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ACRONYMS

BMP	Best Management Practices
DAHP	Department of Archaeology and Historical Preservation
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
HPA	Hydraulic Project Approval
LCMC	La Center Municipal Code
OHWM	Ordinary High-Water Mark
RCW	Revised Code of Washington
SEPA	State Environmental Policy Act
SMA	Shoreline Management Act
SMP	Shoreline Master *Program*
SSWS	Shoreline of Statewide Significance
USACOE	Unites States Army Corps of Engineers
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife
WDNR	Department of Natural Resources
WDOE	Washington State Department of Ecology

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I. INTRODUCTION

A. TITLE

This document shall be known and may be cited as the City of La Center Shoreline Master Program, program or SMP.

B. ADOPTION AUTHORITY

This PROGRAM is adopted under the authority granted by the Shoreline Management Act (RCW 90.58) and WAC 173-26 as amended.

C. PURPOSE AND INTENT

The purpose of this program is:

1. To guide the future development of shorelines in the City in a positive, effective, and equitable manner consistent with the Act;
2. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of the City's shorelines; and
3. To ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state.

D. GOVERNING PRINCIPLES

1. The goals, policies, and regulations of this program are intended to be consistent with the State shoreline guidelines in WAC 173-26. The goals, policies and regulations are informed by the Governing Principles in WAC 173-26-186, and the policy statements of RCW 90.58.020.
2. Any inconsistencies between this program and the Act must be resolved in accordance with the Act.
3. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
4. The regulatory provisions of this program are limited to shorelines of the state, whereas the planning functions of this program extend beyond the designated shoreline boundaries, given that activities outside the shoreline jurisdiction may affect shorelines of the state.
5. The policies and regulations established by this program must be integrated and coordinated with those contained in the City Comprehensive Plan and those adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328 (Significant Legislative Rules)
6. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This program protects shoreline ecosystems from such impairments in the following ways:

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

b. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions.

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

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

E. LIBERAL CONSTRUCTION

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

F. SEVERABILITY

Should any section, subsection, paragraph, sentence, clause or phrase of this program or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of La Center hereby declares that it would have adopted this ordinance and each section, subsection sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

G. RELATIONSHIP TO OTHER PLANS AND REGULATIONS

1. Proponents of shoreline use/development shall comply with all applicable laws prior to commencing any shoreline use, development, or activity.
2. Where this program makes reference to any RCW, WAC, or other state, or federal law or regulation the most recent amendment or current edition shall apply.
3. Uses, developments and activities regulated by this program may also be subject to the provisions of the City Comprehensive Plan, RCW 43.21C (State Environmental Policy Act) and WAC 197-11 (SEPA Rules), other provisions of the City Code, including LCMC Title 18 (Development Code) and various other provisions of local, state and federal law, as amended.
4. In the event this program conflicts with other applicable City policies or regulations, they must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous, and unless otherwise stated, the provisions that provide the most protection to shoreline ecological processes and functions shall prevail.
5. Projects in the shoreline jurisdiction that have been previously approved through local and state reviews are considered vested. Major changes or new phases of projects that were not included in the originally approved plan or permit will be subject to the policies and regulations of this program

H. EFFECTIVE DATE

This *program* and all amendments thereto shall take effect fourteen days after WDOE's written notice of final action to the City, and shall apply to new applications submitted on or after that date, and to applications that have not been determined to be fully complete by that date.

I. THROUGHOUT THIS PROGRAM THE LISTED WORDS HAVE THE FOLLOWING MEANINGS:

1. *May* means the actions is acceptable, provided it conforms to the provisions of this *program*.
2. Must means a mandate, the action must be done.
3. Shall is a mandate, the action must be done.
4. Should means that the particular action is required unless there is a demonstrated, compelling reason based on the policy of the Shoreline Management Act and this chapter against taking the action.
5. Feasible means an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a.) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b.) the action provides a reasonable likelihood of achieving its intended purpose; and (c.) the action does not physically preclude achieving the project's primary intended legal use.

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

The definition of these common words in the foregoing manner is a legal requirement of WAC 173.26.020. Other words and phrases are also defined. They are in italics when used in the text, and the definitions are contained in Chapter VIII of this program.

II. APPLICABILITY, SHORELINE PERMITS, EXEMPTIONS, AND EXCEPTIONS

To be authorized, all uses and *development* activities in *shorelines* shall be planned and carried out in a manner consistent with this program and the policies of the Act as required by RCW 90.50.140(1), regardless of whether a *shoreline permit*, statement of *exemption*, *shoreline* variance, or *shoreline conditional* use is required.

A. APPLICABILITY

1. This program shall apply to all of the shorelands and waters within the La Center city and Urban Growth Area (UGA) limits that fall under the jurisdiction of RCW 90.58. Such shorelands shall include:
    a. Those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the *ordinary high water mark* (*OHWM*),
    b. *Floodway*s and contiguous *floodplain* areas landward, two hundred (200) feet from such *floodway*s, and all *wetlands* and river deltas associated with the streams, *lakes* and tidal waters that are subject to the provisions of this *program*, as may be amended; the same to be designated as to location by WDOE, as defined by RCW 90.58. A copy of the Official *Shoreline* Designation Map for the City and its UGA is shown in Appendix A.
    c. The City is predesignating *shoreline*s within its adopted Urban Growth Area. Until annexation, *development* in these areas shall be regulated by the Clark County *Shoreline Master Program*.
2. In addition to lands identified in Section II.A.1 above, shorelands shall include land necessary for buffers for critical areas that occur within shorelines of the state.
3. Maps indicating the extent of shoreline jurisdiction and shoreline designations are for guidance only. They are to be used in conjunction with best available science, field investigations and on- site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this program.
4. This program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non- federal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally owned lands (including but not limited to, private in-holdings in national wildlife refuges).
5. Non-federal agency actions undertaken on federal lands must comply with this program and the Act.
6. Native American Tribe actions on tribal lands and federal agency actions on federal lands are not required, but are encouraged, to comply with the provisions of this program and the Act. Nothing in this chapter shall affect any rights established by treaty to which the

United States is a party.

7. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.
8. This program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.

Table 2-1. List of Shorelines

Shorelines of Statewide Significance (SSWS) East Fork Lewis River [WAC 173-18-100(18)]
Other shorelines None

B. SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT REQUIRED

1. *Substantial development* as defined by this *program* and RCW 90.58.030 shall not be undertaken by any *person* on the *shorelines of the state* without first obtaining a *substantial development permit* from the *Shoreline Administrator*, unless the use or *development* is specifically identified as *exempt* from a *substantial development permit*, in which case a letter of *exempt*ion is required.
2. *The Shoreline Administrator may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of RCW 90.58, the provisions of WAC 173-27, and this program.*
3. *Within an urban growth area, a shoreline substantial development permit is not required on land that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the OHWM when consistent with the requirements of WAC* 173-27-215.

C. EXEMPTIONS FROM A SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

1. General Requirements
    a. Except when specifically exempted by statute, all proposed uses and development occurring within the shoreline jurisdiction must conform to RCW 90.58 (Shoreline Management Act) and this program.
    b. A use or development that is listed as a conditional use pursuant to this program or is an unclassified use or development must obtain a conditional use permit even if the development or use does not require a substantial development permit.
    c. When a development or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.
    d. If any part of a proposed development is not eligible for an exemption as defined in RCW 90.58.030(3)(e), WAC 173-27-040 (as amended) and this section, then a substantial development permit is required for the entire proposed development project.
    e. Exemptions shall be construed narrowly. Only those developments that meet the

precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process. Exemptions to LCMC 18.300 do not relieve the applicant of compliance with this program.

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

2. List of Exemptions.

The following activities shall be considered *exempt* from the requirement to obtain a *shoreline substantial development permit*, but shall obtain a statement of *exemption*, as provided for in Section II.C.3. The list of exemptions is further articulated and supplemented by the provision of WAC 173-27-040, as amended.

a. Any development of which the total cost or fair market value does not exceed seven thousand, forty-seven dollars ($7,047.00) or as adjusted by the state Office of Financial Management, 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 as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.

b. Normal maintenance or normal repair of existing legally-established structures or developments, including damage by accident, fire, or elements. No exemption will be allowed, however, where repair or replacement causes substantial adverse effects to shoreline resources 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.

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

d. 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 that requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been

required, absent an emergency, pursuant to RCW 90.58, these regulations, or this program, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this RCW 90.58 and this program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.

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

g. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level, and which meets all requirements of the State and City, other than requirements imposed pursuant to RCW 90.58. Local circumstances may dictate additional interpretations of normal appurtenances that shall be set forth and regulated within this program. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

   i. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational docks, storage facilities or other appurtenances. This exception applies in fresh waters if the fair market value of the dock does not exceed: Twenty-two thousand five hundred dollars ($22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or

   ii. Eleven thousand two hundred ($11,200) dollars for all other docks constructed in fresh waters. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

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

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

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

k. Site exploration and investigation activities that are prerequisite to preparation of an

application for *development* if:

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

ii. 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;

iii. 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; and

iv. A private entity seeking development authorization under this section must first post a performance bond or provide other evidence of financial responsibility to the local jurisdiction to assure that the site is restored to pre-existing conditions.

v. The activity is not subject to the permit requirements of RCW 90.58.550.

l. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, by herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or WDOE jointly with other state agencies under RCW 43.21C.

m. Watershed restoration projects as defined in RCW 89.08.460.

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

i. The project has been approved by WDFW

ii. The project has received hydraulic project approval by WDFW pursuant to RCW 77.55;

iii. The City has determined that the project is substantially consistent with this program. In this event, The City shall make such determination in a timely manner and confirm it in writing by letter to the project proponent.

iv. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs. At least one of the following criteria must be met:

(a) Elimination of human-made fish passage barriers, including culvert repair and replacement; or

(b) Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(c) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

o. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

3. Statements of Exemption

a. Any person claiming exemption from the substantial development permit

requirements shall make an application to the *Shoreline Administrator* for such an *exemption* in the manner prescribed by the *Shoreline Administrator*, except that no written statement of *exemption* is required for emergency *development* pursuant to WAC 173-27-040(2)(d).

b. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. In accordance with Chapter VII, the Shoreline Administrator's decision on a statement of exemption may be reconsidered or appealed.

c. The Shoreline Administrator is authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in this section. The statement shall be in writing and shall indicate the specific exemption of this program that is being applied to the development. It shall also provide the Shoreline Administrator's analysis of the consistency of the project with this program and the Act. The statement of exemption may contain conditions and/or mitigating measures for approval to achieve consistency and compliance with the provisions of this program and Act. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator. Exempt activities related to any of the following shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator:

   i. dredging,

   ii. flood control and in-water structures,

   iii. archaeological or historic site alteration,

   iv. clearing and ground disturbing activities such as filling and excavation, docks, shore stabilization,

   v. free-standing signs.

d. A copy of written exemptions shall be forwarded to WDOE if federal permits are also required for the project (e.g., wetland fills, dredging and overwater/in water structures would all require federal permits).

D. EXCEPTIONS TO SHORELINE PERMITS OR LOCAL REVIEW

1. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

   a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW.

   b. Boatyard improvements to meet National Pollutant Discharge Elimination System (NPDES) permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of an NPDES storm water general permit.

   c. Washington State Department of Transportation (WSDOT) facility maintenance and safety improvements. Pursuant to RCW 90.58.356, WSDOT projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial

Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

e. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

E. PROHIBITED USES

1. The following modifications and uses are prohibited in all *shoreline designations* and are not eligible for review as a *shoreline conditional use* or *shoreline* variance:

   a. Uses not otherwise allowed in the underlying zoning district;

   b. Parking as a primary use;

   c. Discharge of solid wastes, liquid wastes, untreated effluents, other *potentially harmful materials*;

   d. Solid or hazardous waste landfills;

   e. Speculative *fill* meaning the placement of *fill* material without an associated *development*;

   f. *Dredging* or *dredge material* disposal to construct land canals or small basins for *boat moorage* or launching, water ski landings, swimming holes or other recreational activities; and

   g. *Aquaculture*, forestry, industrial, log storage, *marina*s, and mining uses.

F. NON-CONFORMING USES AND DEVELOPMENT

1. Existing Uses and Development. Existing uses, structures and lots legally established prior to the effective date of this program are allowed to continue, be maintained and expanded in conformance with the requirements of this section. To the extent that they could not be established under the terms of this program, they are deemed non-conforming and are subject to the provisions of this section, unless specific exceptions are provided for in Chapter II.

2. Nonconforming Uses

   a. Uses that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except upon approval of a conditional use permit.

   b. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming unless reestablishment of the use is authorized through a conditional use permit which must be applied for within the two-year period. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations. A use authorized pursuant to subsection (4)(e) of this section shall be considered a conforming use for purposes of this section.

c. Normal maintenance and normal repair of a structure housing a non-conforming use may be permitted provided all work is consistent with the provisions of this program.

3. *Non-conforming Structures*

   a. Structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may continue as legal nonconforming structures and may be maintained and repaired.

   b. Non-conforming structures may be enlarged, or expanded provided that enlargements meet the applicable provisions of the shoreline master program. A proposed expansion shall not increase the extent of nonconformity by further encroaching upon or extending into areas where construction would not be allowed for new uses or structures, unless a shoreline variance permit is obtained.

   c. Legally-established residential structures shall be considered conforming uses even if they do not meet the standard of this Master Program for setbacks, buffers, or yards; area, bulk, height, or density. These uses may expand or be enlarged in accordance with the provisions of Chapter VI, Section C.15(j and k) of this SMP.

   d. A structure for which a shoreline variance has been issued shall be considered a legal non-conforming structure.

   e. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:

      i. No reasonable alternative conforming use is practical; and

      ii. The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.

      In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

   f. A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the applicable master program and the act.

4. *Non-conforming use and structure damage and reconstruction*

   a. If a *non-conforming structure* is damaged to an extent up to 100 percent of the replacement cost of the original development, it may be reconstructed to the configuration (footprint, size, and height) existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within two years of the date the damage occurred. Expansion of damaged structures is subject to SMP Section II.F.3(b).

   b. The *Shoreline Administrator* may allow a one (1) year extension provided consistent and substantial progress is being made.

5. *Non-conforming Lots. Legally established, nonconforming lots located landward of the ordinary high-water mark are buildable, provided that all new structures or additions to structures on any non-conforming lot must meet all setback, height and other construction requirements of the program and the Act.*

G. SHORELINE VARIANCE

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

2. *When a shoreline variance is requested, the City shall issue a final decision that is then filed with WDOE. However, shoreline variances must have approval from WDOE, which shall have final approval authority. Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.*

3. *Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM) and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:*

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

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

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

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

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

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

4. *Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), or within any wetland, may be authorized provided the applicant can demonstrate all of the following:*

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

    b. That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and

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

5. *The burden of proving that a proposed shoreline variance meets the criteria of this program shall be on the applicant. Absence of such proof shall be grounds for denial of the application.*

6. *In the granting of all shoreline variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area.*

7. *Before making a recommendation to grant a shoreline variance, the City shall consider issues related to the conservation of valuable natural resources, and the protection of views from nearby public roads, surrounding properties and public areas.*
8. *Shoreline variances should not result in a net loss of environmental function.*
9. *A variance from City development code requirements shall not be construed to mean a shoreline variance from use regulations in this program, and vice versa.*
10. *Shoreline variances may not be used to permit a use or development that is specifically prohibited in a shoreline designation.*

H. SHORELINE CONDITIONAL USE PERMIT

1. The purpose of the *conditional use permit* is to provide greater flexibility in varying the application of the use regulations of this *program* in a manner that will be consistent with the policies of the Act and this *program*.
2. *When a conditional use is requested, the Shoreline Administrator shall be the approval authority for the City. However, shoreline conditional uses must have approval from WDOE, which shall have final approval authority under WAC 173-27-200.*
3. *Conditional use permits shall be authorized only when they are consistent with the following criteria:*
    a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this *program*;
    b. The use will not interfere with normal public use of public *shorelines*;
    c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this program;
    d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
    e. The public interest will suffer no substantial detrimental effect;
    f. Consideration has been given to cumulative impact of additional requests for like actions in the area.
4. *Other uses not specifically identified in this program are considered unclassified uses and may be authorized through a conditional use permit if the applicant can demonstrate that the proposed use is consistent with the purpose of the shoreline designation and compatible with existing shoreline improvements or that extraordinary circumstances preclude reasonable use of the property.*
5. *Uses specifically prohibited by this program may not be authorized.*
6. *The burden of proving that a proposed shoreline conditional use meets the criteria of this program and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.*
7. *The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.*

III. SHORELINE MASTER PROGRAM GOALS & POLICIES

This chapter describes overall *program* goals and policies. The general regulations in Chapter V and the specific use regulations in Chapter VI are the means by which these goals and policies are implemented.

A. GENERAL SHORELINE GOALS

The general goals of this *program* are to:

1. Use the full potential of shorelines in accordance with the opportunities presented by their relationship to the surrounding area, their natural resource values, and their unique aesthetic qualities offered by water, topography, and views; and
2. Develop a physical environment that is both ordered and diversified and which integrates water and shoreline uses while achieving a net gain of ecological function.

B. SHORELINES OF STATEWIDE SIGNIFICANCE (SSWS)

Designated *shorelines of statewide significance (SSWS)* are of value to the entire state as are other water bodies meeting the definition of *shorelines of the state*. The East Fork of the Lewis River, along with its associated shorelands is designated as a *shoreline of statewide significance*. Its location along the southwest boundary of the current city limits and other *shorelines of the state* requires the preparation of this master *program*. In accordance with RCW 90.58.020, *SSWS* will be managed as follows:

1. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines. These are uses that:
    a. Recognize and protect the statewide interest over local interest;
    b. Preserve the natural character of the *shoreline*;
    c. Result in long term over short term benefit;
    d. Protect the resources and *ecological function* of the *shoreline*;
    e. Increase *public access* to publicly-owned areas of the *shorelines*;
    f. Increase recreational opportunities for the public in the *shoreline*; and
    g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.
2. Uses that are not consistent with these policies should not be permitted on SSWS.
3. Those limited shorelines containing unique, scarce and/or sensitive resources should be protected.
4. Development should be focused in already developed shoreline areas to reduce adverse environmental impacts and to preserve undeveloped shoreline areas. In general, SSWS should be preserved for future generations by;

a. Restricting or prohibiting development that would irretrievably damage shoreline resources, and

b. Evaluating the short-term economic gain or convenience of developments relative to the long- term and potentially costly impairments to the natural shoreline.

C. ARCHAEOLOGICAL, HISTORIC, AND CULTURAL RESOURCES

1. Goal. The goal for archaeological, historic, and cultural resources is to preserve and prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value. Such sites include those identified by affected Indian tribes, the Department of Archaeology and Historic Preservation, Clark County Historic Preservation Commission, and other appropriate authorities.

2. Policies

   a. As part of every new development project, expansion of existing developments or development of a new use, every effort should be made to identify, protect, preserve, and restore important archaeological, historic, and cultural sites located in shorelands of the state for educational, scientific, and enjoyment purposes.

   b. Where appropriate, make access to such sites available to parties of interest, provided that access to such sites be designed and managed in a manner that protects the resource.

   c. Encourage the acquisition of historical, cultural and archaeological sites by public or private entities in order to assure their protection and preservation.

   d. Encourage projects and programs that foster a greater appreciation of shoreline management, local history, maritime activities, environmental conservation, and maritime history.

   e. Continue to contribute to the state and local inventory of archaeological sites enhancing knowledge of local history and understanding of human activities.

D. CONSERVATION

1. Goal. The goal of conservation is to protect shoreline resources, vegetation, important shoreline features, shoreline ecological functions and the processes that sustain them to the maximum extent practicable.

2. Policies

   a. Shorelines that support high value habitat or high quality associated wetlands should be considered for the highest level of protection to remain in an unaltered condition.

   b. Impacts to critical areas should first be avoided, and where unavoidable, minimized and mitigated to result in no net loss of watershed processes and shorelines functions.

   c. Management practices for natural resources in shoreline areas should be developed and implemented to ensure the preservation of non-renewable resources, including unique, scenic and ecologically sensitive features, wetlands, and wildlife habitat.

   d. Every effort should be made to provide administrative and regulatory assistance to those proposals to create, restore or enhance habitat for priority species.

   e. Regulatory, non-regulatory, and incentive programs should all be used for the

protection and conservation of wildlife habitat areas, and should emphasize policies and standards to protect and conserve critical areas as larger blocks, corridors or interconnected areas rather than in isolated parcels.

f. The retention of existing vegetation along shorelines should be encouraged, and where removal is unavoidable for physical or visual access to the shoreline, alteration should be limited in such a manner that habitat connectivity is maintained, degraded areas are restored, and the health of remaining vegetation is not compromised.

