes Altered by Potential Cumulative Impacts Stressors***

#### **Nutrient Delivery and Removal**

Nutrient delivery and removal can result from a variety of processes that take place in the City of Sultan. This would include runoff and irrigation from agricultural uses, residential landscaping, and land clearing. These processes lead to an excess of nutrients being released into the Sultan and Skykomish Rivers, due to loss of area wetlands to store these nutrients. Ditching in the area has also reduced connectivity between wetlands and has caused alterations in the nutrient runoff.

#### **Groundwater Flow**

Groundwater flow within the City of Sultan floodplain has been altered by development and infrastructure resulting in disrupted interactions between the riverine ecosystems and the hyporheic zone. Overbank flooding and hyporheic flows in the floodplain areas are important processes. These surface and subsurface water flow processes support the hydrology of existing wetlands and stream/riverine ecosystems. Development causes greater areas of impervious surfaces by paving, creating building coverages, or compacting soil, and by removing vegetation that would intercept precipitation. All of these factors lead to greater surface runoff and lower infiltration rates, which result in a lower level of aquifer recharge. Wetlands are useful in slowing surface water runoff and storing surface waters in addition to storm water detention facilities that are required in the development of land.

#### **Surface Water Flow**

Ditching and channelization of streams has intercepted and altered surface water flows, resulting in altered flow and lower infiltration rates. This could result in increased storm water runoff and increased peak flow and velocities. Ditching and channelization could also impact hyporheic flows if floodplains are not protected, these flows are needed to support existing and potential wetlands.

#### **Sediment Delivery and Removal**

Sediment delivery and removal in the City of Sultan has been affected by logging and urban development in the area. Conversion of forested lands to agriculture, timber harvesting, mining, road construction, and development have all changed the sediment transport processes in the Sultan area. Increased impervious surfaces and altered hydrology from new developments in the area could also potentially alter sediment processes.



### **Wood Delivery**

Woody debris delivery in the Sultan and Skykomish Rivers has also been affected by logging and urban development in the area. The removal of woody materials from riparian zones and shorelines has limited the amount that is being introduced to either river. These systems tend to carry less woody debris in altered shorelines than in those found in their natural state.

### **Fish and Wildlife Habitat**

Fish and wildlife habitat is affected by urban developments, logging, road construction; culverts, loss of riparian cover, and stream bank alterations. Important habitat elements for fish include – riparian cover, large woody debris, passage for migration, clean water, spawning habitat, forage habitat, and food sources. There are several areas of spawning habitat in the Sultan shoreline areas, and rearing habitat has been identified in all of the river systems within Sultan. Alteration of these habitats, loss of wetlands and riparian areas reduce the habitat area for all species.

### **Foreseeable Development**

The above stressors to the shoreline environment can result from individual developments, or as the result of several factors such as residential developments, road construction, or utilities development. These shoreline stressors, the potential cumulative impacts, and the benefits of regulation are examined by segment in the tables below. The tables will examine foreseeable development and the impacts on the shoreline stressors, and it identifies policies and regulations under the SMP that will offset the impacts of development. These tables will help in determining if significant impacts will result the foreseeable future development in the Sultan shorelines. While some of these impacts may be mitigated others may be cumulative and lead to significant environmental changes in the environment.