E. CRITICAL AREAS

1. Goal: Critical areas as defined in RCW 36.70A.030 and WAC 365-190-030 (wetlands, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and critical aquifer recharge areas) are preserved for the ecological and human functions they perform including water quality, habitat, erosion control, bank stabilization, recreation, and other functions.
2. Policies

   a. Critical areas, as defined by this SMP and consistent with the SMA and RCW 36.70A.170 and 36.70A.050, should be protected to meet no net loss for the functions and values they provide to humans and the environment. Critical area functions include, but are not limited to, water quality, flood hazard reduction, habitat, water supply, and erosion control. Values include, but are not limited to, recreation, aesthetic enjoyment, prevention of property and habitat damage, and preservation of La Center's character.

   b. Critical freshwater habitats, which are streams, rivers, wetlands, and lakes, their associated channel migration zones (CMZs), hyporheic zones, and floodplains, should be protected as consistent with WAC 173-26-221(2)(c)(iii). The standard critical area categories in this chapter (i.e., wetlands, geologic hazards, flood hazards, critical aquifer recharge areas, and fish and wildlife habitat conservation areas) are designated and protected by the provisions of this SMP and overlap to a large extent with critical freshwater habitats. Protections for critical areas are also protections for critical freshwater habitats. Hydrologic connections between water bodies, watercourses, and associated wetlands should be protected.

F. ECONOMIC DEVELOPMENT

1. Goal. The goal for economic development is to create and maintain an economic environment that is balanced with the natural and human environment.
6. Policies

   a. Continue to support current economic activity that is consistent with the policies of this SMP should continue to be supported.

   b. Encourage healthy, orderly economic growth by allowing economic activities that will be an asset to the community while maintaining the highest standards to prevent ecological loss or damage.

   c. Encourage new water-oriented industrial, commercial, and resource-based activities that will not harm the quality of the site's environment, adjacent shorelands, or water quality are encouraged along the shoreline.

   d. As an economic asset, the recreation industry should be encouraged along

shorelines in a manner that will enhance the public enjoyment of shorelines, consistent with protection of critical areas and cultural resources.

e. Existing non-water-oriented commercial, industrial, and resource-based activities located in the shoreline jurisdiction are encouraged to protect watershed processes and shoreline functions.

G. FLOOD PREVENTION AND FLOOD DAMAGE MINIMIZATION

1. Goal. The goal of flood prevention and flood damage minimization is to prevent public and private losses from occurring, and where this proves to be impossible, to minimize them to the extent possible, and; to maintain and restore natural flow regimes.

7. Policies

   a. All shoreline development should be located, designed, and constructed to prevent flood damage.

   b. Flood management works should be located, designed, constructed and maintained to protect against the following:

      i. Loss of life, injury or loss of property;

      ii. Loss to the physical integrity of the shoreline;

      iii. Loss of water quality and natural ground water movement;

      iv. Loss to fish and other life forms and their habitat and damage to vegetation;

      v. Damage to recreational resources and aesthetic values and features including point and channel bars, islands, and other shore features and scenery.

   c. Non-structural flood hazard reduction measures are preferred to structural measures. Flood hazard reduction measures should be accomplished in a manner that ensures no net loss of ecological functions and ecosystem-wide processes.

   d. Flood protection measures that result in channelization and/or reduction in shoreline function should be avoided.

   e. An evaluation of alternate flood control measures should consider the removal or relocation of structures in flood-prone areas.

   f. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be allowed when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction.

H. PUBLIC ACCESS AND RECREATION

1. Goal. The goal of public access and recreation is to increase the ability of the general public to enjoy the water's edge, travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

2. Policies

   a. Where feasible and consistent with public safety all private and public developments should provide, protect, and enhance a public access system that is both physical and visual; utilizes both private and public lands; increases the amount and diversity of public access to the State's shorelines and adjacent areas; and is consistent with the shoreline character and shoreline functions, and private rights.

b. The acquisition and expansion of appropriate shoreline areas is encouraged. The acquired properties could be used as recreational facilities or for other uses benefitting the public at large.

c. Whenever practicable, public access and recreational facilities should be located in a manner that encourages variety of uses, accessibility, and connectivity in a manner that will preserve natural characteristics and shoreline functions.

d. Encourage public access as part of each development project by a public entity, and for all private development (except residential development of less than four parcels), unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

e. Discourage shoreline uses that curtail or reduce public access unless such restriction is in the interest of the environment, public health, and safety, or is necessary to a proposed beneficial use.

I. RESTORATION

1. Goal. The goal of restoration is to re-establish, rehabilitate and/or otherwise improve impaired shoreline ecological functions and/or processes through voluntary and incentive-based public and private programs and actions that are consistent with the SMP, the Clark Coalition Restoration Plan and other approved restoration plans.

2. Policies

   a. Shorelines that are biologically degraded should be reclaimed and restored to the greatest extent feasible.

   b. Restoration strategies should be developed and implemented such that ecosystem processes are sustainable in the long-term.

   c. Restoration of shoreline functions should be encouraged during redevelopment.

   d. Restoration efforts should consider the feasibility of retrofitting existing stormwater control facilities to improve water quality.

   e. Restoration efforts should consider a focus on floodplain and channel migration zone reconnection where rivers are confined by levees.

   f. Restoration efforts should include surveying and monitoring invasive species, noxious weeds, and non-native species with the intention of initiating eradication programs as needed.

   g. Planting of vegetation that enhances shoreline function should be encouraged.

   h. Education programs should be developed to:

      i. Educate property owners about proper vegetation/landscape maintenance and the impacts of shore armoring and over-water structures; and

      ii. Educate boaters about proper waste disposal methods, anchoring techniques, and other best boating practices.

   i. Cooperative restoration actions involving local, state, and federal agencies, Native American tribes, non-government organizations, and landowners are encouraged.

J. SHORELINE MODIFICATION AND STABILIZATION

1. Goal. The goal for shoreline modification and stabilization is to avoid or minimize it to the maximum extent feasible. When shoreline modification is unavoidable, the methods used should be those that are least destructive to the shoreline environment, including associated waters.
2. Policies
    a. New or expanded structural shore stabilization, including bulkheads, is allowed only where it is demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where such structures and structural stabilization would not cause a net loss of shoreline ecological functions and processes.
    b. Proponents of new shoreline uses and development, including preferred uses and uses exempt from permits, should plan, design, locate, construct and maintain the use/development to avoid the need for structural shoreline armoring works using all methods available.
    c. When necessary, natural, non-structural shoreline stabilization measures are preferred over structural stabilization measures. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:
        i. No action;
        ii. Flexible stabilization works constructed of natural materials, including soft shore protection, bioengineering, beach nourishment, protective berms, or vegetative stabilization;
        iii. Rigid works constructed of structural materials such as riprap or concrete.
    h. *Shoreline stabilization* should be located and designed to accommodate the physical character and hydraulic energy potential of a specific *shoreline* reach, which may differ substantially from adjacent reaches.
    i. Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design and maintenance of shore stabilization for public or quasi-public *development* whenever safely compatible with the primary purpose. *Shoreline stabilization* on publicly owned *shorelines* should not be allowed to decrease long-term public use of the *shoreline*.
    j. *Shoreline stabilization* projects should be developed through coordination with affected property owners and public agencies.
    k. Larger works such as jetties, breakwaters, *weir*s, or *groin* systems should be permitted only for *water-dependent use*s and where *mitigated* to provide no net loss of *shoreline ecological functions* and processes.
    l. Lower impact *structure*s, including floating, portable or submerged breakwater *structure*s, or several smaller discontinuous *structure*s, are preferred over higher impact *structure*s.
    m. Encourage and facilitate levee setback (including but not limited to, pulling back an existing levee to allow for a larger *floodplain* area contiguous to a water body), levee removal, and other *shoreline enhancement* projects.
    n. *Development* and *shoreline modifications* that would result in interference with the

process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of *ecological functions* with the rivers and streams should be avoided.

K. SHORELINE USE AND DEVELOPMENT

1. Goal. The goal for shoreline use and development is to balance the preservation and development of shorelines in a manner that allows for mutually compatible uses. Resulting land use patterns will be compatible with shoreline designations and sensitive to, and compatible with, ecological systems and other shoreline resources. To help with this balance, shoreline and water areas with unique attributes for specific long term uses such as commercial, residential, industrial, water, wildlife, fisheries, recreational and open space shall be identified and/or reserved.
2. Policies
    a. Uses in shorelines and water areas in priority order are (1) water-dependent, (2) water- related, and (3) water-enjoyment.
    b. Uses, activities, and facilities should be located on shorelines in such a manner as to:
        i. Retain or improve the quality of shoreline function;
        ii. Respect the property rights of others;
        iii. Ensure that proposed shoreline uses do not create risk or harm to neighboring or downstream properties; and
        iv. Preserve and/or restore, to the maximum reasonable extent, the shoreline's natural features and functions in conjunction with any redevelopment or revitalization project.
    c. The following are encouraged in shoreline areas:
        i. Uses that enhance their specific areas or employ innovative features for purposes consistent with this program;
        ii. The redevelopment of any area not suitable for preservation of natural features, based on its shoreline designation, with an emphasis on public access;
        iii. Master planning for large sites or projects;
        iv. Shared uses and joint use facilities in shoreline developments; and
        v. Uses that allow for or incorporate restoration of shoreline areas that are degraded as a result of past activities or events.
    d. Uses proposed on lands adjacent to but outside of immediate shoreline jurisdiction should be consistent with the intent of this program and should not adversely impact shoreline ecological functions.

L. TRANSPORTATION, UTILITIES, AND ESSENTIAL PUBLIC FACILITIES

1. Goal. The goal for transportation, utilities, and essential public facilities is to provide for these facilities in shoreline areas without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.

2. Policies

    a. Transportation, utilities, and essential public facilities should be located outside the shoreline jurisdiction to the maximum extent possible to reduce interference with natural shoreline functions and appropriate shoreline uses.

    b. Circulation systems should be safe, reasonable and adequate, and should be designed so that the routes will have the least possible adverse effect on shoreline function and existing ecological systems, while still contributing to the visual enhancement of the shoreline.

    c. Areas of shoreline transportation corridors that are unique, have historic significance or contribute significantly to the aesthetic quality of the shoreline should be protected, managed and enhanced.

    d. Government bodies should devote roads within the shoreline jurisdiction to low volume local access routes and where practical, provide multiple use corridors as a part of shoreline transportation development.

    e. Local utility and transportation corridors should be located to avoid creating barriers between adjacent uplands and the shoreline and to harmonize with the topography and other natural characteristics of the shoreline.

    f. When new utility and transportation facilities are developed in the shoreline jurisdiction, there should be a combined effort by public and private interests to protect, enhance, and encourage development of physical and visual shoreline public access.

    g. Where feasible, public and private entities (as applicable) should take steps to relocate existing utility and transportation facilities, such as transmission lines, rail lines, or freeways that limit public shoreline access or other shoreline uses and convert such rights-of-way to new public access routes.

    h. Utilities and transportation facilities should be installed and facilities designed and located in a coordinated manner that protects the shorelands and water from contamination and degradation.

    i. The siting of essential public facilities in the shoreline jurisdiction should be discouraged unless no practical alternatives exist.

M. VIEWS AND AESTHETICS

1. Goal. The goal for views and aesthetics is to assure that the public will be able to continue enjoying the physical and aesthetic qualities of the shorelines, and that this ability will be increased whenever possible.

2. Policies

    a. Public entities should identify shoreline areas having scenic vistas and high aesthetic value, and act and encourage others to act to preserve and improve upon these values whenever possible.

    b. Encourage development within the shoreline area that provides visual and physical linkage to the shoreline, and enhances the waterfront.

    c. Encourage shoreline development that designs and builds structures in a manner that avoids obstructing the views of others to the maximum extent feasible.

N. WATER QUALITY AND QUANTITY

1. Goal. The goal for water quality and quantity is to protect and enhance the quality and quantity of the region's water resources to ensure there is safe, clean water for the public's needs and enjoyment, and; to maintain and restore natural flow regimes.
2. Policies
    a. Encourage the location, construction, operation, and maintenance of shoreline uses, developments, and activities to be focused on maintaining or improving the quality and quantity of surface and ground water over the long term.
    b. Strive to minimize the inadvertent release of chemicals, activities that cause erosion, stormwater runoff, and faulty on-site sewage through education, site planning, and best management practices.
    c. Encourage the use, maintenance and restoration of appropriate vegetative buffers along surface waters to improve water temperature and reduce the adverse effects of erosion and runoff.
    d. Strive to maintain and restore natural flows.

IV. SHORELINE DESIGNATIONS

A. INTRODUCTION

The intent of assigning *shoreline designations* to specific geographies is to encourage *development* that will enhance the present or desired character of the *shoreline*. To accomplish this, segments of *shoreline* are given a *shoreline* designation based on existing *development* patterns, natural capabilities and limitations, and the vision of the City. The *shoreline designations* are intended to work in conjunction with the comprehensive plan and zoning.

Management policies are an integral part of the *shoreline designations* and are used for determining uses and activities that can be permitted in each *shoreline designation*. *Development* regulations specify how and where permitted *development* can take place within each *shoreline designation* and govern *height* and setback.

B. AUTHORITY

Local governments are required under the State Shoreline Management Act of 1971 (RCW 90.58) and the Shoreline Master Program Guidelines (WAC 173-26) to develop and assign a land use categorization system known as *shoreline* environment designations for *shoreline* areas as a basis for effective *shoreline master programs*. For purposes of this *program shoreline* designation is used in place of the term *shoreline* environment designation referred to in WAC 173-26.

The method for local government to account for different *shoreline* conditions is to assign a *shoreline designation* to each distinct *shoreline* section in its jurisdiction. The *shoreline designation* assignments provide the framework for implementing *shoreline* policies and regulatory measures for environmental protection, use provisions, and other regulatory measures specific to each *shoreline designation*.

C. SHORELINE DESIGNATIONS

The City classification system consists of *shoreline designations* that are consistent with and implement the Act (RCW 90.58), the Shoreline Master Program Guidelines (WAC 173-26) and the City's comprehensive plan. These *designations* have been assigned along with the corresponding criteria provided for each *shoreline designation* that applies in the City. The rationale for the City's *shoreline designations* is provided in Appendix B. In delineating *shoreline designations*, the City aims to ensure that existing *shoreline ecological functions* are protected, and recognize the pattern and intensity of *development* are consistent with the policies for restoration of degraded *shoreline*s.

1. Listing of Shoreline Designations
    a. Aquatic;
    b. Urban Conservancy; and
    c. Medium Intensity.
2. Location of Areas Designated in the City of La Center. Areas to which a shoreline designation applies are shown on a copy of the Official Shoreline Map in Appendix A.
3. Aquatic Shoreline Designation

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

b. Designation Criteria. An Aquatic shoreline designation is assigned to lands and waters waterward of the ordinary high-water mark.

c. Management Policies. In addition to the other applicable policies and regulations of this program the following management policies shall apply:

i. Uses that preserve the natural characteristics of the shoreline or restore those characteristics are preferred.

ii. New over-water structures should be allowed only for water-dependent uses, public access, recreation, or ecological restoration.

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

iv. Shoreline uses and modifications should be designed and managed to preserve or improve water quality and natural hydrographic conditions. Natural hydrologic conditions may be necessary to achieve overall goal of no net loss of function.

v. Public access for in-water and shoreline uses should be allowed provided impacts can be

vi. mitigated to ensure no net loss of ecological functions.

vii. Uses and developments on navigable waters or their beds should be located and designed to minimize interference with surface navigation, consider impacts to public views; and to allow for the safe passage of fish and wildlife.

viii. Multiple or shared use of over-water and water access facilities should be encouraged to reduce the impacts of shoreline development and increase effective use of water resources.

ix. Structures and activities permitted should be related in size, form, design, and intensity of use to those permitted in the immediately adjacent upland area. The size of new over- water structures should be limited to the minimum necessary to support the structure's intended use.

x. The size of new over-water structures should be limited to cause the least disruption possible to the shoreline environment.

xi. Natural light should be allowed to penetrate to the extent necessary to discourage salmonid predation and to support nearshore habitat unless other illumination is required by state or federal agencies.

xii. When shoreline uses, development, activities, and modifications in the Aquatic shoreline designation require uses of adjacent landward property, that landward property should be in a shoreline designation that allows that use, development, activity or modification.

4. Urban Conservancy Shoreline Designation

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

b. Designation Criteria. The following criteria are used to consider an Urban Conservancy shoreline designation:

i. The shoreline is located within incorporated municipalities and designated urban growth areas;

ii. The shoreline has a reasonably high ecological function and there is a good opportunity for restoration;

iii. The shoreline has open space or critical areas that should be preserved from more intensive development;

iv. The shoreline presents opportunities for recreational use as a park or otherwise, as a Master Planned Resort, or can be maintained as open space.

c. Management Policies. In addition to the other applicable policies and regulations of this program the following management policies shall apply:

i. Uses that preserve the natural character of the area or promote preservation of open space or critical areas are favored providing they are compatible with the Urban Conservancy setting,

ii. Single family *residential development* shall ensure no net loss of *shoreline ecological functions* and preserve the existing character of the *shoreline*,

iii. In order to preserve the natural character of the areas as mentioned above, thinning or removal of vegetation should be limited to that necessary to remove noxious vegetation and *invasive* species; provide physical or visual access to the *shoreline*; and to maintain or enhance an existing use,.

iv. Low intensity water-oriented commercial uses may be permitted if compatible with surrounding uses, and

v. *Public access* and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be *mitigated*.

5. Medium Intensity Shoreline Designation

a. Purpose. The purpose of the Medium Intensity shoreline designation is to accommodate primarily residential development and appurtenant structures, but to also allow other types of development that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

b. Designation Criteria. A Medium Intensity shoreline designation is assigned to shoreline areas inside incorporated municipalities and urban growth areas if any of the following characteristics apply:

i. The shoreline has low to moderate ecological function with low to moderate opportunity for restoration;

ii. The shoreline contains mostly residential development at urban densities and does not contain resource industries;

iii. The shoreline is planned or platted for residential uses in the comprehensive plan;

iv. The shoreline has low to moderate potential for public passive or active water-oriented recreation where ecological functions can be restored; or

v. The shoreline has low scientific or educational value.

c. Management Policies. In addition to the other applicable policies and regulations of this program the following management policies shall apply:

i. The scale and density of new uses and development should be compatible with sustaining shoreline ecological functions and processes, and the existing residential character of the area;

ii. Public access and joint use (rather than individual) recreational facilities should be provided;

iii. Access, utilities, and public services to serve proposed development within shorelines should be constructed outside shorelines to the extent feasible, and be the minimum necessary to adequately serve existing needs and planned future development, subject to stormwater regulations where applicable;

iv. Public or private outdoor recreation facilities should be provided with proposals for subdivision development and encouraged with all shoreline development if compatible with the character of the area. Priority should be given first to water-dependent and then to water-enjoyment recreation facilities.

v. Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed as part of mixed-use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this program such as providing public access or restoring degraded shorelines.

D. OFFICIAL SHORELINE MAP

1. Map Established.

a. The location and extent of areas under the jurisdiction of this program, and the boundaries of various shoreline designations affecting the lands and water of the City shall be as shown on the map entitled, Official Shoreline Map, City of La Center, Washington. The Official Shoreline Map and all the notations, references, amendments, and other information shown on the map are hereby made a part of this program, as if such information set forth on the map were fully described herein. The Official Shoreline Map only approximately identifies or depicts the lateral extent of shoreline jurisdiction and environment designations from the shoreline waterbody. The actual lateral extent of shoreline jurisdiction and environment designations shall be determined on a site-specific basis at the time a development is proposed based on the location of the ordinary high water mark, floodway, floodplain, and the presence of associated wetlands.

b. In the event that new shoreline areas are discovered (including but not limited to, associated wetlands) that are not mapped and/or designated on the Official Shoreline Map, these areas are automatically assigned an Urban Conservancy designation for lands within incorporated and urban growth areas until the shoreline can be re-designated through a City Shoreline Master Program amendment.

2. File Copies. The Official Shoreline Map shall be kept on file in the office of the City Planner and the Washington State Department of Ecology. Unofficial copies of the map may be prepared for administrative purposes. To facilitate use of this program, an unofficial copy has been attached as Appendix A.

3. Map Amendments. The Official Shoreline Map is an integral part of this program and may not be amended except upon approval by the City and WDOE, as provided under the

Act.

4. Boundary Interpretation. Until annexation, development in these urban growth areas will continue to be regulated by the Clark County Shoreline Master Program. The City's SMP will apply concurrent with annexation and no additional procedures are required by WDOE at the time of annexation unless a redesignation is occurring per Section VI.D.5 and Table 4-1.
    a. If disagreement develops as to the exact location of a shoreline designation boundary line shown on the Official Shoreline Map, the following rules shall apply:
        i. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed;
        ii. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines;
        iii. Boundaries indicated as approximately parallel to or extensions of features indicated in
        iv. or (2) above shall be so construed.
        v. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Shoreline Administrator shall interpret the boundaries with deference to actual conditions. Appeals of such interpretation may be filed according to the applicable appeal procedures described in Chapter VII, Administration and Enforcement.
5. Mapping Errors. In the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map
6. Shoreline Designation Changes and Urban Growth Boundary Revisions. When a portion of shoreline jurisdiction is brought into or removed from an urban growth area, a new shoreline designation may need to be assigned. Shoreline designations shall be assigned in accordance with Table 4-1 below. Where more than one designation could be appropriate according to Table 4-1, the shoreline designation indicated shall be applied and the best-fitting shoreline designation assigned. Shoreline designation assignments shall occur concurrently with the annexation or other legislative action to remove a portion of shoreline jurisdiction from a city or urban area and to amend the *shoreline* map and shall be effective upon approval by WDOE (see Section IV.D.3).

Table 4-1. Shoreline Designations for Urban[1]/Rural[2] Boundary Revisions

SENDING Designation	From/To	RECEIVING Designation
Aquatic	Rural/Urban	Aquatic
Natural	Rural/Urban	Urban Conservancy
Rural Conservancy – Residential	Rural/Urban	Urban Conservancy
Rural Conservancy – Resource	Rural/Urban	Urban Conservancy

[1] Within urban growth areas
[2] Outside urban growth areas

V. GENERAL SHORELINE USE & DEVELOPMENT REGULATIONS

All uses and development activities in shorelines shall be subject to the following general regulations in addition to the applicable use-specific regulations in Chapter VI.

A. GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS

1. Shoreline uses and developments that are water-dependent shall be given priority.
2. Mitigation sequencing:
    a. To assure no net loss of shoreline ecological functions, proposed individual uses and developments shall analyze environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the master program and other applicable regulations. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority, with (i) of this subsection being top priority.
        i. Avoiding the impact altogether by not taking a certain action or parts of an action;
        ii. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
        iii. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
        iv. Reducing or eliminating the impact over time by preservation and maintenance "operations;
        v. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
        vi. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
    b. In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable so that:
        i. Application of the mitigation sequence achieves no net loss of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act.
        ii. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of

compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

3. Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline functions on other properties.
4. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and would not be reasonably anticipated as being necessary in the future, unless it can be demonstrated that stabilization is the only alternative to protecting public safety and existing primary structures.
5. Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.
6. Non-water-oriented uses shall not adversely impact or displace water-oriented shoreline uses.
7. Single-family residential uses shall be located, designed and used in accordance with applicable policies and regulations of this program. They are prohibited in the Aquatic shoreline designation, and may have a lower priority in some other designations.
8. All uses and developments on or alongside navigable waters should be located and designed to minimize interference with surface navigation; consider impacts to public views and allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
9. Hazardous materials shall be disposed of in a manner which is in accordance with all applicable federal, state, and local statutes, codes and ordinances, and the Shoreline Master Program itself. The handling and disposal of hazardous material will be accomplished in a way that protects the ecological integrity of the shoreline area.
10. In-water work shall be scheduled to protect biological productivity, including fish runs and spawning, and in-water work shall not occur in areas used for commercial fishing during a fishing season.
11. Previous approvals of master plans for projects in shoreline jurisdiction shall be accepted. New phases of projects for which no master plan has yet been approved, or for which major changes are being proposed, or new projects for which master plans are being submitted should be subject to the policies and regulations of this program.
12. Within urban growth areas, WDOE may grant relief from use and development regulations of this program when:
    a. A shoreline restoration project identified in the Clark Coalition SMP Restoration Plan causes or would cause a landward shift in the OHWM creating a hardship meeting specific criteria in RCW 90.58.580;
    b. The proposed relief meets specific criteria in RCW 90.58.580; and
    c. The application for relief is submitted to WDOE in writing requesting approval or disapproval as part of a normal review of a shoreline substantial development permit, conditional use WAC 173-26-201, or variance. If the proposal is not connected to a shoreline permit review, the City may provide a copy of a complete application to WDOE along with the applicant's request for relief.

B. ARCHEOLOGICAL, CULTURAL AND HISTORIC RESOURCES

1. When a shoreline use or development is in an area known or likely to contain archaeological artifacts and data based on Clark County's predictive model, the applicant shall provide for a site inspection and evaluation by a professional archaeologist prior to issuance or as a condition of any shoreline permit or approval as determined by the City. Work may not begin until the inspection and evaluation have been completed and the City has issued its permit or approval.
2. If any item of possible archaeological interest (including human skeletal remains) is discovered on site, all work shall immediately stop, and the City, State Department of Archaeology and Historic Preservation (DAHP), and affected Native American Tribes shall be notified of such finding. A stop-work order will be issued. The shoreline permit will be temporarily suspended. All applicable state and federal permits shall be secured prior to commencement of the activities they regulate and as a condition for resumption of development activities. Development activities may resume only upon receipt of City approval.
3. If the discovery includes human skeletal remains, the find must be secured and protected from further disturbance; the Clark County Medical Examiner and local law enforcement shall be notified in the most expeditious manner possible. The County Medical Examiner will assume jurisdiction over the site and the human skeletal remains, and will make a determination of whether they are crime-related. If they are not, DAHP will take jurisdiction over the remains and report them to the appropriate parties. The State Physical Anthropologist will make a determination of whether the remains are Native American and report that finding to the affected parties. DAHP will handle all consultation with the affected parties as to the preservation, excavation, and disposition of the remains.
4. See LCMC 18.360 (Archaeological Resource Protection) for additional requirements.

C. CRITICAL AREAS PROTECTION

1. Applicability
    a. General Provisions. Through the implementation of standards in Appendix B of this SMP, critical areas, including critical freshwater habitats, and the hydrologic connections between water bodies, watercourses, and associated wetlands shall be protected within shoreline jurisdiction to a level of no net loss of the shoreline ecological functions necessary to sustain shoreline natural resources.
    b. Critical areas in shoreline jurisdiction are regulated by the provisions in Appendix B except as specifically modified or exempted in this Section.
    c. Provisions of the Critical Areas Ordinance that are not consistent with the Shoreline Management Act, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction, as follows:
        i. The provisions of the Critical Areas Ordinance shall not modify the extent of shoreline jurisdiction as described in Chapter IV of this SMP. For regulations addressing critical area buffers that are outside of Shoreline Jurisdiction, see La Center Municipal Code, Section 18.300.
        ii. Provisions in LCMC 18.300.070 relating to exemptions from the Critical Areas Ordinance do not apply in shoreline jurisdiction. Exemptions are limited to those listed in Chapter II, Section C, and are from the permit process only, and not

from the standards of the SMP and the critical area regulations, including requirements for no net loss.

iii. Provisions of La Center Critical Areas Ordinance in LCMC 18.300.080 that include a 'reasonable economic use exception' shall not apply within shoreline jurisdiction. A shoreline variance permit, as set forth in Chapter II, Section G, is required.

iv. Provisions of La Center's Critical Area Ordinance relating to variance procedures, LCMC 18.300.060, and criteria do not apply in shoreline jurisdiction. Variance procedures and criteria are established in this SMP, Chapter II Section G and in Washington Administrative Code WAC 173-27-170.

v. Except as noted below, when there are conflicts between the definitions in this Master Program and those in LCMC 18.300, the definitions in the master program shall govern. Definitions necessary and specific to the Frequently Flooded Areas section in LCMC 18.300.090(3) shall be used consistent with the requirements of the National Flood Insurance Program.

vi. LCMC 18.300.050(4)(d) only applies when consistent with the exemption in Section II.C.2(g). Construction of a single-family residence requiring fill in wetlands must obtain a shoreline Substantial Development Permit in addition to other shoreline approvals as applicable

vii. Administrative buffer reductions or buffer averaging may reduce the buffer to no less than 75% of the width of the base buffer in any location, provided mitigation sequencing has been demonstrated and there is no net loss of shoreline ecological function. Buffer width reductions greater than 25% of the base buffer shall require a shoreline variance permit.

viii. Buffer reductions and buffer averaging may not be combined.

D. FLOOD PREVENTION AND FLOOD DAMAGE MINIMIZATION

1. No shoreline substantial development permit, conditional use permit, variance, or letter of exemption shall be issued until new development proposed within frequently flooded areas or channel migration zones has met all provisions of this section including obtaining a floodplain permit under LCMC 18.300 and achieving no net loss of shoreline ecological functions.
2. Development in floodplains shall not significantly or cumulatively increase flood hazard or be inconsistent with an adopted comprehensive flood hazard management plan.
3. New development or new uses in the shoreline jurisdiction, including subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway or interrupt the process of channel migration. The actual location of the channel migration zone on site must be delineated by a qualified professional. The following uses may be appropriate and/or necessary within the CMZ or floodway, provided that they mitigate to address impacted functions and processes:
   a. Actions that protect or restore the ecosystem-wide processes or ecological functions.
   b. Water-dependent uses
   c. Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.

d. Existing and ongoing agricultural practices in accordance with WAC Title 16, provided that no new restrictions to channel movement occur.

e. Mining when conducted in a manner consistent with the environment designation and with the provisions of WAC 173-26-241 (3)(h).

f. Bridges, utility lines, and other public utility and transportation structures where an alternatives analysis shows that locations outside the shoreline are not feasible or the alternative would result in unreasonable and disproportionate cost.

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

h. Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

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

j. Development in incorporated municipalities and designated urban growth areas, as defined in chapter 36.70A RCW, where existing structures prevent active channel movement and flooding.

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

4. New structural flood hazard reduction measures in the shoreline jurisdiction will be allowed only when it can be demonstrated by scientific and engineering analysis that they are necessary to protect existing development, that non-structural measures are not feasible, and that impacts to ecological function and priority species, habitats can be successfully mitigated so as to assure no net loss of shoreline ecological function and vegetation conservation standards consistent with section V.H of this SMP are implemented.

5. When feasible, place new or enlarged structural flood hazard reduction measures landward of associated wetlands and vegetation conservation areas, except for projects that increase ecological functions, such as wetland restoration. Flood hazard reduction projects shall be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

6. In-stream structures shall be located, designed, and maintained in such a manner that minimizes flood potential and the damage affected by flooding.

7. Fills are prohibited in floodplains unless the applicant clearly demonstrates that the geohydraulic characteristics will not be altered in a way that increases flood velocity or risk of damage to life or property; and flood storage capacity will not be reduced. See also Section V.G.2.

8. Fill shall be avoided in critical areas or buffers where possible. Pile or pier supports or other support methods shall be utilized instead of fills whenever feasible, particularly for permitted development in floodways or wetlands. See also Section V.G.2.

9. Dikes and levees shall not be placed in the floodway except for current deflectors necessary for protection of bridges and roads.
10. Removal of gravel for flood management purposes shall be consistent with the adopted flood hazard reduction plan, and the provisions of this program. This removal will only be allowed after a biological and geomorphological study determines that extraction has a long-term flood hazard reduction benefit and does not result in net loss of ecological functions.
11. Removal of beaver dams to control or limit flooding shall be avoided where feasible, and allowed only in coordination with WDFW and receipt of all applicable state permits.
12. Non-structural flood hazard reduction measures are preferred to structural measures. Flood hazard reduction measures should be accomplished in a manner that ensures no net loss of ecological functions and ecosystem-wide processes.
13. Flood protection measures that result in channelization and/or reduction in shoreline function should be avoided.

E. PUBLIC ACCESS

1. Provisions for adequate public access shall be incorporated into all shoreline development proposals that involve public funding unless the proponent demonstrates public access is not feasible due to one or more of the reasons stated in Section V.E.3 below.
2. Provisions for adequate public access shall be incorporated into all land divisions and other shoreline development proposals (except residential development of less than four (4) parcels).
3. Public access will not be required where the proponent demonstrates one or more of the following:
    a. Unavoidable health or safety hazards to the public exist that cannot be practically prevented;
    b. Necessary security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
    c. There must be a logical nexus between the negative impact of the development and the need for dedication of property. Dedication of property as a condition of approval must also be roughly proportional to the impact of a proposed development. See also Nollan v. California Coastal Commission, 483 US 825 (1987) and Dolan v. City of Tigard, 512 US 374 (1994);
    d. If, as a pre-condition of approval, a dedication of property is required to enhance public access steps must be taken in the approval process to make certain that the requirements have a logical connection with negative aspects of the development, and that the requirement is roughly proportional to the negative aspects being addressed or offset.
    e. Significant environmental impacts that cannot be mitigated will result from the public access; or
    f. Significant undue and unavoidable conflict between public access requirements for the proposed use and adjacent uses would occur. The applicant must first demonstrate to the City's satisfaction that all reasonable alternatives have been

evaluated and found infeasible, including but not limited to:

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

ii. Designing separation of uses and activities using fences, terracing, use of one-way glazing, hedges, landscaping or other suitable means; and

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

g. Public access shall include the use of barrier free routes of travel and shall include facilities based on criteria within the Americans with Disabilities Act Accessibility Guidelines.

h. Public access strategies shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.

i. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations.

j. When required, public access shall be fully developed and available for public use at the time of occupancy of the use or activity.

k. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.

l. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval.

m. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

n. Maintenance of the public access facility is the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

F. RESTORATION

1. Restoration of ecological functions and processes shall be encouraged and allowed on all shorelines and shall be located, designed and implemented in accordance with applicable policies and regulations of this program and consistent with other City programs. See also Section VI.D.5.

2. Impacts to shoreline functions shall be fully mitigated. Such mitigation may include elements from the Restoration Plan.

3. Elements of the Clark Coalition Shoreline Restoration Plan may also be implemented in any shoreline designation to improve shoreline function.

4. Restoration efforts shall be developed by a qualified professional, shall be based on federal, state, and local guidance and shall consider the following:

a. Riparian soil conditions;

b. In-stream fish habitats; and

c. Healthy aquatic and terrestrial food webs.

5. The City of La Center may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

G. SITE PLANNING AND DEVELOPMENT

1. General

   a. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement.

   b. Parking, storage, and non-water dependent accessory structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principle use.

   c. Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.

   d. Elevated walkways shall be utilized, as appropriate, to cross sensitive areas such as wetlands.

   e. Fencing, walls, hedges, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement.

   f. Exterior lighting shall be designed, shielded and operated to avoid illuminating nearby properties or public areas, prevent glare on adjacent properties, public areas or roadways, prevent land and water traffic hazards and to reduce night sky effects to avoid impacts to fish and wildlife.

2. Clearing, Grading, Fill and Excavation

   a. Land disturbing activities such as clearing, grading, fill and excavation shall be conducted in such a way as to minimize impacts to soils and native vegetation, and shall at a minimum meet the requirements of the International Building Code (IBC) as adopted under LCMC 15.05.030.

   b. Clearing, grading, fill and excavation shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.

   c. Clearing, grading fill and excavation shall not result in substantial changes to surface water drainage patterns off the project site and onto adjacent properties.

   d. Developments shall include provisions to control erosion during construction and to ensure preservation of native vegetation for bank stability.

   e. Clearing, filling, or excavation shall not be conducted where shoreline stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be stabilized immediately and revegetated with native vegetation.

   f. Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.

g. Any placement of materials from off-site (other than permitted deposition of clean dredge spoils) shall be considered fill and shall comply with the fill provisions in the International Building Code (IBC) as adopted under LCMC 15.05.030. Fill shall consist of only clean materials.

h. Soil, gravel or other substrate transported to the site for fill shall be screened and documented that it is uncontaminated. Use of any contaminated materials as fill is prohibited.

i. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

j. Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support:

   i. water-dependent use, “or public access,

   ii. cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,

   iii. disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of WDNR,

   iv. expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible,

   v. mitigation, environmental restoration, beach nourishment or enhancement projects.

k. Fills waterward of the ordinary high-water mark for any use except ecological restoration should require a conditional use permit.

l. Excavation below the OHWM is considered dredging and subject to provisions under that section in Section VI.D.

3. For the purposes of this program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this program, and shall be limited to the minimum necessary to accommodate an approved use. See also Forest Practices use regulations in Chapter VI.Building Design

   a. Structures shall be designed to conform to natural contours.

   b. Non-single family structures shall incorporate architectural features that provide compatibility with adjacent properties, enhance views of the landscape from the water, and reduce scale to the extent possible.

   c. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.

   d. Interior and exterior structure lighting shall be designed, shielded and operated to avoid illuminating nearby properties or public areas, prevent glare on adjacent properties, public areas or roadways, prevent land and water traffic hazards, and reduce night sky effects to avoid impacts to fish and wildlife.

H. VEGETATION CONSERVATION

1. Existing native vegetation within the shoreline jurisdiction shall be retained. and removal of such vegetation avoided. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions.
2. Lost functions may be replaced by enhancing other functions if no net loss in overall functions is demonstrated and habitat connectivity is maintained. Mitigation shall be provided consistent with an approved mitigation plan.
3. Clearing of invasive or non-native shoreline vegetation or plants listed on the State Noxious Weed List using hand-held equipment is permitted in shoreline locations if native vegetation is promptly re-established in the disturbed area. In circumstances where the use of hand-held equipment is impractical or unreliable, the Shoreline Administrator may approve other methods of removal, such as the use of certain herbicides, providing such approval is obtained prior to the commencement of removal.
4. If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.
5. Thinning of trees is limited as follows:
    a. Removal of no more than twenty-five percent (25%) of the canopy of any tree or group of trees (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves or as determined by a certified arborist) in any given five-year period;
    b. Pruning of trees that does not affect shoreline ecological functions. No more than twenty percent (20%) of the limbs on any single tree may be removed and no more than twenty percent (20%) of the canopy cover in any single stand of trees may be removed in a given five- (5-) year period. Pruning shall comply with the National Arborist Association pruning standards, unless the tree is a hazard tree as defined in LCMC 18.350.070. New structures or development within a shoreline area should be sited to avoid the creation of future hazard trees.g
6. Mitigation requirements for removal of vegetation shall be determined after review of a habitat management plan prepared by a qualified professional that assesses the cumulative impacts associated with removing riparian vegetation.
7. Topping trees is prohibited.
8. Natural features such as snags, stumps, logs or uprooted trees, which do not intrude on the navigational channel or threaten public safety, and existing structures and facilities, shall be left undisturbed.
9. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.
10. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards and shall be done by a qualified professional.

I. VIEWS AND AESTHETICS

1. Visual access shall be maintained, enhanced, and preserved on shoreline street-ends,

public utility rights-of-way above and below the ordinary high water mark and view corridors whenever appropriate.

2. Development on or over the water shall be constructed to avoid interference with views from surrounding properties to the adjoining shoreline and adjoining waters to the extent practical.
3. Any new or expanded building or structure over thirty-five (35) feet in height above average grade level that obstructs the shoreline view of a substantial number of residents shall not be allowed. The Shoreline Administrator may require a view analysis including view corridor view profiles, and vertical profiles from various locations to determine if shoreline views will be obstructed.

J. WATER QUALITY AND QUANTITY

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.
2. All shoreline development shall comply with the applicable requirements of LCMC 18.320 (Stormwater and Erosion Control).
3. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all shoreline development.
4. Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land except in accordance with LCMC 18.320. Potentially harmful materials shall be maintained in a safe and leak-proof condition.
5. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a waterbody, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in Washington Toxics Coalition, et al., v. EPA shall not be applied within sixty (60) feet for ground applications or within three hundred (300) feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.
6. Any structure or feature in the Aquatic shoreline designation shall be constructed and/or maintained with materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants.
7. Conveyance of any substance not composed entirely of surface and stormwater directly to water resources shall be in accordance with LCMC 18.320.
8. Septic systems should be located as far landward of the shoreline and floodway as possible. Where permitted, new on-site septic systems shall be located, designed, operated, and maintained to meet all applicable water quality, utility, and health standards.

VI. SPECIFIC SHORELINE USE REGULATIONS

A. GENERAL PROVISIONS

1. This chapter contains the regulations that apply to specific uses, developments, and activities in the shoreline jurisdiction.
2. These regulations are intended to work in concert with all sections of this program and in particular the Goals and Policies (Chapter III) and General Use and Development Regulations (Chapter V).

B. SHORELINE USE, MODIFICATION, AND STANDARDS TABLE

1. Each shoreline designation shall be managed in accordance with its designated purpose as described in this program. Table 6-1 identifies those uses that are prohibited, may be permitted or permitted with a conditional use approval in each shoreline designation. In the event conflicts exist between the Table 6-1 and the text in this chapter, the text shall apply.
2. Table 6-1 also summarizes general setbacks and building heights for uses within each shoreline designation. No permit for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served. These setbacks apply in conjunction with the requirements of the critical areas requirements established in Chapter V. In the event a conflict exists between Table 6-1 and the requirements of Chapter V, the most protective of shoreline functions shall apply.
3. In Table 6-1, setbacks are measured landward from the ordinary high water mark (OHWM). For transportation facilities and utilities, the setback from OHWM pertains to the right of way and not the structure or pipeline. In the Aquatic shoreline designation, the setback is waterward of the OHWM. Building heights are calculated according to LCMC 18.40.010, and WAC 173-27-030(9) as applicable.

C. USE SPECIFIC DEVELOPMENT REGULATIONS

1. Agriculture
    a. Agricultural practices shall prevent erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
    b. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
        i. Suitable bridges, culverts or ramps for stock crossing;
        ii. Ample supplies of clean water in tanks on dry land for stock watering; and
        iii. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.

c. New confinement lots, feeding operations, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.

d. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within shoreline jurisdiction is prohibited. However, composted organic wastes may be used for fertilization or soil improvement.

e. New uses proposed as part of a conversion of agricultural lands shall comply with the provisions of LCMC Title 18 and this program.

f. Development on agricultural land that does not meet the definition of agricultural activities and the conversion of agricultural land to nonagricultural uses, shall be consistent with the environmental designation.