**Table 1 - Foreseeable Development in Shoreline Environments**

|   |
|---|
| <p><b>Segment A</b></p> <p>This segment along the Sultan River contains a riparian corridor, in-stream habitat, and there are many wetlands found in this area which is impacted by the dam and hydroelectric project upstream. There are no shoreline modifications in this segment. There are three shoreline environment designations in this segment: Natural, Shoreline Residential, and Urban Conservancy.</p> <p><u>Vacant lands:</u></p> <p>Natural – Two vacant parcels owned by City, one in private ownership, 3 acres total;</p> <p>Shoreline Residential - Several small vacant parcels in private ownership, less than one acre total;</p> <p>Urban Conservancy - Owned by City</p> <p><u>Under Current city zoning:</u></p> <p>Natural - Under current city zoning, this could result in low/moderate residential, 35% lot coverage, 4-6 units per acre;</p> <p>Shoreline Residential - Moderate residential, 40% lot coverages, 6-8 units per acre on the small parcels in private ownership;</p> <p>Urban Conservancy – This area probably not likely to experience development on the parcel owned by the city.</p> <p><u>Under the Shoreline Master Program:</u></p> <p>In the Natural designation development of these lots could result in 200 foot setbacks, single family would be considered as a conditional use;</p> <p>In the Shoreline Residential designation, development would require 100 foot setbacks, and residential would be considered a conditional use;</p> <p>The Urban Conservancy designation would allow for public access and recreation</p> |
| <p><b>Segment B</b></p> <p>Much of this segment has been modified and does not offer much in stream habitat. This segment contains a boat ramp, bank armoring, bank hardening, and floodplain confinement. This segment is designated as Urban Conservancy.</p> <p><u>Vacant Land:</u></p> <p>3 parcels</p> <p><u>Under Current city zoning standards:</u></p> <p>Low/moderate density residential, 35% lot coverage, 4-6 units per acre</p> <p><u>Under SMP development standards:</u></p> <p>Urban Conservancy - Two vacant parcels owned by city or State, one privately owned vacant parcel. It is unlikely there will be any residential development in this segment, however recreation improvements are possible. Development in this segment would require 100 foot setbacks, water oriented and water dependent uses are preferred.</p>  |
| <p><b>Segment C</b></p> <p>This segment contains bank armoring throughout and many riparian areas have been converted to impervious surfaces. Natural floodplain functions have been impaired by roads, bridges, and the railroad. This segment has two shoreline designations: Shoreline Residential and Urban Conservancy.</p> <p><u>Vacant Land:</u></p> <p>Approximately 9 acres</p> <p><u>Under current city zoning standards:</u></p> <p>Moderate residential, 40% lot coverage, 6-8 units per acre;</p> <p>Low/moderate density residential, 35% lot coverage, 4-6 units per acre</p> <p><u>With SMP development standards:</u></p> <p>Aquatic - Approximately 4 acres of privately owned, vacant lands; residential development is prohibited in the aquatic designation</p> <p>Shoreline Residential - Approximately 5 acres of vacant land, all privately owned, development would require 100 foot setbacks, and residential would be considered a conditional use;</p>  |
| <p><b>Segment D</b></p> <p>This segment contains intact riparian forest and offers in-stream habitats. The shoreline designation for this segment is Natural. There is only one parcel located in this segment, and it is in private ownership at Cemetery Park, it is not expected that there will be any further development in this segment. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.</p>   |

**Table 2 – Cumulative Impacts to Shoreline Environment**

| Shoreline Process and Function   | Resource at Risk   | Shoreline alterations Impacting Processes and Functions   | Proposed Restoration/Protection Measures and Draft SMP Policies and Regulations   | Non-Regulatory Measures  |
|--|--|---|---|--|
| <p><u>Process:</u><br/>Nutrient/Pollutant delivery and removal</p> <p><u>Function:</u> Water quality</p> | <p>Resources at Risk:<br/>Depressional wetlands in Wagleys and Winters Creek watersheds (outside the shoreline) and riparian areas on the Sultan, Skykomish and Wallace Rivers (within shoreline) and Wagleys and Winters Creeks</p> | <p>Existing impervious surfaces increase delivery of nutrients.</p> <p>Existing ditching, draining and filling of wetlands.</p> <p>Clearing of riparian buffers.</p> <p>New residential development will result in additional impervious surfaces and may result in further impacts (filling, ditching, reducing buffers) to existing aquatic resources at risk of including depressional wetlands.</p> | <p>Proposed overall measures: reduce impervious surface through LID measures, protect existing riparian areas and wetlands (including buffers) and restore riparian areas and ditched, drained depressional wetlands.</p> <ul style="list-style-type: none"> <li>▪ Wetland buffers are specified in the CAO, section 16.80 SMC</li> <li>▪ Wetland ecosystems should be preserved and protected to prevent their continued loss and degradation. (Chapter 6, Wetland Policy #1, Page 16)</li> <li>▪ A wetland buffer of adequate width should be maintained between a wetland and the adjacent development to protect the functions and integrity of the wetland. (Chapter 6, Wetland Policy #4, page 16)</li> <li>▪ Wetland ecosystems should be preserved and protected to prevent their continued loss and degradation. (Chapter 6, Wetland Policy #1, Page 16)</li> <li>▪ All shoreline development and activity shall be located, designed, constructed, operated, and managed to minimize interference with beneficial natural shoreline processes (Chapter 6, Environmental Impact Regulation #6, Page 5)</li> <li>▪ If wetlands or other environmentally sensitive areas are located on the development site, clustering of residential units shall be required in order to avoid these areas. (Chapter 6, Residential Regulation #3,</li> </ul> | <p>Restore degraded depressional wetlands.</p> <p>Restore water quality functions by eliminating (blocking or filling) ditches or subsurface tiles that drain these wetlands and increasing residence time of ponded waters. Restore degraded riparian areas through replanting with riparian species. Low impact Development storm water controls</p> |
|  |  | <p>Degree of future cumulative impact:<br/>Limited number of residential lots within existing developed Central Business District Basin so future impacts should be low in this basin. Impacts from new residential development in eastern basin (terrace above Wagleys Creek) to depressional wetlands and riparian areas outside of the shoreline could be significant. This may impact</p>           |   |  |

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|---|--|---|---|--|--|
|   |  | <p>nutrient/pollutant processes and water quality functions within the City's shoreline. New development in Northern Basin could directly impact depressional wetlands and riparian habitat on Winters Creek and impact nutrient/pollutant processes and water quality functions on the Sultan River.</p>   |   | <p>page 44)</p> <ul style="list-style-type: none"><li>For lawns and other vegetation maintained within shoreline jurisdiction, alternatives to the use of chemical fertilizers, herbicides and pesticides shall be a preferred BMP (Chapter 6, Water regulation #6, page 7)</li><li>Enhancement, restoration and/or creation of coniferous riparian forest or forested riparian wetland shall be the preferred mitigation for impacts to riparian vegetation and wetlands when avoidance is not possible (Chapter 6, Plant and Animal regulation #8, Page 9)</li></ul> <p>Opportunity Areas:</p> <ul style="list-style-type: none"><li>Unlabeled Opportunity Area – protect wetlands in terrace areas in City limits in Eastern and Northern Basins</li><li>Opportunity Areas A-3, A-4, A-5, B-2, B-3, C-1, C-2, C-3, D-1D-2, Opportunity Area UGA-2</li></ul> |  |
| <p><u>Process:</u> Surface and Groundwater flow</p> <p><u>Function:</u> Reducing downstream flooding and erosion (surface storage), aquifer recharge and storage.</p> | <p><u>Resources at Risk:</u> Depressional wetlands in Wagleys and Winters Creek watersheds (outside of shoreline) and floodplain/riparian areas on the Sultan, Skykomish and Wallace Rivers (within shoreline) and Wagleys and Winters Creeks.</p> | <p>Existing impervious areas and forest clearing decrease infiltration recharge and subsurface storage and groundwater discharge to streams and wetlands.</p> <p>Existing wetland fill, development in floodplain (including shoreline protective structures) reduces surface storage, overbank flooding and increased flooding frequency and duration.</p> <p>New development will remove forested areas and increase impervious cover. Additional</p> | <p>Proposed overall measures: Minimize impacts to surface and groundwater processes by employing non-structural approach to reducing downstream flooding and erosion. This would also include protecting and restoring depressional wetlands.</p> <ul style="list-style-type: none"><li>Shoreline developments and activity shall minimize impacts to geohydraulic processes, surface water drainage, and groundwater recharge. (Chapter 6, Water Regulation #3, Page 7)</li><li>Shoreline development and activity shall avoid any further alteration of river currents or floodway capacity (Chapter 6, Page 7)</li><li>Non-structural control solutions are preferred over structural flood control devices. (Chapter 6, Page 7)</li><li>Substantial stream channel modification realignment</li></ul> | <p>Restore degraded depressional wetlands. This includes restoring water quality functions by eliminating (blocking or filling) ditches or subsurface tiles that drain these wetlands and increasing residence time of ponded waters. Restore degraded floodplain and riparian areas through removal of dikes/levees that prevent overbank flooding and replanting with riparian species. Low Impact Development storm water</p>   |  |