2. Boating Uses

a. All boating uses, development and facilities shall protect the rights of navigation.

b. Boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions, and shall meet WDNR requirements and other state guidance if located in or over state-owned aquatic lands.

c. Boating facilities shall locate on stable shorelines in areas where:

i. There is adequate water mixing and flushing;

ii. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;

iii. Water depths are adequate to minimize spoil disposal, filling, beach degradation and other channel maintenance activities; and

iv. Water depths are adequate to prevent the structure from grounding out at the lowest low water.

d. Boating facilities shall not be located:

i. Along braided or meandering river channels where the channel is subject to change in alignment;

ii. On point bars or other accretion beaches; or

iii. Where new or maintenance dredging will be required;

iv. In areas with important bank margin habitat for all life stages of aquatic species; or

v. Where wave action caused by boating use would increase bank erosion rates.

e. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.

f. Boating uses and facilities shall be located far enough from public swimming beaches, fishing, and aquaculture harvest areas, and waterways used for commercial navigation to alleviate any adverse impacts, safety concerns and potential use conflicts.

g. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and bottom productivity). In-water work shall not occur

in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

h. Accessory uses at boating facilities shall be:

   i. Limited to water-oriented uses, including uses that provide physical or visual shoreline

   ii. access for substantial numbers of the general public; and

   iii. Located as far landward as possible while still serving their intended purposes.

   iv. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.

i. All utilities shall be placed at or below the dock surface, or below ground, as appropriate.

j. All signage shall adhere to the standards for signs in this chapter and the City sign code,

k. Where appropriate, docks shall install public safety signs, to include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.

l. Boating facilities shall be constructed as follows:

   i. They will be built using materials that will not adversely affect water quality or aquatic plants and animals.

   ii. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff.

   iii. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited.

   iv. Where in waters providing a public drinking water supply the facilities shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete, or steel.

m. Vessels shall be restricted from extended mooring on waters of the state except as allowed by state regulations and provided that lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

3. Boat Launch Facilities

   a. Launch facilities, haul-out facilities and minor accessory buildings, shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation and neighboring uses.

   b. Boat launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.

   c. A private boat launch shall be allowed on a parcel or lot only when public boat launches are unavailable within ½-mile upstream or downstream of any property line.

   d. No more than one (1) private boat launch facility or structure shall be permitted on a single residential parcel or lot.

e. Boat launch and haul-out facilities, such as ramps, marine travel lifts and marine railways, and minor accessory buildings shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation and neighboring uses.

f. Boat launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.

g. All boat launch facilities not associated with a single-family residential parcel or lot shall provide restrooms/hand-sanitizing facilities for boaters' use that are designed, constructed and maintained to be clean, well-lighted, safe and convenient for public use.

h. Installation of boat waste disposal facilities such as pump-outs and portable dump stations shall be provided at public boat launches when feasible. The locations of such facilities shall be considered on an individual basis in consultation with WDOE, WDNR, WDFW as well as the Washington Departments of Health, and Parks, as necessary.

4. Moorage & Recreational Floats

   a. Mooring Buoys

      i. Mooring buoys for residential use on a river shall be securely anchored to allow for changes in river level, and shall be designed to withstand the one hundred-(100-) year flood or be seasonally removable.

      ii. Mooring buoys shall be placed as specified by WDFW, WDNR, and the U.S. Coast Guard to balance the goals of protecting nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet WDFW standards.

      iii. Mooring buoys shall be discernible from a distance of at least one hundred (100) yards. One (1) mooring buoy for each waterfront lot shall be permitted unless greater need is demonstrated by the applicant and documented by the City. In cases such as those of a community park with recreational users or a residential development with lot owners both on and away from the shoreline needing *moorage*, community *moorage* facilities shall be used instead of *mooring buoy*s.

   b. Docks & Piers

      i. Existing, legally-established, private recreational docks, piers, and floats for individual lots are considered conforming uses and structures. If any such float, dock or pier is abandoned, becomes hazardous, or is removed for any reason, it may be replaced by a new float, dock or pier built to current standards. These standards may, among other things, require that new docks or piers be floating rather than fixed. All required permits and approvals shall be obtained prior to commencing construction.

      ii. All moorage facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the owner or lessee.

      iii. Fixed moorage facilities shall not be permitted for residential use on rivers. Floating docks shall be required in rivers and streams unless it can be demonstrated that fixed docks will result in substantially less impact on geo-

hydraulic processes and flood hazards can be minimized or mitigated. A pier, landward of a floating dock, which connects to the shore at one end and to the floating dock by a gangway at the other is allowed. Docks for residential use on a river shall be securely anchored to pilings to allow for changes in river level, and shall be designed to withstand the one-hundred year (100- year) flood or be seasonally removable.

iv. Hotels, motels and new residential land divisions having shoreline frontage and involving more than four (4) residential dwellings that desire to have docks shall provide for a community dock if feasible. Proposed docks and piers shall include no more than one (1) mooring space per dwelling unit up to a maximum of nine (9), and there can be only one such moorage facility. All conditions of approval related to required access easements and dedications shall be identified on the face of the plat. In addition, the community dock easement shall be recorded with the County Auditor.

v. Applicants for community or joint-use residential docks and piers shall demonstrate and document that adequate maintenance of the structure, activities, and associated landward area will be provided by identified responsible parties. The applicant shall file a legally enforceable joint use agreement or other legal instrument prior to the issuance of any building permits. The documents shall at minimum address the following:

   (a) Apportionment of construction and maintenance expenses;

   (b) Easements and liability agreements; and

   (c) Use restrictions.

vi. Joint-Use Mooring Facilities

   (a) Joint use moorage facilities shall be limited to no more than nine (9) berths. Moorage facilities of more than nine (9) berths are prohibited.

   (b) Only one joint use mooring facility (boat launch, float, dock, pier, dock/pier combination, or mooring buoy) is allowed on a parcel or lot when a public facility is unavailable within ½-mile upstream or downstream of any property line and all applicable requirements are met.

   (c) Joint use boating facilities may be permitted if the applicant demonstrates the need to support the intended water-dependent use and no marina or public boat launch is located within ½ mile upstream or downstream of any property line and all applicable requirements of this program are met. WAC 173-26-231(3)(b) and (c).

vii. Provisions for waste discharge shall be made in all proposals for public moorage facilities, and shall include oil containment barriers when required by the U.S. Coast Guard under provisions of the Clean Water Act.

viii. Bulk storage (non-portable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers

ix. If a bulkhead-like base is proposed for a pier or dock where there is net positive littoral drift, the base shall be built landward of the OHWM or protective berms. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.

x. The maximum dimensions of a residential dock or pier, shall be no greater than

necessary, and shall meet the development standards listed below. These dimensions may be adjusted by the Shoreline Administrator on a case by-case basis to protect sensitive shoreline resources:

(a) Piers/anchors and/or ramps shall extend waterward, perpendicular from the ordinary high water mark (OHWM), to a point where the water depth is sufficient to prevent damage to shallow-water habitat.

(b) The moorage facility may extend into the waterbody the minimum distance necessary to allow for moorage of the boats anticipated but in no instance more than 30' waterward of the OHWM.

(c) The bottom of either the pier or landward edge of the ramp shall be elevated at least 2 feet above the plane of OHWM.

(d) Piers and ramps shall be no more than eight (8) feet in width. Floating docks and associated finger piers shall be no more than eight (8) feet wide and twenty (20) feet long. Piers, ramps and docks shall be constructed to allow a minimum of 60% light penetration over 60% of each structure.

(e) Skirting shall not be placed on piers, ramps, floating docks, or floats. Protective bumper material will be allowed along the outside edge of the float or floating dock as long as the material does not extend below the bottom edge of the float frame or impede light penetration.

(f) Shoreline concrete anchors must be placed at least ten (10) feet landward from the OHWM, and shall be sized no larger than four (4-) feet wide by four-(4-) feet long, unless otherwise approved by National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries), the US Army Corps of Engineers (Corps), and Washington Department of Fish and Wildlife (WDFW).

(g) Overwater structures shall be located in water sufficiently deep to prevent the structure from grounding out at the lowest low water.

(h) All docks and floats shall include stops that serve to keep the floats off the lake bottom or river bed at low water levels. If a bulkhead-like base is proposed for a pier or dock where there is net positive littoral drift, the base shall be built landward of the OHWM or protective berms. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.

(i) Pilings must be structurally sound and cured prior to placement in the water. Pilings employed for docks, piers, or any other structure shall have a minimum vertical clearance of one foot above extreme high water. Pile spacing shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

(j) Docks used for motor boats should be located where the water will be deeper than seven (7) feet at the lowest low water to avoid prop scour.

(k) The portions of piers, elevated docks, and gangways that are over the nearshore/littoral area shall have unobstructed grating over the entire surface area. Floating docks and piers shall have unobstructed grating over at least sixty percent (60%) of the surface area.

xi. Commercial covered moorage facilities may be permitted only where boat construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water, including a demonstration that adequate landside sites are not feasible. When permitted, commercial covered moorage facilities must be constructed to allow 60% light penetration over 60% of the structure, whether enclosed or not.

xii. Covered moorage facilities associated with any residential development shall be prohibited.

xiii. Docks and piers shall be set back a minimum of ten (10) feet from side property lines, except that joint-use facilities may be located closer to or upon a side property line when agreed to by contract or covenant with the owners of the affected properties. A copy of such agreement shall be recorded with the County Auditor and filed with the shoreline permit application.

xiv. Recreational floats are subject to the following standards:

(a) They shall be located as close to the shore as possible, and no farther waterward than any existing floats and established swimming areas.

(b) They shall be constructed so that the deck surface is a minimum of one (1) foot above the water surface and with reflectors for night-time visibility incorporated into their design.

(c) Floats serving the public, a subdivision, a multi-family development, a hotel, motel, or multiple property owners shall not exceed one hundred sixty (160) square feet and shall be constructed to allow a minimum of 60% light penetration over 60% of the structure.

5. Commercial Uses

a. Water-oriented commercial uses are preferred over non-water-oriented commercial uses.

b. New commercial uses and development shall demonstrate that there will not be a net loss of ecological function or significant adverse impacts to other shoreline resources or other shoreline uses.

c. Non-water-oriented commercial uses are allowed as a conditional use only as part of a mixed-use development that includes water-related and water-enjoyment uses and provides a significant public benefit such as public access and/or ecological restoration.

d. Loading, service areas, and other accessory uses shall be located landward of a commercial structure or underground whenever possible, but shall in no case be waterward of the structure.

e. Where commercial uses are allowed as a conditional use, the following must be demonstrated:

i. A water dependent use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, or physical features due to the site's separation from the water;

ii. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and

iii. The proposed use will be of substantial public benefit such as by increasing the

public use, enjoyment, ecological function, and/or access to the shoreline.

6. Forest Practices
    a. Forest practices, as defined and regulated in RCW 76.09, for commercial purposes, are prohibited within shoreline jurisdiction by the SMP as stated in Table 6-1.
    b. A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption.
    c. Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to nonforest uses shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use (i.e. residential or commercial use provisions) and the general provisions of this program, and shall be limited to the minimum necessary to accommodate an approved use.
7. Institutional Uses
    a. Water-oriented institutional uses and developments are preferred.
    b. Non-water-oriented institutional uses may be permitted provided that a significant public benefit such as public access and/or ecological restoration are provided.
    c. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
    d. Where institutional uses are allowed as a conditional use, the following must be demonstrated:
        i. A water dependent use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features, or due to the site's separation from the water;
        ii. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and
        iii. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, or access to the shoreline.
8. Parking as a Primary Use
    a. Parking as a primary use is prohibited in all shoreline areas.
9. Recreational Development
    a. Recreational developments should not result in net loss of environmental functions.
    b. Recreational developments shall provide facilities for non-motorized access to the shoreline such as pedestrian and bicycle paths.
    c. Trails within the shoreline jurisdiction shall comply with the dimensional standards for a Type 6 Water Trail found in the La Center Urban Area Capital Facilities Plan (2008), Appendix C, Figure 14. If the Shoreline Administrator determines this would cause undue hardship, or it is impractical or environmentally unsound, the easement width may be reduced by the minimum extent necessary to meet public access standards.
    d. Recreation areas or facilities on the shoreline shall provide physical or visual public

access.

e. All permanent, substantial recreational structures and facilities shall be located outside officially mapped floodways. The Shoreline Administrator may grant administrative exceptions for non-intensive minor accessory uses such as picnic tables, playground equipment and similar items.

f. Recreational sites with active uses shall be provided with restrooms and hand washing facilities in accordance with public health standards and without adversely altering the natural features attractive for recreational uses.

g. Recreational facilities shall protect the value and enjoyment of adjacent or nearby private properties and natural areas from trespass, overflow and other possible adverse impacts using buffer strips, screening, fences, signs and similar methods.

h. Golf course structures (clubhouses and maintenance buildings) shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state.

i. Tees, greens, fairways, golf cart routes, and other site development features shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state. If the Shoreline Administrator determines this would cause undue hardship, is impractical or environmentally unsound, the distance may be reduced by the minimum extent necessary to meet public access standards.

j. The setback for water-related and water-enjoyment recreational development in the Urban Conservancy, and Medium Intensity shoreline designations is fifty (50) feet, with the exception that trails shall be subject to Section VI.C.8.c above. The intention of this is to respond to natural topographical features, provide for visual and physical public access, and to create interesting experiences for trail users.

10. Residential Development

a. Residential developments shall include provisions to ensure preservation of native vegetation, control erosion during construction and limit runoff from impervious surfaces.

b. New residential construction shall be located so as not to require shoreline stabilization measures.

c. New residential development shall be prohibited in, over, or floating on the water.

d. New residential development shall be located and designed to a density that minimizes view obstructions to and from the shoreline. Where appropriate, clustering of residential units shall be allowed to minimize physical and visual impacts on shorelines.

e. In those areas where offsite sewage systems are not feasible, density shall be limited to that which can demonstrably accommodate protection of surface and groundwater quality.

f. Residential development and associated sewage disposal systems, shall be prohibited in floodways and channel migration zones.

g. Appurtenances, accessory uses, and facilities serving a residential structure shall be located outside setbacks and critical areas and buffers unless otherwise allowed under this program to promote community access and recreational opportunities.

h. Residential lots created through land division in the shoreline shall only be permitted when the following standards are met:

i. When lots are sized and configured to ensure impacts to environmental functions are avoided; and

ii. Structural flood hazard reduction measures are not required and will not be necessary during the life of the development or use, and

iii. Shoreline stabilization measures are not required, and

iv. Where a new moorage facility is proposed within a residential waterfront development of more than four (4) units, only one joint-use facility shall be allowed. This condition of approval with required access easements and dedications shall be identified on the face of the plat. In addition, the joint-use dock easement shall be recorded with the County Auditor.

i. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

j. Legally established residential development located landward of the OHWM, including normal appurtenances, existing on the effective date of this program that do not meet the standards of this program are considered to be conforming and may be maintained, repaired, replaced, or expanded provided that any future development:

i. Does not exceed height limitations;

ii. Does not encroach further into a shoreline setback than the existing primary structure;

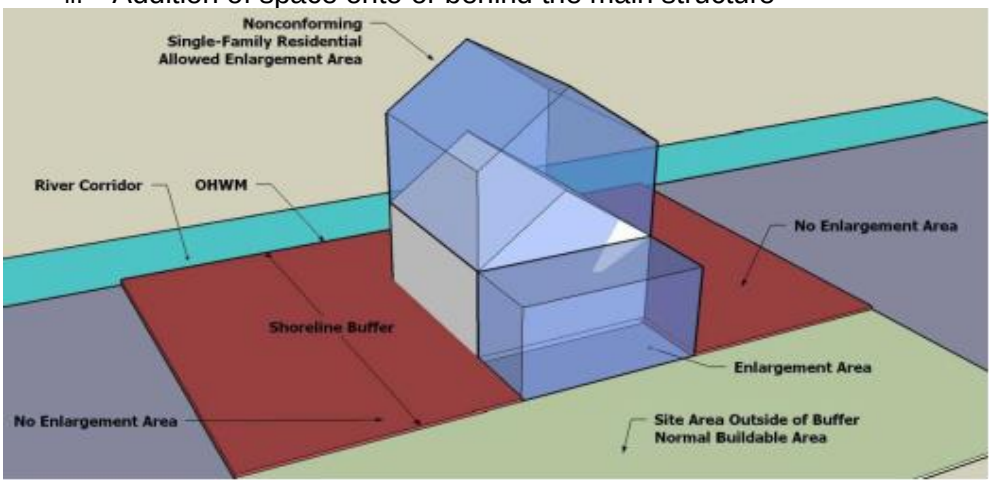
iii. Does not encroach further into critical areas or buffers; and

iv. Will result in no net loss of shoreline ecological functions.

k. In addition to meeting the standards of VI.C.11(j), an expansion to the main residential structure or the addition of an appurtenance to the main structure as defined in WAC 173-27-040(2)(g) located in the required setback or critical area buffer shall only be accomplished by:

i. Addition of space above the building footprint of the main structure; and/or

ii. Addition of space onto or behind the main structure



Expansions that encroach further into required setback and/or critical areas or buffers require a shoreline variance permit.

11. Signs

    a. Signage is regulated under LCMC 18.275 (Sign Regulations).

    b. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access corridors to the shoreline.

    c. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use.

    d. Illuminated signs shall be limited to informational, directional, navigational or safety purposes and shall be shielded to eliminate glare when viewed from surrounding properties or watercourses.

12. Transportation Uses

    a. All transportation facilities in shoreline areas shall be constructed and operated on a basis that causes the least possible adverse impact to the environment, and shall respect the natural character of the shoreline, making every effort to preserve wildlife, aquatic life and their habitats.

    b. New or expanded surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction wherever possible. If this is not possible, they should be set back from the ordinary high water mark far enough to make shoreline stabilization, such as riprap, bulkheads or jetties, unnecessary.

    c. All roads shall be adequately set back from water bodies and shall provide buffer areas of compatible, self-sustaining native vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.

    d. Transportation facilities that are allowed to cross over water bodies and associated wetlands shall utilize elevated, open pile or pier structures whenever feasible. All bridges shall be built high enough to allow the passage of debris and anticipated high water flows.

    e. Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies where feasible.

13. Utilities Uses. These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence or other approved use are accessory utilities and shall be considered a part of the primary use.

    a. Utility facilities shall be located outside shoreline jurisdiction whenever feasible. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground. Where overhead electrical transmission lines must parallel the shoreline, they shall be outside of the two hundred (200) foot shoreline environment unless topography or safety factors would make it unfeasible.

    b. Utilities shall be designed, located and installed in such a way as to minimize impacts to scenic views, and minimize conflicts with present and planned land and shoreline uses.

    c. Transmission, distribution, and conveyance facilities shall be located in existing

rights-of-way and corridors, or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

d. Utility production and processing facilities, such as power plants and wastewater treatment facilities, or parts of those facilities that are non-water-oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated conclusively that no other feasible option is available.

14. Stormwater control facilities are limited to detention / retention / treatment ponds, media filtration facilities, and lagoons or infiltration basins.

    a. Within the shoreline jurisdiction they shall only be permitted under the following circumstances:

        i. The stormwater facilities are designed to mimic and resemble natural wetlands and meet applicable City or State stormwater management standards;

        ii. Discharge water meets state water quality standards: and

        iii. Low impact development approaches have been considered and implemented to the maximum extent feasible.

    b. Outfalls shall be designed and constructed to avoid impacts to existing native aquatic vegetation attached to or rooted in the substrate. In river and stream shorelines, stormwaters outfall structures may require permanent bank hardening to prevent failure of the outfall structure or erosion of the shoreline. Diffusers or discharge points must be located offshore at a distance beyond the nearshore area to avoid impacts to those habitats.

    c. Water reclamation discharge facilities such as injection wells or activities such as land application are prohibited in the shoreline jurisdiction unless the discharge meets WDOE Class A reclaimed water standards. Proponents for discharge of Class A reclaimed water in the shoreline jurisdiction must demonstrate habitat benefits of such discharge.

    d. Construction of underwater utilities or those within the wetland perimeter shall be scheduled to avoid major fish migratory runs or use construction methods that do not cause disturbance to the habitat or migration.

    e. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially detrimental to water quality shall provide automatic shut off valves.

    f. Upon completion of utility installation/maintenance projects on shorelines, banks shall, at a minimum, be restored to pre-project configuration, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

D. SHORELINE MODIFICATION REGULATIONS

1. General Requirements

    a. Shoreline Modifications shall only be allowed where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or structure, or are necessary for reconfiguration of the shoreline or bedlands to provide for an allowed water-dependent use, shoreline mitigation or enhancement purposes.

b. Modifications shall only be allowed when impacts are avoided, minimized, and mitigated to assure no net loss of shoreline ecological functions.

c. In-water work shall be scheduled to protect biological productivity including fish runs and spawning. In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

2. Dredging and Dredge Material Disposal

a. Dredging

i. Non-maintenance dredging shall be avoided where possible. New dredging, meaning dredging in a location that has not been previously dredged, requires a demonstration that the proposed uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas, other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of functions.

ii. Maintenance dredging of established navigation channels and basins shall be restricted to the widths and depths accomplished by the original dredging.

iii. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the National Register of Historic Places, the Washington Heritage Register, and/or the Clark County Historic Register until such time that they have been reviewed and approved by the appropriate agency.

iv. New dredging activity is prohibited in areas that are particularly subject to environmental damage or to areas that are habitats identified as critical to the life cycle of fish, shellfish, or wildlife.

v. Dredging techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only the amount of dredging necessary shall be permitted.

vi. Dredging waterward of the OHWM shall be permitted only:

(a) For navigation or navigational access;

(b) In conjunction with a water-dependent use of water bodies or adjacent shorelands;

(c) As part of an approved habitat improvement project;

(d) To improve water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water; and

(e) In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist.

vii. Dredging for fill is prohibited unless the material is necessary for the restoration of ecological functions.

b. Dredge Material Disposal

i. Dredge material disposal shall be avoided where possible. Dredge disposal shall be permitted only where it is demonstrated that the proposed water-dependent

or water- related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas, and other critical areas, flood holding capacity, natural drainage and water circulations patterns, significant plant communities, prime agricultural land, and public access to shorelines.

ii. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of functions.

iii. Dredged material shall be disposed of on land only, at sites reviewed and approved by the USACOE and the Shoreline Administrator. Applicants shall demonstrate that the proposed site will ultimately be suitable for a use permitted by this program;

(a) Disposal shall be managed so that the smallest possible land area is affected, unless dispersed disposal is authorized as a condition of permit approval for soil enhancement or other purposes;

(b) Steps will be taken to assure shoreline ecological functions and processes will be preserved, including protection of surface and ground water, and that erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes, or property; and

(c) Sites will be adequately screened from view of local residents or passersby on public right-of-ways to the maximum extent practicable.

iv. The following conditions shall apply to land disposal sites:

(a) Springs and aquifers shall be identified and protected.