|   |   |   |  |           |   |
|---|---|---|--|-----------|---|
|   |   | <p>impacts to surface storage functions may occur from shoreline fill and encroachment.</p> <p><u>Degree of future cumulative impact:</u><br/>         Limited number of residential lots within existing developed Central Business District Basin so future impacts should be low in this basin. Recessional outwash deposits in the upper reaches of the northern basin (Winters Creek) are important areas for infiltration and recharge and support discharge to depressional wetlands and the Sultan River in the lower shoreline reaches of this basin. These areas could be impacted by new development. Impacts from new residential development in eastern basin (terrace above Wagleys Creek) to depressional wetlands and riparian areas outside of the shoreline could be significant. This may impact storage of surface waters in depressional wetlands and floodplains in this basin which in turn could affect flooding and erosion functions within downstream shoreline areas.</p> | <p>and straightening should be discouraged as a means of flood protection. (Chapter 6, Page 14)</p> <ul style="list-style-type: none"> <li>■ Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly, or over the long term should be the primary allowed uses (Chapter 5, page 8)</li> <li>■ The City shall require engineered design of flood protection works where such projects may cause interference with normal river geohydraulic processes, off site impacts, or adverse effects to shoreline resources and uses. Non-structural methods of flood protection shall be preferred over structural solutions, when the relocation of existing shoreline development is not feasible. (Chapter 6, Page 15).</li> <li>■ Projects proposed in the floodplain must assure no potential impacts of channel migration. Structures should be located to avoid the need for future protection due to channel migration. (Chapter 6, Page 15).</li> <li>■ Adequate provisions to prevent water runoff from contaminating surface and groundwater shall be included in shoreline development design. (Chapter 6, Water Regulation #5, Page 7)</li> </ul> <p>Opportunity Areas: A-3, Unlabeled Opportunity area A, B-2, B-3, Unlabeled Opportunity area C, D-1, D-2, Unlabeled opportunity area D.</p> | controls. | <p>In well forested areas of the jurisdiction, create incentive programs to conserve and retain native vegetation. Programs such as on-site density transfers and</p> |
| <p><b>Process:</b><br/>Sediment transport</p> <p><b>Function:</b><br/>Sediment delivery</p> | <p><b>Resources at Risk:</b><br/>Depressional wetlands in Wagleys and Winters Creek watersheds (outside</p> | <p>Sediment delivery and removal processes have been affected by both natural and man-made factors. Logging and urban development in the watershed has altered the process of sediment transport. Converting</p>  | <p>Proposed overall measures: minimize the delivery of sediment from land alterations through retention of natural vegetation, protection of riparian corridors, application of a comprehensive erosion and sedimentation control program and measures and proper siting of development.</p>   |           |   |

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|--|---|--|--|--|
| and removal from area water systems.   | the shoreline) and riparian areas on the Sultan, Skykomish and Wallace Rivers (within shoreline) and Wagleys and Winters Creeks | forest vegetation to agricultural land, harvesting timber, mining, constructing logging roads, and urban development have altered or accelerated sediment transport processes within the basin.<br><br><u>Future Cumulative Impact:</u><br><br>Further sediment delivery into water systems without protective vegetation due to land clearing and development upstream of Sultan Rivers. Impacts from new residential development in eastern basin (terrace above Wagleys Creek) to depressional wetlands and riparian areas outside of the shoreline could be significant. This may impact storage of surface waters in depressional wetlands and floodplains in this basin which in turn could affect flooding and erosion functions within downstream shoreline areas. | <ul style="list-style-type: none"><li>▪ All shoreline development and activity shall be located... to minimize sand and gravel movement, erosion, and accretion. (Chapter 6, Environmental Impact Regulation # 6, Page 5)</li><li>▪ The proponent shall incorporate AKART measures into the erosion and sedimentation control program. (Chapter 6, Earth Regulation #5, Page 7)</li><li>▪ An erosion and sedimentation control program shall be submitted with a permit application that involves the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion and siltation of the rivers and their associated wetlands. (Chapter 6, Earth Regulation #4, Page 6)</li><li>▪ The perimeter of landfills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial landfill activities and over time. (Chapter 6, Landfill Policy #2, Page 36)</li><li>▪ Projects shall be designed to avoid the removal of trees in shorelines, wherever practicable and to minimize the removal of other woody vegetation (Chapter 6, Plant and Animal Regulation #4, page 8)</li><li>▪ For extensive clearing and grading proposals, a plan addressing species removal, re-vegetation, irrigation, erosion and sedimentation control, and other methods of riparian corridor protection should be required. (Chapter 6, Clearing and Grading Policy #5, Page 26)</li></ul> | conservation easements could help protect these areas.   |
| <u>Process:</u> Wood debris<br><br><u>Function:</u> Wood delivery to the river systems and protection of | <u>Resources at Risk:</u> Depressional wetlands in Wagleys and Winters Creek watersheds (outside the shoreline) and             | <u>Removal of wood debris upstream from developments along the river could increase surface runoff and lower infiltration rates.</u><br><br>Delivery of large woody debris to the Sultan River and the Skykomish has   | <p><u>Opportunity Areas:</u> B-2, B-3, C-1, D-2</p> <p>Proposed overall measures: protect and retain natural shorelines and require re-vegetation plans.</p> <ul style="list-style-type: none"><li>▪ Projects shall be designed to avoid the removal of trees in shorelines, wherever practicable and to minimize the removal of other woody vegetation (Chapter 6, Plant and Animal Regulation #4, page 8)</li></ul>  | Incentive programs to discourage use of shoreline modifications and use of bioengineering in cases where shorelines are altered. Retain natural areas along shorelines through density transfers and |



|                  |  |  |   |   |
|------------------|--|--|---|---|
| shorelines       | riparian areas on the Sultan, Skykomish and Wallace Rivers (within shoreline) and Wagleys and Winters Creeks | <p>been altered by logging and development in the basin. Removal of woody material from the riparian zones and floodplains for agricultural uses and logging has limited the potential for woody debris being delivered to either system. Woody debris is typically less abundant in areas where shoreline banks are altered or modified. Surveys along the Snohomish River show that woody debris as it relates to a percentage of channel edge habitat is two times more abundant along natural stream banks versus modified banks</p> <p><u>Future cumulative impact:</u></p> <p>Further development and land clearing leading to less woody debris being delivered to the system. Alteration of shoreline banks and natural bank modification impacting downstream areas. Impacts from new residential development in eastern basin (terrace above Wagleys Creek) to depressional wetlands and riparian areas outside of the shoreline could be significant. This may impact the amount of woody debris in these areas if the shorelines are altered from their natural state.</p> | <p>For extensive clearing and grading proposals, a plan addressing species removal, re-vegetation, irrigation, erosion and sedimentation control, and other methods of riparian corridor protection should be required. (Chapter 6, Clearing and Grading Policy #5, Page 26)</p> <p>Opportunity Areas: A-3, A-4</p> | conservation easements.                               |
| Process: Habitat | Resources at Risk: Depressional  | Important in-stream and riparian habitat is available with the   | Proposed overall measures: protect and restore riparian habitats and depressional wetlands  | Restore degraded depressional wetlands. This includes |

|   |   |   |   |  |
|---|---|---|---|--|
| Function:<br>Fish and wildlife<br>habitat | wetlands in<br>Wagleys and<br>Winters Creek<br>watersheds (outside<br>the shoreline) and<br>riparian areas on<br>the Sultan,<br>Skykomish and<br>Wallace Rivers<br>(within shoreline)<br>and Wagleys and<br>Winters Creeks.<br>Chinook salmon<br>spawn in the<br>Skykomish<br>mainstem and<br>lower Sultan River<br>and coho may<br>spawn in these<br>areas as well.<br>Spawning habitat for<br>Bull trout<br>populations are not<br>anticipated in the<br>City's UGA, as<br>spawning occurs<br>only in the upper<br>portion of the<br>Skykomish<br>watershed.<br>However, rearing<br>habitat has been<br>identified by<br>WDFW in the<br>City's UGA on the<br>Sultan, Wallace, | <p>Snohomish River basin and the City's UGA. Habitat functions are altered with urban development, logging, road construction, culvert installation, loss of riparian cover, and stream bank modification and hardening. Habitat elements important to fish include riparian cover, large woody debris, passage for migration, clean water, spawning habitat and forage habitat, and the availability of food sources. Alteration of forested habitat, loss of wetlands and riparian areas reduce overall habitat for other wildlife species, including waterfowl. Habitat connectivity is diminished as riparian cover is removed.</p> <p><u>Future cumulative impacts:</u></p> <p>Limited number of residential lots within existing developed Central Business District Basin so future impacts should be low in this basin. Impacts from new residential development in eastern basin (terrace above Wagleys Creek) to depressional wetlands and riparian areas outside of the shoreline could be significant. This may impact habitat and water quality functions within the City's shoreline.</p> | <ul style="list-style-type: none"> <li>Shoreline development and activity shall be scheduled to protect biological productivity to minimize interference with fish resources including salmonid migration, spawning, and rearing activity. (Chapter 6, Plant and Animal regulation #3, page 8)</li> <li>The diversity of aquatic life, wildlife, and habitat within the shoreline should be enhanced. (Chapter 6, Environmentally Sensitive Area Policy #2, Page 12)</li> <li>In general, this Master Program shall strive to protect and restore anadromous fish resources in the Skykomish, Sultan, and Wallace Rivers. (Chapter 6, Plant and Animal regulation #1, page 8)</li> <li>Shoreline development and activity shall maintain the unconstrained upstream and downstream migration of both adult and juvenile anadromous and resident fish, when applicable. (Chapter 6, Plant and Animal regulation #6, page 8)</li> <li>Where mitigation for loss of or impact to PFC, natural systems and resources is required, a habitat mitigation plan shall be required. Habitat management plans shall be prepared by a professional wildlife biologist or fisheries biologist as determined appropriate by the Shoreline Administrator. (Chapter 6, Plant and Animal regulation #6, page 9)</li> </ul> <p>Opportunity Areas: A-2, A-3, A-4, A-5, B-2, B-3</p> | restoring water quality functions by eliminating (blocking or filling) ditches or subsurface tiles that drain these wetlands and increasing residence time of ponded waters. Restore degraded riparian areas through replanting with riparian species. Development density transfers and conservation easements. |
|---|---|---|---|--|





## City of Sultan Shoreline Master Program

# Definitions and Acronyms

### **Act**

The Washington State Shoreline Management Act, chapter 90.58 RCW.