(b) Containment dikes and adequate settling basins shall be built and maintained so that the water discharged from the site carries a minimum of suspended sediment. Required basins shall be designed to maintain at least one foot of standing water at all times to encourage proper settling.

(c) Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainage ways.

(d) There shall be a single point of ingress and egress for removal of the de-watered material.

(e) Runoff shall be directed through grassy swale, meaning a vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration, or other treatment features that assures protection of water quality and a location that maximizes circulation and fishing.

(f) Sites shall be revegetated with appropriate native species as soon as possible to retard erosion and restore wildlife habitat and other critical areas functions;

(g) Vegetation shall be maintained by the property owner; and

(h) Dredge materials deposited upland and not part of a permitted dike or levee shall constitute fill, and when deposited within the jurisdiction of this program, shall comply with the fill regulations.

v. Within the shoreline jurisdiction, dredged material shall be disposed of in water only at sites approved by the USACOE and the Shoreline Administrator.

Disposal techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only if:

(a) Land disposal is infeasible, less consistent with this program, or prohibited by law;

(b) Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible;

(c) Offshore habitat will be protected, restored, or enhanced;

(d) Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;

(e) Shifting and dispersal of spoil will be minimal; and

(f) Water quality will not be adversely affected.

vi. The disposal of dredged materials in water or wetlands within shoreline jurisdiction shall be permitted only:

(a) To improve wildlife habitat;

(b) To correct material distribution problems adversely affecting fish habitat;

(c) To create, expand, rehabilitate, or enhance a beach when permitted under this program and any required state or federal permit;

(d) When land disposal is demonstrated to be more detrimental to shoreline resources than water deposition; or

(e) In approved, open-water disposal sites.

3. Flood Control Works

a. General

i. Dikes and levees shall only be authorized by conditional use permit when it can be demonstrated by a scientific and engineering analysis that:

(a) They are necessary to protect existing development;

(b) Nonstructural measures are not feasible;

(c) Impacts on ecological functions and critical areas can be successfully mitigated so as to assure no net loss; and

(d) Appropriate vegetation conservation actions are undertaken.

ii. Dikes and levees shall be designed to protect the natural processes and resource values associated with streams including but not limited to wildlife habitat.

iii. Springs and aquifers shall be identified and protected.

iv. Public access shall be provided in accordance with public access policies and regulations of the property owner and this program.

v. 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 applicable comprehensive flood control management plan or as required by FEMA for dike recertification.

vi. Dikes and levees shall not be constructed with material dredged from the adjacent wetland or stream area unless part of a comprehensive flood and habitat enhancement plan, and only by conditional use.

i. New public structural flood hazard reduction measures, such as *dikes* and levees, should dedicate and improve *public access* per WAC 173-26-221(3)(C)(iv).

b. Design

i. *Dikes* and levees shall be designed, constructed, and maintained in accordance with Hydraulic Project Approval and other required *permit*s, and in consideration of resource agency requirements and recommendations.

ii. *Dikes* and levees shall be set back at convex (inside) bends to allow streams to maintain

point bars and associated aquatic habitat through normal accretion. Where bank dikes have already cut off *point* bars from the edge of the *floodway*, consideration should be given to their relocation in order to lower flood stages and current velocities.

iii. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, *wetlands*, and drainages.

iv. Structural flood hazard reduction measures shall be placed landward of associated *wetlands* and *vegetation conservation* areas unless this is no other feasible alternative to reduce flood hazard to existing *development*.

v. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this chapter and allowed only after a biological and geomorphological study shows that extraction has a long term benefit to flood hazard reduction, does not result in a net loss of *ecological functions*, and is part of a comprehensive flood management solution.

4. In-stream Structures

a. General

i. In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The City may condition the permit to achieve this objective.

ii. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.

iii. In-stream structures shall provide for adequate upstream or downstream migration of anadromous fish, where applicable. These fish migrate up rivers and streams from the ocean to breed in fresh water.

iv. In-stream structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands and braided banks.

b. Design & Placement

i. In-stream structures and their support facilities shall be located and designed to avoid the necessity for shoreline defense structures. Those defense structures that are necessary shall be minimized and any impacts mitigated.

ii. Materials adequate to immediately correct emergency erosion situations shall be maintained on-site.

iii. All debris, overburden and other waste materials from construction shall be disposed of in such a manner as to prevent their entry into a water body, including a wetland, by erosion, from drainage, high water, or other vectoring mechanisms.

iv. All heavy construction equipment, and fuel storage, repair, and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline functions. Powerhouses, but not raceways, shall be located farther than one hundred (100) feet from the OHWM unless there is no feasible alternative and any unavoidable impacts are minimized and mitigated. Penstocks shall be located, designed, and constructed so as to present as low a profile as possible. Powerhouses and penstocks shall be located and designed to return flow to the stream in as short a distance as possible.

v. A mitigation plan shall be prepared by the applicant, and be subject to approval by the appropriate authority.

vi. Structural flood hazard reduction measures shall be placed landward of associated wetlands and vegetation conservation areas unless there is no other feasible alternative to reduce flood hazard to existing development. The need for, and analysis of feasible alternatives to structural improvements shall be documented through a geotechnical analysis.

5. Shoreline Restoration and Enhancement

   a. Shoreline restoration and enhancement activities designed to restore shoreline ecological functions and processes as well as shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species shall be given priority. See also Section V.F.

   b. Shoreline restoration, enhancement, and mitigation activities designed to create dynamic and sustainable ecosystems to assist the City achieve no net loss of shoreline ecological functions are preferred.

   c. Restoration activities shall be carried out in accordance with an approved shoreline restoration plan, and in accordance with the provisions of this program.

   d. To the extent possible, restoration, enhancement, and mitigation activities shall be integrated and coordinated with other parallel natural resource management efforts, such as those identified in the Clark Coalition Shoreline Restoration Plan.

   e. Habitat and beach creation, expansion, restoration, and enhancement projects may be permitted subject to required state or federal permits when the applicant has demonstrated that:

      i. The project will not be carried out within spawning, nesting, or breeding fish and wildlife habitat conservation areas;

      ii. Upstream or downstream properties or fish and wildlife habitat conservation areas will not be adversely affected;

      iii. Water quality will not be degraded;

      iv. Flood storage capacity will not be degraded;

v. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated; and

vi. The project will not interfere with the normal public use of the navigable waters of the state.

vii. Natural hydrologic flows will be maintained.

f. The City shall review the projects for consistency with this program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant.

6. Shoreline Stabilization

a. General

i. New structural shoreline armoring may be permitted and existing structural shoreline armoring may be expanded only when one or more of the following apply:

(a) When non-structural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration or remediation objectives to restore ecological function.

(b) When non-structural measures, vegetation planting, or on-site drainage improvements would be insufficient to remediate hazardous substances.

(c) When a geomorphic/geotechnical analysis has established that shoreline armoring is necessary to protect public transportation infrastructure or essential public facilities and other options are infeasible.

(d) When a geomorphic/geotechnical analysis has established that an existing, lawfully established primary structure is in imminent danger of loss or substantial damage from erosion caused by tidal action currents, or waves."

ii. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

(a) To protect existing primary structures:

(i) New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

(ii) The erosion control structure will not result in a net loss of shoreline ecological functions.

(b) In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:

(i) The erosion is not being caused by upland conditions, such as the loss

of vegetation and drainage.

(ii) Nonstructural measures, such as placing the *development* further from the *shoreline*, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

(iii) The need to protect primary *structure*s from damage due to erosion is demonstrated through a *geotechnical report*. The damage must be caused by natural processes, such as tidal action, currents, and waves.

(iv) The erosion control *structure* will not result in a net loss of *shoreline ecological functions*.

(c) In support of water-dependent development when all of the conditions below apply:

(i) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

(ii) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

(iii) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

(iv) The erosion control structure will not result in a net loss of shoreline ecological functions.

(d) To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to RCW 70.105D when all of the conditions below apply:

(i) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

(ii) The erosion control structure will not result in a net loss of shoreline ecological functions.

iii. Proposed designs for new or expanded shore stabilization shall be designed in accordance with applicable WDOE and WDFW guidelines, use best available science, document that alternative solutions are not feasible or do not provide sufficient protection, demonstrate that future stabilization measures would not be required on the project site or adjacent properties, and be certified by a qualified professional.

iv. Land subdivisions or lot line adjustments shall be designed to assure that future development of the newly-created lots will not require structural stabilization for subsequent development to occur.

v. New or expanded structural shoreline stabilization for existing primary structures, including roads, railroads, public facilities, etc., is prohibited unless there is conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within three (3) years as a result of shoreline erosion caused by stream processor waves, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.

vi. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not imminent, the analysis may still be used

to justify more immediate authorization for shoreline stabilization using bioengineering approaches.

vii. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures, or public facilities including roads, bridges, railways, and utility systems from erosion caused by stream undercutting or wave action; provided that the existing shoreline stabilization structure is removed from the shoreline as part of the replacement activity. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure, and shall be designed to minimize harm to environmental functions.

viii. Shoreline stabilization projects that are part of a fish habitat enhancement project meeting the criteria of RCW 77.55.181 are exempt and will be regulated under the state process. Stabilization projects that are not part of such a fish enhancement project will be regulated by this program.

ix. Small-scale or uncomplicated shoreline stabilization projects (for example, tree planting projects) shall be reviewed by a qualified professional to ensure that the project has been designed using best available science.

x. Large-scale or more complex shoreline stabilization projects (for example, projects requiring fill or excavation, placing objects in the water, or hardening the bank) shall be designed by a qualified professional using best available science. The applicant may be required to have a qualified professional oversee construction or construct the project.

xi. Standards for new stabilization structures when found to be necessary include limiting the size to minimum, using measures to assure no net loss of shoreline ecological functions, using soft approaches, and mitigating for impacts.

xii. When any structural shoreline stabilization measures are demonstrated to be necessary pursuant to above provisions, the applicant shall:

(a) Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of *shoreline ecological functions*. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary *structure*s, dwellings, and businesses.

(b) Ensure that publicly financed or subsidized *shoreline* erosion control measures do not restrict appropriate *public access* to the *shoreline* except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to *ecological functions*. Where feasible, incorporate ecological *restoration* and *public access* improvements into the project.

(c) *Mitigate* new erosion control measures, including replacement *structure*s, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems.

(d) Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate *shoreline* management efforts. If beach

erosion is threatening existing *development*, local governments should adopt master *program* provisions for a beach management district or other institutional mechanism to provide comprehensive *mitigation* for the adverse impacts of erosion control measures.

b. Bioengineered Stabilization

i. All bioengineered projects shall be designed in accordance with best available science and use a diverse variety of native plant materials including but not limited to trees, shrubs, herbaceous non-woody plants, and grasses, unless demonstrated infeasible for the particular site.

ii. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that within three years' time all vegetation is fully re-established. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable.

iii. Bank protection in the form of a buffer zone shall be provided for a minimum of three (3) years. The buffer zone shall exclude livestock, vehicles, and/or other activities that could disturb the site.

iv. All bioengineered projects shall be monitored and maintained. Areas damaged by pests and/or the elements shall be promptly repaired.

v. All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

c. Structural Stabilization

i. Naturally regenerating systems for the prevention and control of shoreline erosion shall be used instead of structural solutions where the length and configuration of shoreline will accommodate such systems; such protection is a reasonable solution to the needs of the specific site; and the project will:

(a) Recreate or enhance natural shoreline conditions;

(b) Create or enhance natural habitat;

(c) Reverse erosional conditions; or

(d) Enhance access to the shoreline, especially to public shorelines.

ii. Bulkheads

(a) General

(i) All bulkheads and revetments must be in support of an allowable shoreline use that is in conformance with the provisions of this program, unless it can be demonstrated that such activities are necessary for the maintenance of shoreline environmental resources, and are in the public interest.

(ii) Bulkheads and revetments are subject to approval of the Shoreline Administrator including design, location, and necessity, and shall be allowed only when evidence is presented that conclusively demonstrates that one of the following conditions exists:

1. Serious wave erosion threatens an established primary use or

existing primary building(s) on upland property;

2. Bulkheads and revetments are necessary to the operation and location of water-dependent and water-related activities consistent with this program, provided that all alternatives have proven infeasible (i.e., use relocation, use design, nonstructural shore stabilization options), and that such bulkheads meet other policies and regulations of this chapter; or

3. Proposals for bulkheads or revetments have first demonstrated that use of natural materials and processes and nonstructural solutions to bank stabilization are unworkable in protecting existing development.

(iii) Natural materials and processes such as protective berms, drift logs, brush, beach feeding, or vegetative stabilization shall be utilized to the maximum extent possible.

(iv) Bulkheads and revetments are prohibited for any purpose if they will cause significant erosion or beach starvation.

(v) Design of revetments shall include and provide improved access to public shorelines whenever possible and appropriate. All forms of revetments shall be constructed and maintained in a manner that does not reduce water quality and/or fisheries habitat.

(vi) Use of a bulkhead to protect a platted lot where no structure presently exists is prohibited.

(b) Location

(i) Bulkheads shall not be located on shores where valuable geohydraulic-hydraulic or biological processes are sensitive to interference and critical to shoreline conservation, such as feeder bluffs, marches, wetlands, or accretion shore forms such as spits, hooks, bars, or barrier beaches.

(ii) *Bulkheads* are to be permitted only where local physical conditions such as foundation bearing material, surface, and subsurface drainage are suitable.

(iii) On all *shorelines*, *bulkheads* shall be located landward of the OHWM, landward of protective *berms* (artificial or natural), and generally parallel to the natural *shoreline*. In addition:

1. On bluff or bank shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the bank as possible, and in no case shall it be more than three (3) feet waterward from the toe of the natural bank.

2. Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that (1) the adjoining bulkheads were built at or near the OHWM, and (2) the new bulkhead does not extend more than three feet waterward of OHWM at any point. If there is an existing bulkhead on only one of the adjacent properties, the proposed bulkhead may tie in flush with the adjacent bulkhead at or landward of the OHWM, and shall be contoured to minimize the land area waterward of the required setback, that shall be met on the side

not abutting an existing bulkhead.

(iv) Replacement *bulkheads* may be located immediately in front of and abutting (sharing a common surface) an existing *bulkhead*, provided that replacement *bulkheads* shall not be authorized abutting an abandoned or neglected *bulkhead*, or a *bulkhead* in serious disrepair that is located more than three (3) feet waterward of OHWM. Replacement of such *bulkheads* shall be located at OHWM.

(c) Design

(i) *Bulkhead* design and *development* shall conform to all other applicable state agency policies and regulations, including the WDFW criteria governing the design of *bulkheads*.

(ii) When a *bulkhead* is required at a *public access* site, provision for safe access to the water shall be incorporated into *bulkhead* design.

(iii) *Bulkheads* shall be designed with the minimum dimensions necessary to adequately protect the *development* for the expected life of the *development*.

(iv) *Bulkheads* shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.

(v) Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure *bulkhead* stability without relying on additional *riprap*.

(vi) Stairs or other permitted *structure*s may be built into a *bulkhead*, but shall not extend waterward of it.

(vii) Materials used in *bulkhead* construction shall meet the following standards:

1. *Bulkheads* shall utilize stable, non-erosional, homogeneous materials such as concrete, wood, rock *riprap*, or other suitable materials that will accomplish the desired end with the maximum preservation of natural *shoreline* characteristics.

2. Beach materials shall not be used for *fill* behind *bulkheads* unless it is specifically authorized by the *permit*, and then only when it is demonstrated that leaving the material on the beach would be detrimental to *shoreline* resources.

(viii) Gabions (wire mesh filled with concrete or rocks) shall not be used in *bulkhead* construction where alternatives more consistent with this *program* are feasible, because of their limited durability and the potential hazard to shore users and the *shoreline* environment.

(ix) *Fill* behind *bulkheads* shall be considered landfill, and shall be subject to the provisions for landfill, and the requirement for obtaining a *shoreline substantial development permit*.

iii. Revetments

(a) General

(i) Revetments must be in support of an allowable shoreline use that is in

conformance with the provisions of this program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.

(ii) Design of revetments shall include and provide improved access to public shorelines whenever possible and appropriate. All forms of revetments shall be constructed and maintained in a manner that does not reduce water quality and/or fisheries habitat.

(iii) Design of the proposed revetment shall incorporate proper consideration of

1. Data on local geophysical conditions;
2. Data on stream flow, velocity, and/or flood capacity; and
3. Effects on adjacent properties.

(iv) Bank revetments, where permitted, shall be placed at the extreme edge or bank of the shoreline.

(v) Revetments shall only be used when habitat-friendly alternatives are not feasible.

(b) Design

(i) When permitted, the siting and design of revetments shall be performed using appropriate engineering principles, including guidelines of the Natural Resources Conservation Service and USACOE.

(ii) Revetment shall be constructed using techniques and materials that will enhance natural shoreline values and functions, including fish and wildlife habitat, water quality, vegetation and aesthetics. The following techniques and materials shall be used:

1. Riprap material shall consist of clean quarried rock, free of loose dirt and any pollutants, and shall be of sufficient size and weight to prevent movement by wave or current action. Tires, automobile bodies, scrap metal paper products and other inappropriate solid waste materials shall not be used for riprap.
2. Use of downed logs, snags, or rock-work to enhance habitat and to provide a more natural appearance to the shoreline shall be incorporated into the design where appropriate.
3. Where on-site environmental conditions allow, vegetation shall be integrated into the riprap design to reduce erosion, provide cover, shade and habitat, and improve the natural appearance of the, consistent with the applicable vegetation management provisions of this *program*.

(iii) If an armored revetment is employed, the following design criteria shall be met.

1. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;
2. Filter cloth must be used to aid drainage and help prevent settling;

and

3. The toe reinforcement or protection must be adequate to prevent a collapse of the system from river scouring or wave action for the anticipated life of the project.

(iv) The area shall be restored as nearly as possible to pre-project condition, including replanting with native species and maintenance care until the newly planted vegetation is established.

iv. Breakwaters, Jetties, Rock Weirs, and Groins

(a) General

(i) Breakwaters, jetties, rock weirs, and groins are allowed only by conditional use and where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purposes such as protection from strong wave action. Applicants proposing groins, jetties, and solid breakwaters shall notify all shoreline landowners within the same drift sector. If it is not possible to make a reasonable determination of the drift sector, all shoreline land owners within one (1) mile of the project proposal shall be notified.

(ii) The effect of proposed breakwaters, jetties, rock weirs, and groins on sand movement shall be evaluated during permit review. The beneficiaries and/or owners of large-scale defense works that substantially alter, reduce, or block littoral drift, and cause new erosion of downdrift shores shall be required to establish and maintain an adequate long term beach feeding program either by artificially transporting sand to the downdrift side of an inlet with jetties or by artificial beach feeding in the case of groins, breakwaters and rock weirs.

(iii) The effect of proposed breakwaters, jetties, rock weirs, and groins on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.

(b) Location

(i) Breakwaters shall be prohibited in lakes.

(ii) Jetty, rock weir, or groin development that would result in a net adverse impact on adjacent and nearby properties and shorelines is prohibited.

(c) Design

(i) Proposed designs for new or expanded breakwaters, jetties, rock weirs, and groins shall be designed and certified by a registered civil engineer.

(ii) The design of breakwaters, jetties, rock weirs, and groins shall conform to all applicable requirements established by WDFW and the USACOE. Breakwaters, jetties, rock weirs, and groins shall be designed and constructed in a manner that will prevent detrimental impacts on water circulation, sand movement, and aquatic life. The design shall also minimize impediments to navigation and to visual access from the shoreline.