### **Activity**

An occurrence associated with a use; the use of energy toward a specific action or pursuit. Examples of shoreline activities include but are not limited to fishing, swimming, boating, dredging, fish spawning, wildlife nesting, or discharging of materials.

### **Adjacent Lands**

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

### **Administrator**

The responsible official for implementing and enforcing the Shoreline Master Program, in this case, the Planning Director.

### **Amendment**

A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

### **Anadromous Fish**

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

### **Approval**

An official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

### **Associated Wetlands**

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

### **Best Management Practices (BMPs)**

Riverbank erosion control BMPs are designed to protect river ecosystems from erosion and sedimentation. Examples include Infiltration BMPs which reduce or eliminate the discharge of runoff to receiving waters and can also recharge the groundwater table. Detention BMPs control peak flows by detaining runoff and releasing it back to the stream system at reduced flow rates, thereby reducing downstream erosion and flooding. Detention BMPs include wet and dry ponds, vaults or tanks, and constructed wetlands. Riverbank Stabilization BMPs are vegetative,



## **City of Sultan Shoreline Master Program**

bioengineered, and structural controls for stabilizing, strengthening and protecting riverbanks from channel erosion and bank failure.

### **Boat Launch or Ramp**

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

### **Buffer Area**

A parcel or strip of land that is designed and designated to permanently remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife and to afford limited public access.

### **Building Setback**

A building setback is an additional setback for construction activities that is measured from the end of the riparian setback.

### **Building Setback Line**

Unless otherwise indicated within this Master Program, the line which establishes the limits of all buildings, fencing and impervious surfaces along the shoreline.

### **Bulkheads**

Walls usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are used to protect riverbanks by retaining soil at the toe of the slope or by protecting the toe of the bank from erosion and undercutting.

### **Channel**

An open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stockwatering channels.

### **Channel Migration Zone (CMZ)**

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

### **Comprehensive Plan**

Comprehensive plan means the document, including maps adopted by the town council, that outlines the Town's goals and policies relating to management of growth, and prepared in accordance with RCW 36.70A. The term also includes adopted subarea plans prepared in accordance with RCW 36.70A.

### **Conditional Use**

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

### **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



## **City of Sultan Shoreline Master Program**

which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level. RCW 90.58-030 3(d).

### **Development Regulations**

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

### **DNS**

Determination of Nonsignificance, under the State Environmental Policy Act (SEPA.).

### **Document of Record**

The most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

### **Ecological Functions or Shoreline Functions**

The work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

### **Ecosystem-wide Processes**

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

### **EIS**

Environmental Impact Statement.

### **Endangered Species Act (ESA)**

A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

### **Enhancement**

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

### **Environmental Impacts**

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

### **Erosion**

Erosion is the wearing away of land by the action of natural forces.



## City of Sultan Shoreline Master Program

### **Exemption**

Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit WAC 173-27-040 (b).

### **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.

### **Flood Control**

Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

### **Floodplain**

A term that is synonymous with the 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 ordinance regulation maps or a reasonable method which meets the objectives of the act.

### **Floodway**

Floodway means 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 condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those 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. RCW 90.58.030 2(g).



## City of Sultan Shoreline Master Program

### **Geotechnical Report or Geotechnical Analysis**

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

Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

### **Grading**

The 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.

### **Grassy Swale**

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





## **City of Sultan Shoreline Master Program**

### **Guidelines**

Those standards adopted by the department to implement the policy of RCW 90.58 for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

### **Habitat**

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

### **Hydric Soil**

Hydric soil means soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper soil horizon(s), thereby influencing the growth of plants.

### **In-kind Replacement**

To replace wetlands, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced, or degraded by an activity.

### **Landfill**

The placement of soil, rock, existing sediment or other material (excluding solid waste) to create new land, tideland or bottom land area along the shoreline below the OHWM, or on wetland or upland areas in order to raise the elevation.

### **Levee**

A large dike or embankment, often having an access road along the top, which is designed as part of a system to protect land from floods.

### **Limited Public Access (Physical or Visual)**

Restrictions on access that are deemed necessary for the health, safety, or welfare of the public or for the protection and maintenance of the particular site.

### **Local Government**

Any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.

### **May**

“May” means the action is acceptable, provided it conforms to the provisions of this chapter.

### **Mitigation**

The steps necessary to avoid, minimize, or compensate for environmental impacts.

### **Must**

“Must” means a mandate; the action is required.

### **Native Plants or Native Vegetation**

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

### **Nonwater-oriented Uses**

Those uses that are not water-dependent, water-related, or water-enjoyment.



## City of Sultan Shoreline Master Program

### **One-hundred-year Flood**

The maximum flood expected to occur during a one-hundred-year period.

### **Ordinary High Water Mark (OHWM)**

"Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation; as that condition exists on June 1, 1971 or as it may naturally change thereafter or as it may change thereafter; in accordance with permits issued by a local government or the department.

WAC 173-22-030(11) specifically states that for rivers/streams where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided rivers and streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs.

### **Permit (or Shoreline Permit)**

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

### **Physical Public Access**

Unobstructed access with public use improvements that are available to the general public and that extend from the land to the ordinary high water mark or to the wetland directly abutting the ordinary high water mark.

### **Priority Habitat**

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

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important wildlife habitat;
- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

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



## City of Sultan Shoreline Master Program

### Priority Species

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

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

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

### Proposed, Threatened, and Endangered (PTE) Species

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

### Public Access

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

### Public Interest

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

### RCW

Revised Code of Washington.

### Restoration

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



## **City of Sultan Shoreline Master Program**

### **Revetment**

Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves of currents. The principal features of a revetment are: 1) heavy armor layer, 2) filter layer, and 3) toe protection.

### **Riparian**

Of, on, or pertaining to the banks of a river.

### **Riparian Buffer Setback**

Riparian Buffer Setbacks function as a setback from the shoreline, and are to be measured from the OHWM. Outside of the shoreline jurisdiction Critical Area Regulation buffers apply as required by SMC 16.80.150.

### **Riprap**

A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

### **Riverbank**

The upland areas immediately adjacent to the floodway, which confine and conduct flowing water during non-flooding event. The riverbank, together with the floodway, represent the river channel capacity at any given point along the river.

### **River Channel**

A natural or artificial watercourse with definite bed and banks to confine and conduct flowing water.

### **Sediment**

The fine-grained material deposited by water or wind.

### **SEPA**

State Environmental Policy Act.

### **SEPA Checklist**

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

### **Shall**

“Shall” means a mandate; the action must be done.

### **Shoreland Areas or Shorelands**

Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark, including floodways and areas landward two hundred (200) feet from such floodways and all wetlands and river deltas associated with the streams, and lakes which are subject to the provisions of this chapter; the same to be designated as to location by the Washington Department of Ecology.



## **City of Sultan Shoreline Master Program**

### **Shoreline Master Program or Master Program**

The comprehensive use plan for a described area, and the 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 enunciated in RCW 90.58.020.

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

### **Shoreline Modifications**

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

### **Shorelines of Statewide Significance**

"Shorelines of the State" that meet the criteria for "Shorelines of Statewide Significance" contained in RCW 90.58.030(e).

### **Shorelines of the State**

This term includes both "shorelines" and "shorelines of statewide significance."

### **Should**

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

### **Water-dependent Use**

A use or portion of a use which cannot exist in a location that is not adjacent to the water but is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses include ship cargo terminal loading areas, fishing, ferry and passenger terminals, barge loading facilities, ship building and dry docking, aquaculture, float plane facilities and marinas.

### **Water-enjoyment Use**

A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline.

In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water;



## City of Sultan Shoreline Master Program

- Piers and other improvements that facilitate public access to shorelines of the state;
- Restaurants with water views and public access improvements;
- Museums with an orientation to shoreline topics;
- Aquariums;
- Scientific/ecological reserves;
- Resorts with uses open to the public and public access to the shoreline; and any combination of those uses listed above.

### **Water-oriented Use**

A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

### **Water Quality**

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

### **Water-related Use**

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.

Water-related uses include manufacturing of ship parts large enough that transportation becomes a significant factor in the product's cost, professional services serving primarily water-dependent uses, and storage of water-transported foods.