(iii) The design of new breakwaters, groins, and jetties shall incorporate provisions for public access such as sightseeing and public fishing if it is

determined such access is feasible and desirable. Open-pile or floating breakwaters shall be the only type allowed unless it can be shown that solid breakwaters will have no significant adverse effect on the aquatic biology and shore processes, or that such adverse effects can be adequately *mitigated*.

(iv) Materials used for the construction of breakwaters, jetties, rock weirs, and groins shall exhibit the qualities of long-term durability, ease of maintenance, and compatibility with local shore features, processes, and aesthetics. The use of solid waste, junk, or abandoned automobiles, asphalt, or any building demolition debris is prohibited.

(v) Floating breakwaters shall be used in place of solid, rubble mound types wherever they can withstand anticipated wave action in order to maintain sand movement and protect fish and aquatic habitat.

Table 6-1. Shoreline Use, Modification and *Development* Standards

P = Permitted; C = *Conditional Use*; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.

	AQ	UC	MI
SHORELINE DESIGNATION	**Aquatic**	**Urban Conservancy**	**Medium Intensity**
SHORELINE USES			
Agriculture			
Agriculture	X	C	X
Setback	N/A	100’	N/A
Maximum *Height*	N/A	35’	N/A
Aquaculture	X	X	X
Boating Uses			
Motorized *Boat* Launches	P	C	C

Table 6-1. Shoreline Use, Modification and *Development* Standards

P = Permitted; C = *Conditional Use*; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.

	AQ	UC	MI
SHORELINE DESIGNATION	**Aquatic**	**Urban Conservancy**	**Medium Intensity**
Non-motorized *Boat* Launches	P	P	P
Docks, *Piers, Mooring Buoys*	P[1]	P	P[1]
Setback	0’	0’	0’
Commercial Uses			
Water-dependent	C	X	P
Setback	0’	N/A	0’
Maximum *Height*			
0’-100’ from OHWM	15’	N/A	35’
>100’ from OHWM	15’	N/A	45’ [2]
Water-related, Water-enjoyment	X	X	P
Setback	N/A	N/A	25’
Maximum *Height*			
0’-100’ from OHWM	N/A	N/A	35’
>100’ from OHWM	N/A	N/A	45’ [2]
Non-water-oriented	X	X	C[3]
Setback	N/A	N/A	100’
Maximum *Height*	N/A	N/A	35’
Forest Practices			
Commercial Forest Practices	X	X	X

Conversion Forest Practices	See requirements for eventual use (i.e. residential, commercial)		
Industrial	X	X	X
Institutional Uses			
Water-dependent	C	C	P
Setback	N/A	0’	0’
Maximum *Height*			
0’-100’ from OHWM	N/A	25’	35’
>100’ from OHWM	N/A	35’	45’ [2]
Water-related,	X	X	P
Setback	N/A	N/A	25’
Maximum *Height*			
0’-100’ from OHWM	N/A	N/A	35’
>100’ from OHWM	N/A	N/A	45’ [2]
Non-water-oriented	X	X	C[3]
Setback	N/A	N/A	100’
Maximum *Height*	N/A	N/A	35’
Log Storage	X	X	X
Mining	X	X	X
Parking			
Primary Use	X	X	X
Setback	N/A	N/A	N/A
Accessory Use	X	P	P
Setback	N/A	100’	100’
Maximum *Height*	N/A	35’	35’
Recreational Uses			
Water-dependent	P	P	P
Setback	0’	0’	0’
Maximum *Height*	15’	15’	35’
Water-related/enjoyment (trails, accessory buildings)	X	P	P
Setback	N/A	50’	50’
Maximum *Height*	N/A	15’	35’
Non-water-oriented (golf courses, sports fields)	X	C	C

Table 6-1. Shoreline Use, Modification and Development Standards

P = Permitted; C = *Conditional Use*; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.

	AQ	**UC**	**MI**
SHORELINE DESIGNATION	**Aquatic**	**Urban Conservancy**	**Medium Intensity**
Setback	N/A	100’	100’
Maximum *Height*	N/A	25’	25’
Residential Uses			
Single-family [5]	X	P	P
Setback	N/A	100’	50’
Maximum *Height*	N/A	35’	35’
Floating homes (new)	X	N/A	N/A
Maximum *Height*	N/A	N/A	N/A
Multifamily	X	X	P
Setback	N/A	N/A	50’
Maximum *Height*	N/A	N/A	35’
Transportation Uses			
Highways, Arterials, Railroads (parallel to OHWM)	X	P	P
Setback	N/A	200’	100’

Secondary/*Public Access* Roads (parallel to OHWM) Setback	X NA	P 100’	P 50’
Bridges (perpendicular to shoreline) [6] Setback	C 0’	C 0’	P 0’
Utility Uses			
Above-ground Utilities (parallel to shoreline) Setback Maximum *Height* Distribution Pole *Height* [7]	C 0’ 15’ 0’	P 100’ 35’ 45’ [2]	P 50’ 35’ 45’ [2]
Electrical Transmission Lines Tower *Height*	C UNL	C UNL	C UNL
Underground Utilities (parallel to shoreline) Setback	C 0’	P 100’	P 50’
Underground Utilities (perpendicular to shore) Setback	C 0’	C 0’	C 0’
Unclassified Uses			
Unclassified Uses Setback Maximum *Height*	C 0’ 15’	C 100’ 35’	C 100’ 35’
Shoreline Modifications			
Dredging* and *Dredge Material Disposal			
Non-maintenance Dredging	C	N/A	N/A
Maintenance *Dredging*	P	N/A	N/A
Dredge Material Disposal	C	X	C
Dredging & Disposal as part of Ecological *Restoration/ Enhancement*	P	P	P
Flood Control Works, *In-stream* Structures			
Dams, *Dikes*, & Levees	C	C	C
Instream structures	C	N/A	N/A
Fills			
Waterward of OHWM	C	N/A	N/A
Landward of OHWM	N/A	P[8]	P[8]
Shoreline *Restoration*			
Ecological *Restoration/ Enhancement/*	P	P	P

Table 6-1. Shoreline Use, Modification and Development Standards

P = Permitted; C = *Conditional Use*; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.

	AQ	UC	MI
SHORELINE DESIGNATION	**Aquatic**	**Urban Conservancy**	**Medium Intensity**
Mitigation			
Shoreline Stabilization			
Bioengineered	P	P	P
Structural	C	C	C

[2] A view study may be required per VI.B.2 [3] As part of mixed-use *development* only. [5] See also VI.C.9 [6] Bridges shall be located or designed to minimize shading of wetlands. [7] May be increased to support telecommunications. [8] *Fills* may not be placed in critical areas or buffers. Note: Setbacks are landward from the OHWM in the UC & MI shoreline designations, and waterward of the OHWM in the AQ Shoreline Designation.

VII. ADMINISTRATION AND ENFORCEMENT

A. GENERAL PROVISIONS

1. All proposed uses and development occurring within a Shoreline Jurisdiction must conform to the Shoreline Management Act (SMA) and this program (SMP). The policies and regulations of this program apply to all shoreline uses and developments within the Shoreline Jurisdiction whether or not a shoreline permit or statement of exemption is required.
2. The requirements of this program are only applicable within the City's Shoreline Jurisdiction.
3. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or WDOE. The City may attach conditions of approval to any permitted use via a permit or statement of exemption to assure consistency of a project with the Act and this program. To be authorized under this program, all uses and developments shall be planned and carried out in a manner that is consistent with the City codes and this program regardless of whether a shoreline Substantial Development Permit, Statement of Exemption, Shoreline Variance, or Shoreline Conditional Use Permit is required.
4. Applicants requesting permits or statements of exemption under this program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.
5. Applicants shall submit all information and documentation determined by the Shoreline Administrator as necessary to process an application.
6. The City shall not issue any permit for development within the Shoreline Jurisdiction until approval has been granted pursuant to this program.
7. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this program shall require a shoreline variance even if the development or use does not require a Substantial Development Permit.
8. A development or use that is listed as having a conditional use pursuant to this program, or is an unlisted use, must obtain a Conditional Use Permit even if the development or use does not require a Substantial Development Permit.
9. Issuance of a Shoreline Substantial Development Permit, Shoreline Variance or Shoreline Conditional Use Permit does not constitute approval pursuant to any other federal, state or City laws or regulations.
10. All shoreline permits or statements of exemption issued for development or use within shoreline Jurisdiction shall include written findings prepared by the Shoreline Administrator, documenting compliance with bulk and dimensional policies and regulations of this program. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this program. Such conditions may include a requirement to post a performance bond assuring

compliance with permit requirements, terms and conditions.

11. Proposed actions that would alter designated critical areas or their buffers, as established by this program (Chapter V) shall be reviewed for compliance with this program. If required, the applicable critical area report and/or mitigation plan and/or habitat management plan shall be submitted as part of the development application or request for statement of exemption. The critical area review shall be conducted and processed in conjunction with the highest threshold of review that is applicable to the primary development proposed in the:
    a. Review pursuant to Section II.C.2 (List of Exemptions);
    b. Land Use Permit or Building Permit;
    c. Excavation, Grading, Clearing and Erosion Control Permit;
    d. SEPA Threshold Determination;
    e. Shoreline Substantial Development Permit;
    f. Shoreline Conditional Use Permit; or
    g. Shoreline Variance.

B. ADMINISTRATIVE AUTHORITY AND RESPONSIBILITY

1. Shoreline Administrator. The Shoreline Administrator shall have the authority to act upon the following matters:
    a. Interpretation, enforcement, and administration of the City's Shoreline Master Program as prescribed in this title;
    b. Applications for Shoreline Management Substantial Development Permits;
    c. Make a recommendation on Shoreline Conditional Use Permits to the hearing examiner;
    d. Make a recommendation on applications for Shoreline Variances to the hearing examiner;
    e. Requests for Statements of Exemption, and
    f. Modifications or revisions to Statements of Exemption and Substantial Development Permits, and;

    The Shoreline Administrator shall document all project review actions in shoreline areas in order to periodically evaluate the cumulative effects of authorized development on shoreline conditions per WAC 173-26-191. Administrative interpretations shall be made in consultation with WDOE to insure that any formal written interpretations are consistent with the purpose and intent of RCW 90.58 and the applicable guidelines.

2. City Planning Commission. The City Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:
    a. Amendments to the Shoreline Master Program. Any of the provisions of this program may be amended as provided for in WAC 173-26-100.
    b. Periodic review of this program shall be conducted as required by state law and regulations RCW 90.58.080(4). Adjustments shall be made 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 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

3. City Council

    a. The City Council shall be responsible for making final determinations on amendments to the Shoreline Master Program, for review and approval by WDOE, which shall be adopted by ordinance. The Council shall enter findings and conclusions setting forth the factors it considered in reaching its decision.

    b. The City shall periodically review the program and make adjustments as are 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 173-26 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

    c. The City Council shall conduct a comprehensive review of this program on or before June 30, 2020, and every eight years thereafter, to assure that the program: complies with applicable laws and guidelines in effect at the time of the review; and to assure consistency with the City's comprehensive plan and development regulations adopted under RCW 36.70A and other local requirements.

    d. Any of the provisions of this program may be amended as provided for in RCW 90.58.120 and .200 and WAC 173-26. Amendments or revision to this program, as provided by law, do not become effective until approved by WDOE.

    e. Proposals for shoreline re-designation (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-22.

4. City Hearing Examiner. The City Hearing Examiner shall be responsible for making final determinations on the following:

    a. Appeals of Statements of Exemptions and Shoreline Substantial Development Permits.

    b. Local approval for Shoreline Conditional Use permits prior to submittal to WDOE;

    c. Local determinations for Shoreline Variances prior to submittal to WDOE; and

    d. Modifications or revisions to Shoreline Conditional Use permits and Shoreline Variances.

    When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently. The Hearing Examiner shall consider concurrently all related land use permit applications for a specific site, and any accompanying environmental appeal under LCMC 18.310. Applications for which the Shoreline Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow concurrent consideration of all land use actions, as prescribed in LCMC 18.30.

5. WDOE and Attorney General

    a. The duties and responsibilities of WDOE shall include, but are not limited to the following:

i. Reviewing and approving program amendments prepared by the City pursuant to WAC 173-26-120. Amendments or revisions to the program, as provided by law, do not become effective until approved by WDOE.

ii. Approving, denying or approving with conditions Shoreline Conditional Use Permits and Shoreline Variance Permits filed by the City.

b. WDOE and the Attorney General have the authority to review and petition for review the City's permit decisions. Petitions for review must be commenced within twenty one (21) days from the date of filing of the City's decision.

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

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

8. WDOE shall convey to the City and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.

9. WDOE shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA, WAC 173-27-160, WAC 173-27-170 and WAC 173-27-210, and the criteria listed in this program.

10. Appeals of WDOE decisions on conditional use and variances requests shall be made to the Shorelines Hearing Board as specified in Section VII.E.3.

C. PUBLIC NOTICE REQUIREMENTS

1. A notice of application, comment periods, decisions, public hearings, and appeal hearings on applications and decisions associated with shoreline substantial development permits, shoreline conditional uses and shoreline variances shall be as provided in WAC 173-27-110 or LCMC 18.030 as applicable.

2. In addition, copies of the original application and other pertinent materials used in the final shoreline permit decision shall be sent to the State in accordance with state regulations, and, pursuant to RCW 90.58 or 43.21C. The permit and any other written evidence of the final order of the City relative to a permit application, shall be transmitted by the Shoreline Administrator to the Attorney General of the State of Washington and to WDOE in accordance with WAC 173-27- 130 and RCW 90.58.140(6).

D. APPEALS AND WDOE REVIEW

1. Filing Appeals

   a. Any decision or ruling of the Shoreline Administrator may be reconsidered upon a request for reconsideration within seven (7) days of the date of issuance of the decision. Applicants may appeal the initial notice of decision or subsequent reconsideration to the Hearings Examiner.

   b. The Hearing Examiner shall hold a public hearing, conduct adjudicative proceedings, maintain a record thereof, and enter findings of facts, conclusions of law, and a final

decision or other order as appropriate.

c. Appeals from decisions or rulings of the Shoreline Administrator shall be made within twenty- one (21) calendar days of the date of the permit decision. If the last day for filing an appeal falls on a weekend day or a holiday, the last day for filing shall be the next working day.

d. An appeal of the Shoreline Administrator shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. The following information, accompanied by an appeal fee as specified in LCMC 18.030.130, shall be submitted:

   i. An indication of facts that establish the appellant's right to appeal,

   ii. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion,

   iii. The requested relief from the decision being appealed, and

   iv. Any other information reasonably necessary to make a decision on the appeal.

   Appeals shall be filed with the Office of the Hearing Examiner according to LCMC 18.030.130.

e. Any decision or ruling of the Hearing Examiner on a shoreline substantial development permit may be appealed to the State Shorelines Hearing Board

2. WDOE Review

   a. After all local permit administrative appeals are complete and the permit documents are amended to incorporate any resulting changes, the City of La Center will mail the permit using return receipt requested mail to the Department of Ecology and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits for the project consistent with WAC 173-27-130.

      i. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet) as per WAC 173-27-190; and applicable SEPA documents.

      ii. Consistent with RCW 90.58.140(6), the state's twenty-one day appeal period starts with the date of filing, which is defined below:

         - For projects that only require a Substantial Development Permit: the date that Ecology receives the City of La Center decision.
         - For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City of La Center.
         - For SDPs simultaneously mailed with a CUP or VAR to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City of La Center.

3. State Shorelines Hearing Board

   a. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from

Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial development Permits, Hearings).

i. All appeals of any final permit decision must be made to the Shorelines Hearing Board within twenty-one (21) days after the decision date of filing concerning the shoreline permit or formal approval to revisions of the permit.

E. COMMENCEMENT OF DEVELOPMENT ACTIVITY AND PERMIT VALIDITY

1. No construction pursuant to a Substantial Development Permit, shoreline variance or shoreline conditional use authorized by this program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date of filing.
2. Construction may be commenced no sooner than thirty (30) days after the date of filing unless construction is prohibited until all Superior Court review proceedings are final after judicial hearing as provided in RCW 90.58.140. Any applicant who wishes to begin construction pursuant to this section prior to termination of all review proceedings does so at the applicant's own risk.
3. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a Substantial Development Permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the Substantial Development Permit and to the department.
4. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and WDOE.

F. ENFORCEMENT

1. General Enforcement
   a. The enforcement provisions of RCW 90.58.210 and WAC 173-27-240 through -310 shall apply.
   b. The Shoreline Management Act calls for a cooperative enforcement "program between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.
   c. The Shoreline Administrator, and/or authorized representative, shall have the power to seek enforcement of the shoreline regulations of the City using his or her own powers or powers vested with other state or local authorities.

d. The Shoreline Administrator, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, may enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by this program.

e. These shoreline regulations shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

f. No provision of, or term used in, this code is intended to impose upon the City, or any of its officers or employee, any duty which would subject them to damages in a civil action.

g. The Shoreline Administrator shall have the authority to request evidence of a statement of

h. exemption for any development.

2. Investigation and Notice of Violation

   a. An investigation shall be made of any structure or use which the City reasonably believes does not comply with the standards and requirements of this program.

   b. If, after an investigation, it is determined that the standards or requirements of this title have been violated, a notice of violation shall be served, by first class mail, upon the owner, tenant or other person responsible for the condition.

   c. The compliance period shall not be less than two weeks, except where substantial life safety issues exist.

3. Penalties. Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of this program, and rules or regulations adopted pursuant thereto, shall be subject to the penalty provisions of LCMC 18.50.050.

4. Violations – Subsequent Development and Building Permits. No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of this program. All purchasers or transferees of property shall comply with provisions of the Act and this 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 program. Damages may include any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this program as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease and recover costs of investigation, litigation and reasonable attorney's fees occasioned thereby from the violator.

G. PUBLIC AND PRIVATE REDRESS

1. Any person subject to the regulatory provisions of this program who violates any provision of this 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.

2. The City Attorney may bring suit for damages under this section on behalf of the City. Nothing in this section precludes private persons from bringing suit for damages on their

own behalf.

H. FEES FOR PERMITS OBTAINED AFTER DEVELOPMENT

1. Permits obtained following, rather than prior to, the commencement of a development or use shall be three (3) times the normal amount. This provision is in addition to the enforcement measures contained in this chapter and in LCMC 18.050.
2. Delinquent permit penalties shall be paid in full, including interest and any applicable penalties, prior to resuming the use or activity.

I. REVOCATION OF PERMITS

1. Any permit may, after a hearing with adequate legal notice, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If WDOE is of the opinion that noncompliance exists, WDOE shall provide written notice to the local government and the permittee. If WDOE is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, WDOE may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by WDOE is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.
2. Permits found to have been authorized based on a misrepresentation of the facts shall also be subject to revocation.
3. When required, corrective action shall be completed within ninety (90) days of the issuance of the order of the Shoreline Administrator.
4. Should a discretionary shoreline permit be revoked, the use rights attached to the site and/or structure in question shall revert to uses permitted outright in the underlying zoning district, subject to all development standards contained therein. Revocation of a permit does not preclude the assessment of penalties in Section VII.G above. Appeals of the revocation order shall be in accordance with Section VII.E.

VIII. DEFINITIONS

ACCESSORY STRUCTURE means a subordinate building or use incidental to the use of the main building or use.

ACCESSORY USE means any use or activity incidental and subordinate to a primary use or *development*.

AGRICULTURAL ACTIVITIES means *agricultural uses* and practices including, but not limited to: Producing, breeding, or increasing *agricultural products*; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural *operations*; maintaining, repairing, and replacing *agricultural equipment*; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;

AGRICULTURAL EQUIPMENT and "agricultural facilities" includes, but is not limited to: (i) The following used in agricultural *operations*: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains; (ii) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within *agricultural lands*; (iii) Farm residences and associated equipment, lands, and facilities; and (iv) Roadside stands and on- farm markets for marketing fruit or vegetables; and

AGRICULTURAL LAND means those specific land areas on which *agricultural activities* are conducted as of the date of adoption of a local master *program* pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of *program*, land converted to agricultural use is subject to compliance with the requirements of the *program*.

AQUACULTURE means the cultivation or farming of food fish, shellfish, or other aquatic plants and animals as defined in WAC 173-26- 241(3)(b). Aquaculture does not include the harvest of wild geoduck associated with the state managed wild stock geoduck fishery.

APPURTENANCE means a structure necessarily connected to the use and enjoyment of a *single-family residence* and is located landward of the *ordinary high water mark* and the perimeter of a wetland.

> NORMAL APPURTENANCES include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and *grading* which does not exceed two hundred fifty cubic yards and which does not involve placement of *fill* in any wetland or waterward of the *ordinary high water mark*. WAC 173-27- 040(2)(g).

AVERAGE GRADE LEVEL means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that will be directly under the proposed building or structure: In the case of *structures* to be built over water, average grade level shall be the elevation of the *ordinary high water mark*. Calculation of the average grade

level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure. WAC 173-27-030(3)

BERM means a linear mound or series of mounds of earth, sand and/or gravel generally paralleling the water at or landward of the *OHWM*. Also a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

BIOENGINEERING means project designs or construction methods that use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank that is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation. WAC 220- 110-020(12).

BOAT see VESSEL.

BUFFER AREA or BUFFER ZONE means a strip of land that is designed and designated to permanently remain vegetated in an undeveloped condition to protect an adjacent aquatic or wetland resource from landward impacts, improve water quality, and to provide habitat for fish and wildlife.

BULKHEAD means a solid, open-pile, or irregular wall of rock, *riprap*, concrete, steel, or timber or combination of these materials erected parallel to and near *ordinary high water mark* to provide a protective vertical wall resistant to water and wave action.

> A NORMAL PROTECTIVE BULKHEAD includes those structural and nonstructural *developments* installed at or near, and parallel, to, the *ordinary high water mark* for the sole purpose of protecting an existing single family residence and appurtenant structures from loss or damage by erosion.

CHANNEL MIGRATION ZONE (CMZ) means the area along a river within that 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.

COMMERCIAL FISHING is the activity of capturing fish and other seafood under a commercial license, the purpose being to sell the catch.

CONDITIONAL USE means a use, *development*, or vegetation conservation that is classified as a conditional use, or is not classified within the *program*, and requires a conditional use *permit*. WAC 173-27-160.

COVERED MOORAGE means *boat moorage*, with or without walls, that has a roof to protect a vessel.

CRITICAL FRESHWATER HABITAT means, streams, rivers, wetlands, and lakes, their associated CMZs and hyporheic zones, and floodplains designated under chapter 36.70A RCW.

DATE OF FILING means the date of actual receipt by WDOE of the local government's decision except: (a) with regard to a permit for a variance or conditional use, DATE OF FILING means the date the decision of WDOE is transmitted by WDOE to the local government, and; (b) when a local government simultaneously transmits to WDOE its decision on a shoreline substantial development with its approval of either a shoreline conditional use permit or variance, or both, DATE OF FILING has the same meaning as defined in (a).

DEVELOPMENT means a use consisting of the construction or exterior alteration of *structures*; *dredging*; drilling; dumping; *filling*; removal of any sand, gravel, or minerals; bulkheading;

driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. “Development” does not include dismantling or removing structures if there is no other associated development or re-development.

DIKE is an artificial embankment normally set back from the bank or channel in the *floodplain* for the purpose of keeping floodwaters from inundating

DREDGE SPOIL OR MATERIAL means the material removed by *dredging*.

DREDGING is the removal or displacement of earth or sediments such as gravel, sand, mud, silt, or debris from below the OHWM of any stream, river, *lake*, or water body or wetland.

MAINTENANCE DREDGING means *dredging* for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local *permit* as part of any specific waterway project. MAINTENANCE DREDGING also includes *dredging* that maintains the previously authorized width of a channel, *boat* basin or berthing area.

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

ENHANCEMENT means alterations performed to improve the condition of an existing degraded area so that the functions provided are of a higher quality. Enhancements are to be distinguished from resource creation or *restoration* projects.

EXEMPT / EXEMPTION means *development*s that are set forth in Chapter II (Exemptions from *Substantial* Development *Permit*) of this *program* that are not required to obtain a Shoreline *Substantial Development Permit*, but which must otherwise comply with applicable provisions of the act and the *program.*

FILL means the addition of soil, sand, rock, gravel, sediment, earth retaining *structure*, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. WAC 173-26-020(14).

FLOAT means a fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water dependent recreation or *moorage* for vessels or watercraft.

FLOATING HOME means a single-family dwelling unit constructed on a *float*, that is *moored*, anchored, or otherwise secured in waters, and is not a *vessel*, even though it may be capable of being towed.

FLOODPLAIN means the one hundred-year floodplain and refers to the 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 that meets the objectives of the act. WAC 173-26-020(15)

FLOODWAY means the area, as identified in a master *program*, that has been established in Federal Emergency Management Agency Flood Insurance Rate Maps or floodway maps. 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)(b).

FOREST PRACTICES means any activity conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to road and trail construction, final and intermediate harvesting, pre- commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. WAC 222-16-010(21)

GEOTECHNICAL REPORT or GEOTECHNICAL ANALYSIS means a scientific study or evaluation of geological, hydrological, geochemical, and/or geomorphological aspect(s) of a site conducted by a qualified expert.

GRADING means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land. WAC 173-26-020(20).

GROIN OR SPUR DIKE OR ROCK WEIR means a barrier-type structure extending from the backshore or stream bank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of material.

HEIGHT means the distance measured from the AVERAGE GRADE LEVEL to the highest point of a *structure*: Provided that television antennas, chimneys, and similar *appurtenances* shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or this *program* provides otherwise): Provided further that temporary construction equipment is excluded in this calculation. WAC 173-27-030(9)

INSTITUTIONAL USE means a use and related *structure*(s) for the provision of educational, medical, cultural, social and/or recreational services to the community, including but not limited to such uses as schools, colleges, museums, community centers, and the relevant essential public facilities identified in WAC 365-196-550.

IN-STREAM STRUCTURE means a *structure* placed by humans within a stream or river waterward of the *ordinary high-water mark* that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In- stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat *enhancement*, or other purpose.

INVASIVE means a nonnative plant or animal species that: (a.) causes or may cause significant displacement in range, a reduction in abundance, or otherwise threatens, native species in their natural communities; (b.) threatens or may threaten natural resources or their use in the state; (c.) causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or (d.) threatens or harms human health. RCW 77.08.010(28)

JOINT USE (MOORAGE) FACILITY means a *moorage* for nine or fewer pleasure craft and/or land for water sports for use in common by shoreline residents with adjoining lots, each with water frontage, or of a certain subdivision or community within shoreline jurisdiction or for use by patrons of a public park, or quasi-public recreation area, including rental of non-powered craft. A joint-use *moorage* facility is a *MARINA* if: (a.) it provides commercial goods and services; (b.) it is of a large scale (ten slips or more); (c.) *moorage* is proposed to be leased to upland property owners; or (d.) the proposal includes a *boat* launching facility other than a ramp.

LAKE means a body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the

ordinary high water mark or, where a stream enters a lake, the extension of elevation of the lake's *ordinary high water mark* within the stream.

LITTORAL means the area of the shore from the OHWM waterward to a depth of two meters below ordinary low water or to the maximum extent of non-persistent emergent plants.

LITTORAL DRIFT means the mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and current.

MAINTENANCE DREDGING—See Dredging

MARINA means a water-dependent commercial use that consists of a system of *piers*, buoys, or *floats* which provides *moorage* for at least ten *boats*. Marinas are prohibited under this *program*. For the purposes of this *program*, large community *moorage* facilities, yacht club facilities, and camp or resort *moorage* areas are also considered marinas. *Boat* launch facilities and supplies and services for small commercial or pleasure craft are often associated with marinas. Uses accessory to marinas may include fuel docks and storage, boating equipment sales and rental, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods. Foreshore marinas are marinas located waterward of the *ordinary high water mark*.

MITIGATION means to avoid, minimize or compensate for adverse impacts to shoreline *ecological functions* and processes. Compensatory mitigation is an action to reduce the severity of effects from an action that may cause potential impacts to functions and values of critical areas and their buffers.

MOORAGE means a *pier*, dock, buoy or *float*, either fixed or floating, to which vessels may be secured. Individual mooring facilities refers to moorage for single vessels. See also definition for COVERED MOORAGE.

MOORING BUOY means a floating object anchored to the bottom of a water body that provides tie-up capabilities for vessels or watercraft.

NAVIGATIONAL CHANNELS are those routes on the waters of state beyond the outer harbor line.

NON-CONFORMING DEVELOPMENT OR STRUCTURE means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program. (WAC 173-27-080(1)). See also Non-conforming Use.

NON-CONFORMING LOT means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

NON-CONFORMING USE means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program. WAC 173-27-080(1)

NON-WATER-DEPENDENT USE OR ACTIVITY means a *water-related*, *water-enjoyment*, or *non-water-oriented use or activity*.

NON-WATER-ORIENTED USE OR ACTIVITY means use or activity that is not *water-dependent*, *water-related*, or *water-enjoyment*.

NORMAL APPURTENANCE—See *appurtenance*

NORMAL MAINTENANCE are those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. WAC 173-27- 040(2)(b).

NORMAL PROTECTIVE BULKHEAD—See Bulkhead

NORMAL REPAIR means to *restore* a *development* to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction.

NOXIOUS WEEDS means non-native plants that are destructive, competitive, and difficult to control as defined by the Washington State Noxious Weed Control Board.

OPERATION(S) means industrial, commercial, institutional, or residential activity that may be publicly or privately-owned and operated, and may involve the use of stationary facilities, equipment, transport vehicles, or transfer equipment. To the extent allowed by state or federal law, this definition includes all federal, state, or local government entities.

ORDINARY HIGH WATER MARK (OHWM) means that mark found by examining the bed and banks of a body of water and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with *permits* issued by a local government or WDOE: In any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water (RCW 90.58.030(2)(b) and WAC 173-22- 030(6)).

OVER-WATER STRUCTURE means a *structure* or other construction located waterward of the *Ordinary High Water Mark (*OHWM*)* or a *structure* or other construction erected on *piling* above the surface of the water, or upon a *float.*

PERMIT (noun) means any *Substantial Development*, *Variance*, *Conditional Us*e Permit, or revision thereto authorized under RCW 90.58.

PERSON means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

PIER means a fixed platform *structure* supported by *piles* in a water body that abuts the shore to provide landing for *water-dependent recreation* or *moorage* for *vessels* or watercraft and does not include above water storage.

POINT (noun, as geographical feature) – means a low profile shoreline promontory of more or less triangular shape, the top of which extends seaward. A point may be the wave cut shelf remnant of a headland bluff or a purely accretional deposit that began as a hooked spit and becomes a point by subsequently closing the lagoon gap between the headland and the tip of the hook. Points are characterized by converging *berms* that normally enclose a lagoon, marsh, or meadow, depending on the point's stage of *development*.

POTENTIALLY HARMFUL MATERIALS means Hazardous materials as well as other materials such as the following which, if discharged or improperly disposed, may present a risk to water resources: 1) Petroleum products including but not limited to petroleum fuel and petroleum based coating and preserving materials; 2) oils containing PCB' s; 3) antifreeze and other liquid automotive products; 4) metals, either in particulate or dissolved form, in concentrations above established regulatory standards; 5) flammable or explosive materials; 6) radioactive material; 7) used batteries; 8) corrosives, acids, alkalis, or bases; 9) paints,

stains, resins, lacquers or varnishes; 10) degreasers; 11) solvents; 12) construction materials; 13) drain cleaners and other toxic liquid household products; 14) pesticides, herbicides, fungicides or fertilizers unless applied in accordance with local, state and federal standards; 15) steam cleaning and carpet cleaning wastes; 16) car wash water; l7) laundry wastewater; 18) soaps, detergents, ammonia; 19) swimming pool backwash; 20) chlorine, bromine, and other disinfectants; 21) heated water; 22) domestic animal wastes; 23) sewage; 24) recreational vehicle waste; 25) animal carcasses, excluding salmonids; 26) food wastes; 27) collected lawn clippings, leaves or branches; 28) trash or debris; 29) silt, sediment, or gravel; 30) dyes; and 31) untreated or unapproved wastewater from industrial processes.

PRIORITY SPECIES means 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.

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 WDFW (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

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.

Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered (WAC 173-26-020(25)).

PROGRAM see Shoreline Master *Program*

PUBLIC ACCESS means the physical 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 (WAC 173-26-221).

PUBLIC INTEREST means 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 including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or *development* (WAC 173-27-030(14)).

QUALIFIED PROFESSIONAL means a *person* with experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant subject.

RECREATIONAL *DEVELOPMENT* includes commercial and public facilities designed and used to provide recreational opportunities to the public.

RESIDENTIAL *DEVELOPMENT* is the *development* of single-family and *multi-family residences* and their *normal appurtenances*, and the creation of new residential lots through land division.

RESTORATION, RESTORE means to reestablish or upgrade impaired ecological processes or functions.

REVETMENT means a sloped wall constructed of *riprap* or other material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a *bulkhead* that is a vertical structure.

RIPRAP means a foundation or retaining wall of stones or rock placed along the water's edge or on an embankment to prevent erosion.

SHORELINE ADMINISTRATOR is the director of community and economic development or his/her designee.

SHORELINE DESIGNATIONS means the categories of shorelines established by this *program* in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

SHORELINE FUNCTIONS—SEE ECOLOGICAL FUNCTIONS

SHORELINE JURISDICTION means all shorelines of the state and shorelands as defined in RCW 90.58.030. See also Section II.A.

SHORELINE MASTER PROGRAM, SMP or *program* is 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 It is an element of the local government's comprehensive plan, and shall be considered a part of the local government's *development* regulations.

SHORELINE MODIFICATIONS means those actions that modify the physical configuration or qualities of the *shoreline* area, usually through the construction of a physical element such as a *dike*, breakwater, *pier*, *weir*, dredged basin, *fill*, *bulkhead*, or other *shoreline structure*. They can include other actions, such as clearing, *grading*, *dredging* or application of chemicals.

SHORELINE RESTORATION PROJECT means a project designed to *restore* impaired *ecological function* of a *shoreline*.

SHORELINE STABILIZATION includes actions taken to address erosion impacts to property and structures caused by processes such as current, flood, wind, or waves. These actions include structural and non-structural methods. Structural measures include but are not limited to *bulkheads*, *revetments*, and riprap. Non- structural measures include building setbacks, relocation of *structures,* and *bioengineered* methods that use vegetation or wood.

SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT is the *permit* required by this *program* for uses that are substantial *developments* in shoreline jurisdiction.

SHORELINES means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) *shorelines of statewide significance*; (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the *wetlands* associated with such upstream segments; and (c) shorelines on *lakes* less than twenty (20) acres in

size and wetlands associated with such small lakes. See RCW 90.58.030(2)(d) and WAC 173-18, 173-26 and 173-22.

SHORELINES HEARING BOARD means a quasi- judicial body established by the Shoreline Management Act of 1971 to hear appeals by any aggrieved party on the issuance of a *substantial development permits program*. For local governments planning under RCW 36.70A, appeals of master programs shall be to the Growth Management Hearings Board. The petition must be filed pursuant to the requirements of RCW 90.58.190. WDOE's written notice of final action will conspicuously and plainly state it is the department's final decision and there will be no further modifications under RCW 90.58.090(2). WAC 173-26-130.

SHORELINES OF STATEWIDE SIGNIFICANCE (SSWS) means a select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies apply: (a.) Those *lakes*, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more, measured at the *ordinary high water mark*; (b.) Those natural rivers or segments thereof, downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more, and (c.) Those shorelands associated with paragraphs a and b above.

SHORELINES OF THE STATE are the total of all shorelines and *shorelines of statewide significance* within the state.

SINGLE FAMILY RESIDENCE means a detached dwelling designed for and occupied by one family including those structures and *developments* within a contiguous ownership which are a *NORMAL APPURTENANCE*.

SOLID WASTE FACILITY or Hazardous Waste Facility refers to any land or *structure* where solid or hazardous waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and reclamation activities not conducted on the same site as an accessory to the handling and disposal of garbage and refuse.

STORMWATER means runoff during and following precipitation or snowmelt events, including surface runoff, drainage, and interflow.

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

SUBSTANTIAL DEVELOPMENT means any *development* with a total cost or fair market value exceeding seven thousand forty-seven dollars ($7,047), or as adjusted by the state Office of Financial Management, or any *development* that materially interferes with the normal public use of the water or *shorelines of the state*, except as specifically *exempted* pursuant to RCW 90.58.030(3e) and WAC 173-27-040. See also definition of DEVELOPMENT and EXEMPTION.

SURFACE WATER means water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, *lakes*, rivers, and streams.

TRANSPORTATION FACILITY includes roads, railways, bridges and related *structures* such as culverts, *fills*, embankments, causeways, for the purpose of moving people using motorized or non-motorized means of transport.

VEGETATION CONSERVATION are activities to protect and *restore* vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas.

VESSEL includes ships, *boats*, barges, or any 0other floating watercraft that are designed and used for navigation and do not interfere with the normal public use of the water (WAC 173-27).

VIEW CORRIDOR means activities to protect and *restore* vegetation along or near marine and freshwater shorelines that contribute to the *ecological functions* of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth *grading*, vegetation *restoration*, and the control of *invasive* weeds and nonnative species (WAC 173-26-221).

WATER-DEPENDENT USE is a use or portion of a use that cannot exist in a location which is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses include *marinas,* ship building, dry docking, sewer outfalls, and shoreline *restoration* projects.

WATER-ENJOYMENT USE is a recreational use or other use that facilitates *public access* to the shoreline as a primary characteristic of the 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. Examples of water-enjoyment uses include parks, *piers*, museums, restaurants, educational/scientific reserves, resorts and mixed use projects.

WATER-ORIENTED USE means a use that is *water-dependent*, *water-related*, or *water-enjoyment*, or a combination of such uses.

WATER QUALITY means the characteristics of water within shoreline jurisdiction, including water quantity, hydrological, chemical, aesthetic, recreation-related, and biological characteristics.

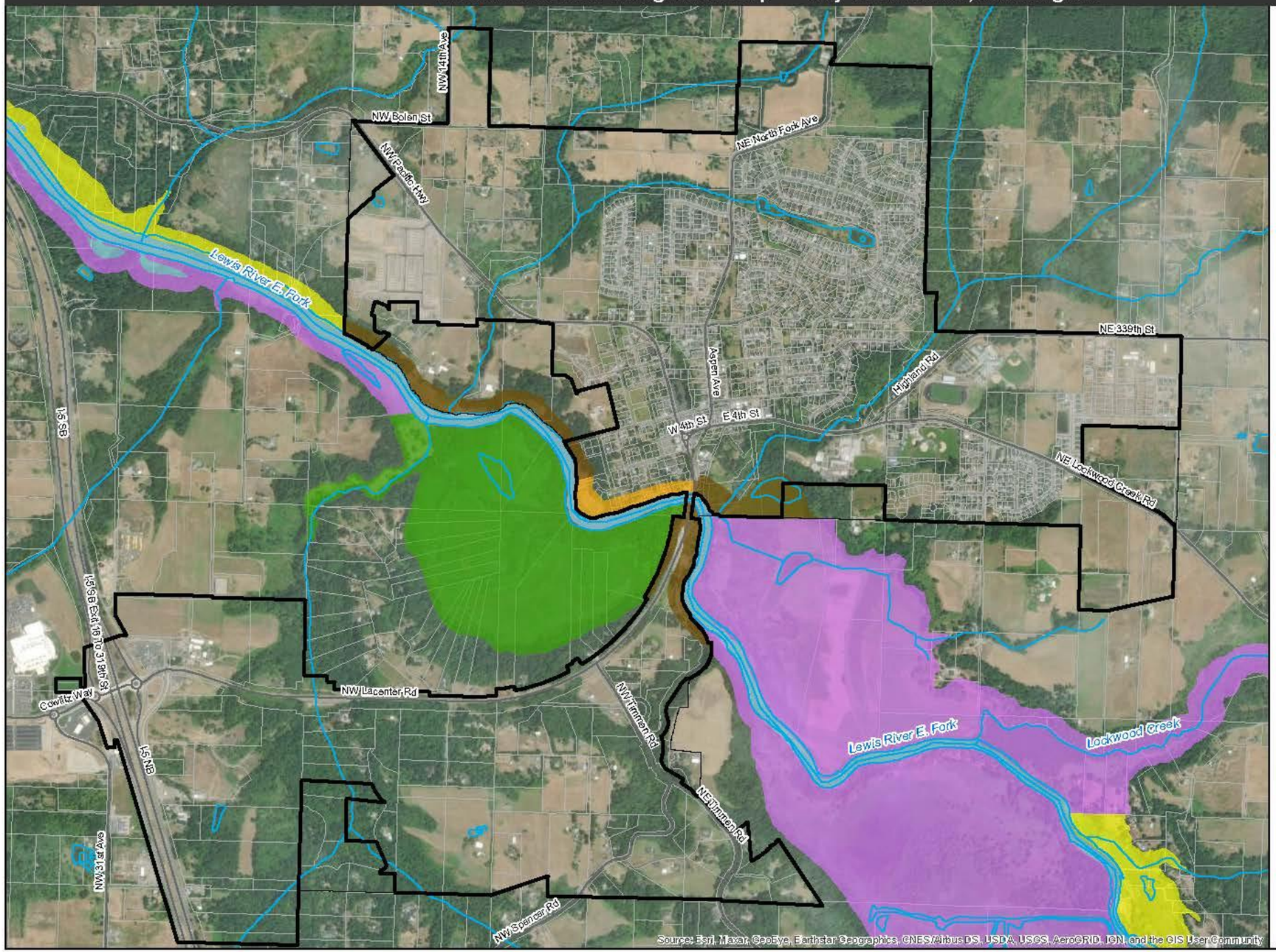
WATER-RELATED USE means a use or portion of use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: (a.) of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or, (b.) the use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers make its services less expensive and/or more convenient.