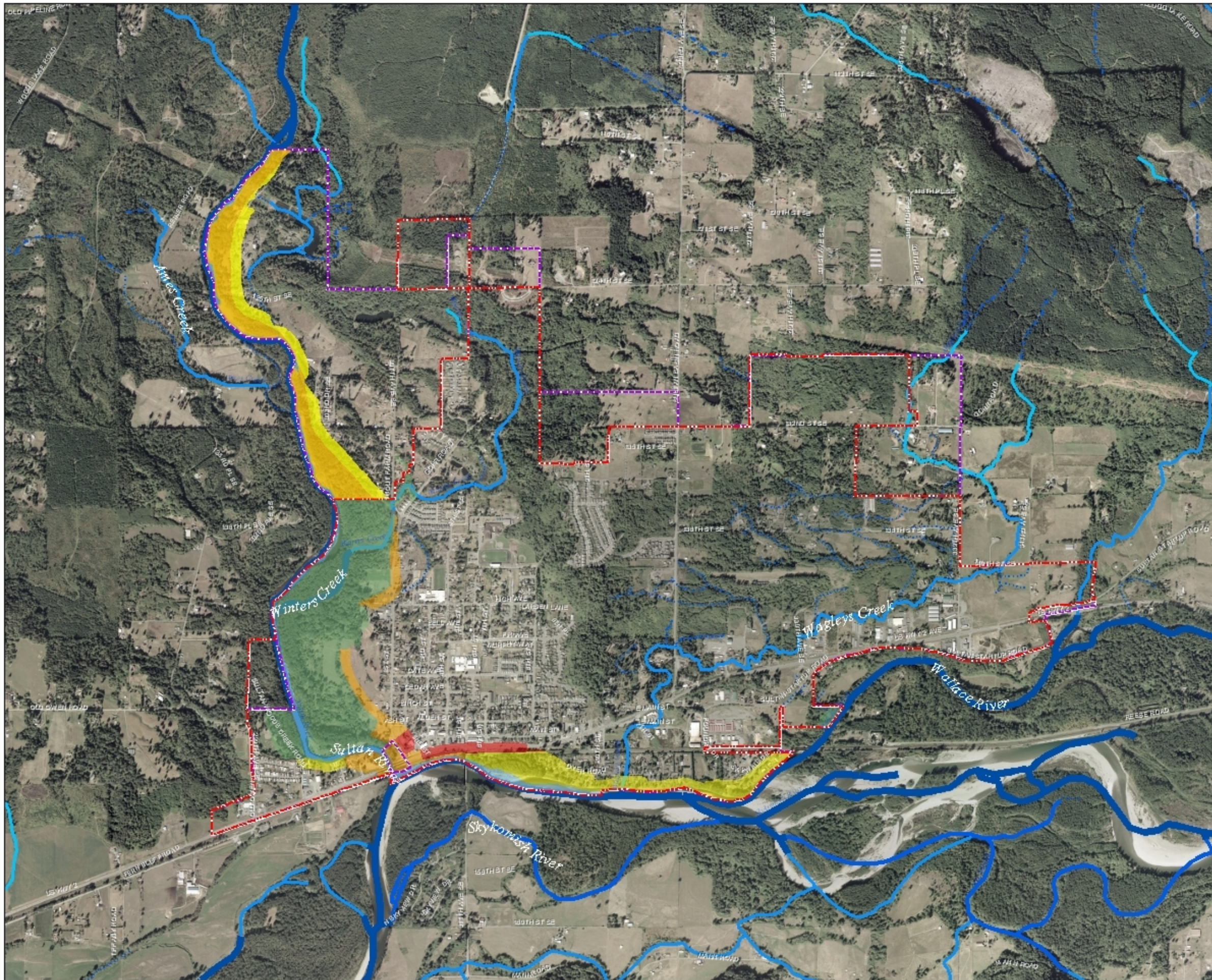
Other examples of water-related uses include the warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and upland log storage for water-borne transportation.


In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

### **Visual Access**

Access with improvements that provide a view of the shoreline or water, but do not allow physical access to the shoreline.

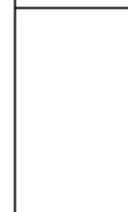






**City of Sultan**  
WASHINGTON

Sultan Shoreline Master Program



City Limits  
Existing UGA

Proposed Environment Designations

- Aquatic
- Natural
- Shoreline Residential
- Urban Conservancy
- Urban Center

0 500 1000 2000 Feet

No warranty is made concerning the accuracy, currency, or completeness of data depicted on this map.

Shoreline environment designations in the Sultan UGA are to be consistent with the shoreline environment designations of the draft Snohomish County Shoreline Master Program.

Aerial Photo: USGS 2003

Period boundaries obtained from Snohomish County Assessor Nov. 2003 and are approximate.

SEPTEMBER 2005

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**SHORELINE ENVIRONMENT DESIGNATIONS**