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

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

APPENDIX A: SHORELINE DESIGNATION MAP

Official Shoreline Designation Map City of La Center, Washington



Legend

- City Limits
- Urban Growth Areas

Shoreline Designation

- Aquatic
- Natural
- Urban Conservancy
- Medium Intensity
- High Intensity
- Rural Conservancy Residential
- Rural Conservancy Resource Land

N W E S

0 0.25 Miles

Coordinate System: State Plane NAD 1983 (ft) Washington South FIPS 4602

NOTE: Map data shown here are the property of sources listed below. Inaccuracies may exist, and WSP implies no warranties or guarantees regarding any aspect of data depction.

Data Sources: Clark County, 2020

APPENDIX B: CRITICAL AREAS PROVISIONS

Chapter 18.300
CRITICAL AREAS
Sections:

18.300.010 Authority and title.
This chapter is established pursuant to RCW 36.70A.060 and La Center Ordinance No. 2001-2. This chapter is known as the La Center critical areas ordinance. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.020 Purpose.
The purpose of the critical areas overlay district is to implement the open space policies of the La Center comprehensive plan. This chapter creates an overlay district that requires the designation and protection of identified critical areas while encouraging urban densities and affordable housing through density transfer to nonsensitive (buildable) lands.

Critical areas are valuable and fragile natural resources with significant development constraints that, in their natural state, provide many valuable social and ecological functions. The attendant buffers of critical areas are essential to the maintenance and protection of the sensitive land, its functions and values. The loss of social and ecological functions provided by critical areas, especially wetlands, riparian zones and fish and wildlife habitat, results in a detriment to public safety and welfare.

Critical areas help to relieve the burdens on the people of La Center which urban development can create including congestion, noise and odors, air pollution, and water quality degradation.

Critical areas serve several important urban design functions. They provide: (1) open space corridors separating and defining developed areas within the city; (2) views which enhance property values and quality of life in developed neighborhoods; (3) educational opportunities for the citizens of La Center; and (4) accessible areas for residents to stroll, hike and enjoy La Center's valuable natural features. The La Center comprehensive plan proposes a system of connected trails that are closely associated with La Center's stream corridors, natural drainage ways and the East Fork of the Lewis River.

Conservation of critical areas has associated natural resource benefits, including improved air and water quality, maintenance of fish and wildlife habitat, decreased erosion and sedimentation to streams, absorption of pollutants and preservation of rare plant and animal species.

The intent of this overlay district is for the city of La Center to achieve no net loss of wetlands, floodplains, fish and wildlife habitat areas, and riparian zones and to avoid the loss of geologically hazardous areas and aquifer recharge/wellhead protection areas. The city's preferred strategy to achieve no net loss is to avoid adverse impacts to

critical areas and buffers. However, the city recognizes that there are situations and circumstances where avoidance is not practicable whereupon the intent of this chapter is to minimize and mitigate the environmental impacts of development within and adjacent to critical areas and buffers. An overriding objective of this overlay district is to protect stream corridors and associated wetlands and riparian vegetation throughout the urban area. This overlay district is also designed to ensure conservation of wetland areas and their functions, where such areas are associated with steep slopes or stream corridors. The overlay district promotes a balance between recreational and public use of critical areas, consistent with the maintenance of their natural appearance and functional values.

Development limitations on critical areas reduces the need to require additional studies to ensure compliance with the State Environmental Policy Act (SEPA) process and other state or federal environmental regulations. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.030 Definitions.

For the purposes of this chapter the definitions set forth in this chapter and Chapter 18.40 LCMC shall apply. Unless specifically defined in this chapter or Chapter 18.40 LCMC, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application.

(1) “Alter” means to adjust, modify or rework a structure or parcel of land.

(2) “Altered,” when referring to wetlands, means any portion of a wetland that has been graded, channelized, drained, devegetated, excavated, compacted, replanted with non-wetland plants, or any other activity that changes the character of the wetland.

(3) “Anadromous” means fish that migrate up rivers and streams from the ocean to breed in fresh water.

(4) “Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designations on the flood insurance rate maps include the letter A.

(5) “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”). Designations on the flood insurance rate maps include the letter A.

(6) “Basement” means any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.

(7) “Best available information” means data, other than official flood insurance rate map data, from federal, state, or other sources, provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience.

(8) “Best available science (BAS)” means a valid scientific process or method of inquiry that is consistent with the criteria for establishing best available science as found in WAC 365-195-905, as amended.

(9) “Buffer” means a vegetated area contiguous with a critical area that maintains the functions and/or structural stability of the critical area.

(10) “City” means a Class 4 municipality governed by the mayor and La Center city council, or the city designee.

(11) “Conservation covenant” means a signed and recorded agreement between a property owner and the city of La Center running with the land and stipulating that certain areas of the property be maintained in a natural state without disturbance to vegetation or other features unless otherwise approved by the city.

(12) “Council” means the council of the city of La Center.

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

(14) “Critical areas” means any of the following areas or ecosystems: wetlands, critical aquifer recharge areas, streams, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas as defined by the Growth Management Act (RCW 36.70A.170).

(15) “Critical aquifer recharge area” means an area with a critical recharging effect on an aquifer used for potable water, including an area where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

(16) “Critical facility” means facilities including but not limited to schools, hospitals, police, fire and emergency response installations, nursing homes, and installations which produce, use, or store hazardous materials or hazardous waste.

(17) “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

(18) “Elevation certificate” means the official form (FEMA Form 086-0-33) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by community officials.

(19) “Emergent wetland” means a wetland with at least 30 percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative stratum.

(20) “Endangered species” means any flora or fauna native to Washington that are seriously threatened with extinction throughout all or a significant part of their ranges within the state.

(21) “Enhancement” means actions performed to improve the condition of an existing degraded wetland or buffer so that the functions provided are of a higher quality.

(22) “Erosion hazard areas” means those areas containing soils that, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program, may experience significant erosion.

(23) “Exotic” means any species of plants or animals that are not native to the watershed.

(24) “Fish and wildlife habitat conservation areas” means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and that, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors, and areas with high relative population density or species richness. These areas may also include locally important habitats and species. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

(25) “Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(26) “Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(27) “Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles and the water surface elevation of the base flood.

(28) “Flood protection elevation” means one foot above the base flood elevation.

(29) “Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. For areas of special flood hazard studied in detail, the floodway boundary is delineated upon the flood insurance rate maps. In all other areas of special flood hazard, the floodway boundary shall be determined by the use of other base flood data.

(30) “Floodway fringe” shall mean the land between the boundary of the floodway and the limits of the 100-year floodplain. In those special flood hazard areas where the floodway boundary is not delineated upon flood insurance study maps, the floodway fringe area shall be determined by the use of other base flood data, as described in LCMC 18.300.090(3)(p)(iii).

(31) “Floor (lowest)” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.

(32) “Forested wetland” means a wetland with at least 30 percent of the surface area covered by a canopy of woody obligate, facultative wet, or facultative plants greater than 20 feet in height.

(33) “Frequently flooded” means a flooding class in which flooding is likely to occur often under normal weather conditions (more than 50 percent chance of flooding in any year or more than 50 times in 100 years).

(34) “Functions” means the beneficial roles served by wetlands including the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provision of significant habitat areas for fish and wildlife.

(35) “Geologically hazardous areas” means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development without submission of a critical area report and approval of a critical areas permit consistent with public health or safety concerns.

(36) “Habitat” means the environment occupied by individuals of a particular species, population or community.

(37) “Hazardous materials” means those substances, debris, and waste that are a physical or health hazard, and chemical substances that are ignitable, corrosive, reactive or toxic, consistent with Chapter 173-303 WAC and the International Fire Code, as amended.

(38) “Hazard tree” means any tree that in the opinion of the responsible official; an expert approved by the city (a professional forester, arborist, or landscape architect); or a similar expert employed by another public agency or utility, has a strong likelihood of causing a hazard to life or property.

(39) “Headwaters” means springs, lakes, ponds, or wetlands providing significant sources of water to a stream.

(40) “High intensity land use” means roadways, commercial, industrial, multifamily, and residential (more than one unit per acre) land uses.

(41) “Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the U.S. Army Corps of Engineers Wetlands Delineation Manual and Western Mountains, Valleys, and Coast regional supplement (2010).

(42) “Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the wetlands delineation manual and regional supplement.

(43) “Intermittent stream” means surface streams with no measurable flow during 30 consecutive days in a normal water year.

(44) “JARPA” means Joint Aquatics Resource Permit Application.

(45) “Landslide hazard areas” means areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These factors include any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Landslide hazard areas include, at a minimum, the following:

(a) Areas of historic failures, such as:

(i) Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for developing a building on the site; or

(ii) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or the Washington Department of Natural Resources.

(b) Areas with all three of the following characteristics:

(i) Slopes steeper than 15 percent;

(ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(iii) Springs or groundwater seepage.

(c) Areas that have shown movement during the Holocene Epoch (from 10,000 years ago to the present), or which are underlain or covered by mass wastage debris of this epoch;

(d) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(e) Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;

(f) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;

(g) Areas that show evidence of, or are at risk for, snow avalanches;

(h) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

(i) Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

(46) “Local habitat area” means an area that contains sufficient food, water, or cover for native terrestrial or aquatic species that the city of La Center has identified in this chapter as being of significant local concern.

(47) “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.

(48) “Listed species” are state-listed species including native flora and fauna species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011) or sensitive (WAC 232-12-011); and include threatened and endangered species under the Federal Endangered Species Act, 50 CFR 17.11 and 17.12.

(49) “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” does not include a recreational vehicle including

park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

(50) “Minimizing impacts to wetlands or buffers” means:

(a) Using appropriate and best available technology or best available science;

(b) Taking affirmative steps to avoid or reduce impacts;

(c) Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;

(d) Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities;

(e) Not jeopardizing the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington.

(51) “Mitigation area” is the land area used to compensate for impacts to critical areas and/or their attendant buffers. Compensation may be for loss of acreage and/or functions of the critical area and/or attendant buffers.

(52) “Mitigation sequence” is the order of action that the approving agency shall require so as to avoid or compensate for impacts to critical areas resulting from the proposed project activity. The type(s) of mitigation required shall be considered and implemented, where feasible, as determined by the city, in the following sequential order of preference:

(a) Avoiding the impact by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

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

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

(e) Compensating for the impact by replacing or providing substitute resources or environments; or

(f) Monitoring the impact and taking appropriate corrective measures to achieve the identified goal.

(53) “Native,” when referring to plants or plant communities, means those species or communities that are indigenous to the watershed, including extirpated species.

(54) “New construction” means structures for which the “start of construction” commenced on or after the effective date of this title.

(55) “Normal water year” means a 12-month period (October 1st through September 30th) with average precipitation based upon data from the past 50 years.

(56) “Obligate,” “facultative wet,” “facultative,” and “facultative upland” refer to groupings of plants according to their frequency of occurrence in wetlands and uplands. Obligate (OBL) wetland plants almost always occur in wetlands under natural conditions. Facultative (FAC) plants are equally likely to occur in wetlands or non-wetlands. Facultative wet (FACW) plants usually occur in wetlands, but may occur in non-wetlands. Facultative upland (FACU) plants usually occur in non-wetlands, but may occur in wetlands. Such groupings are more fully defined in the wetlands delineation manual.

(57) “Open water,” when not specifically defined by the rating criteria, means lacking trees, shrubs, persistent emergents, emergent mosses or lichens with greater than 30 percent areal coverage and the water depth exceeds two meters or six and six-tenths feet at low water.

(58) “Ordinary high water line” or “OHWL” means the mark on the shores of all water 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 ordinary years, as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining freshwater is the elevation of the mean annual flood (WAC 220-660-030(108)).

(59) “Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local governmental unit however designated.

(60) “Preservation (protection/maintenance)” means removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, repairing water control structures or fences, or structural protection such as repairing a barrier island. Preservation does not result in a gain of wetland acres, may result in a gain in functions, and will be used only in exceptional circumstances.

(61) “Priority habitat” is a habitat type with unique or significant value to many species. An area identified and mapped as priority habitat has one or more of the following attributes: comparatively high fish and wildlife density, comparatively high fish and wildlife species diversity, important fish and wildlife breeding habitat, important fish and wildlife seasonal ranges, limited availability, high vulnerability to habitat alteration, or unique or dependent species. The Washington State Department of Fish and Wildlife maintains a list of maps and priority species that occur within the state and La Center.

(62) “Priority species” are fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation. The Washington State Department of Fish and Wildlife maintains a list of priority species that occur within the state and La Center.

(63) “Qualified wetland professional” generally means a person with at least two years of full-time professional experience and comprehensive training in wetlands issues, including experience performing wetland delineations using state and federal manuals, assessing wetland functions and values, analyzing wetland impacts, preparing wetland reports, developing and implementing mitigation plans, and recommending and designing wetland mitigation projects.

(64) “Recreational vehicle” means a vehicle that is:

(a) Built on a separate chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection;

(c) Is designed to be self-propelled or permanently towable by a light duty truck; and

(d) Is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(65) “Regulated activities” include land clearing, grading, placement of fill or waste material, removal of protected native vegetation, construction and other habitat-altering activities.

(66) “Restoration” means the manipulation of physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. Restoration is divided into the following two classes:

(a) Reestablishment, which is the manipulation of physical, chemical or biological characteristics with the goal of returning natural or historic functions to a former wetland. This results in a net gain of wetland acres.

(b) Rehabilitation, which is the manipulation of physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. This results in the gain in wetland function but does not result in a gain in wetland acres.

(67) "Review authority" means the decision maker that issues the final land use order, not the appeal authority.

(68) "Riparian habitat area" is defined as an area adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contain elements of both aquatic and terrestrial ecosystems which mutually influence each other.

(69) "Scrub-shrub wetland" means a wetland with at least 30 percent of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

(70) "Seismic hazard areas" means areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis.

(71) "Sensitive species" are flora and fauna species native to Washington that are vulnerable or declining, and are likely to become endangered or threatened in a significant portion of their ranges within the state, without cooperative management or the removal of the threats.

(72) "SEPA" means State Environmental Policy Act, Chapter 42.21C RCW and Chapter 197-11 WAC.

(73) "Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement of a manufactured home on a foundation, or other permanent construction beyond the stage of excavation, was within 180 days of the permit date.

(a) The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

(b) Permanent construction does not include:

(i) Land preparation, such as clearing, grading and filling;

(ii) Installation of streets and/or walkways;

(iii) Excavation for a basement, footings, piers, or foundation or the erection of temporary forms;

(iv) Construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(c) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(74) "Stormwater management facilities" include biofiltration swales, filter strips, bubbler diffusers, detention ponds, retention ponds, wet ponds, and similar facilities designed and intended to control and treat stormwaters, but not including ditches designed and intended primarily for conveyance.

(75) "Streams" means those areas where surface waters produce a defined channel or bed excluding streams and lakes regulated under the State Shorelines Management Act.

(76) "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner and that requires location on the ground, or which is attached to something having a location on the ground.

(77) “Substantial damage” means damage of any origin sustained by a structure whereby the costs of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(78) “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

(a) Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(79) “Threatened” species are native to the state of Washington and likely to become endangered in the foreseeable future throughout a significant portion of its range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 232-12-011.

(80) “Triggering application” means an application for one of the permits or approvals listed in this chapter.

(81) “Water-dependent” means a use or a portion of a use that requires direct contact with the water and cannot exist at a nonwater location due to the intrinsic nature of its operations.

(82) “Watershed” means an area draining to the East Fork of the Lewis River.

(83) “Waters of the state” shall be construed to include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington.

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

(85) “Wetland classes and subclasses” means descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978; Federal Geographic Data Committee 2013).

(86) “Wetlands delineation manual” means the Corps of Engineers Wetlands Delineation Manual, dated 1987, and the Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Western Mountains, Valleys and Coast Region (Version 2.0), dated 2010, and as subsequently amended. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.040 Applicability and critical areas map.

(1) Applicability. The provisions of this chapter apply to lands within the La Center corporate limits and urban growth area that are either designated as critical areas and their buffers on the city’s official critical areas maps, or are critical areas and buffers which are identified as part of a project specific application and land use review.

(a) Properties containing critical areas are subject to this title.

(b) Buffers are protected and impacts to buffers are regulated to help improve the functional values of critical areas.

(c) When the requirements of this chapter are more stringent than those of other La Center codes and regulations, the requirements of this chapter shall apply.

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

(2) Critical Areas. Critical areas include:

(a) Wetlands;

(b) Category I and II aquifer recharge areas;

(c) Wellhead protection areas;

(d) Fish and wildlife habitat conservation areas;

(e) Frequently flooded areas;

(f) Geologically hazardous areas; and

(g) Slopes with a gradient of 25 percent or greater.

(3) Map Location. The general location of critical areas is depicted on the adopted La Center critical areas map. The critical areas map is an indicator of probable regulated areas. The precise limits of critical areas and their attendant buffers on a particular parcel of land shall be determined by a qualified professional prior to approval of a development action on the subject property.

(4) Use of Existing Procedures and Laws. The following laws and procedures shall be used to implement this chapter:

(a) La Center Municipal Code (LCMC). Development activity regulated under this title that will occur within a protected critical area or critical area buffer shall comply with the provisions of this chapter.

(b) The State Environmental Policy Act (SEPA), Chapter 43.21C RCW. Development activity that is likely to have a significant adverse impact upon identified critical areas regulated by this chapter shall not be categorically exempt from SEPA review and shall demonstrate compliance with this chapter. (See LCMC 18.310.235.)

(c) The Shorelines Management Act (SMA), Chapter 90.58 RCW.

(5) State and Federal Agency Review. Regulated activities subject to this chapter shall be routed to appropriate state and federal agencies for review and comment as required through the SEPA and/or JARPA review process.

(6) Applicability by Activity. Table 18.300.040 establishes the level of review required for uses or activities under this title.

(a) Exempt (E). Activities or uses that are exempt require no review and do not need to meet the standards of this chapter.

(b) Review Required (RR). Activities and uses that are categorized as “Review Required” must comply with the standards of this chapter but no special report is needed. Determination of compliance with this chapter shall be determined through the review process required for the underlying development permit application.

(c) Critical Area Report (CAR). When a critical area report is required, the applicant must submit a report consistent with this chapter and with the underlying development application and will submit additional application fees consistent with the adopted fee schedule.

(d) The director shall have the discretion to determine whether the proposed activity may adversely impact protected critical areas and/or their buffers and shall assign the appropriate level of review: exempt, review required, or critical area report. The decision of the director may be appealed to the hearings examiner.

(e) Critical Aquifer Recharge Area (CARA). See LCMC 18.300.090(1)(a)(ii) for a list of uses prohibited in a CARA I area. The director shall exercise discretion to determine whether similar uses not listed therein require additional review and oversight.

Table 18.300.040

USE/ACTIVITY	Development located in any of the following critical areas may be exempt (E), require review (RR), or subject to a critical area report (CAR):			
	WETLAND	**FISH AND WILDLIFE HABITAT**	**GEOLOGIC HAZARDOUS AREA**	**FREQUENTLY FLOODED AREA**
RESIDENTIAL ACTIVITIES				
Construction, replacement, expansion, or alteration of a single-family dwelling unit in a residential zoning district exceeding 1,000 square feet of impact in a buffer or any impacts in a critical area	CAR	CAR	CAR	CAR
Repair, alteration, replacement or expansions of existing single-family structures within a buffer limited to 1,000 square feet during the life of the structure	RR	RR	CAR	RR
Approved multifamily site plan prior to 2004	RR	RR	RR	RR
Multifamily site plan within critical area or buffer	CAR	CAR	CAR	CAR
Multifamily site plan outside of and that does not impact a critical area or buffer including from stormwater runoff	E	E	E	E
Interior or exterior alteration or repair that does not change the footprint of the building or does not increase the footprint within a critical area or buffer	E	E	E	E
COMMERCIAL AND INDUSTRIAL ACTIVITIES				
New construction on vacant land in critical area or buffer	CAR	CAR	CAR	CAR
New construction previously approved prior to adoption of the ordinance codified in this chapter	E	E	E	E
New construction on vacant land outside critical areas or buffer	E	E	E	E
OTHER ACTIVITIES				
Repair, alteration, replacement or expansions of existing structures within a critical area buffer limited to 500 square feet during the life of the structure	E	E	CAR	E
Expansions of existing structures within a critical area buffer exceeding 500 square feet	CAR	CAR	CAR	CAR
Clearing, filling, grading, and native vegetation removal activities within a critical area or buffer	CAR	CAR	CAR	CAR
Forest practices except conversions	E	E	E	E

USE/ACTIVITY	Development located in any of the following critical areas may be exempt (E), require review (RR), or subject to a critical area report (CAR):			
	WETLAND	**FISH AND WILDLIFE HABITAT**	**GEOLOGIC HAZARDOUS AREA**	**FREQUENTLY FLOODED AREA**
Emergencies[1]	E	E	E	E
Repair of existing: structures, infrastructure improvements, utilities, public or private roads or drainage systems in critical areas or buffers	E	E	E	E
Developments that do not impact a critical area or buffer including from runoff	E	E	E	E
Public facilities and services identified on the CFP such as road, sewer and water infrastructure, power lines, and gas lines, located in previously unimproved areas	CAR	CAR	CAR	CAR
Public improvement projects located within existing impervious surface areas or improved rights-of-way or easements	E	E	CAR	E
Memorandums of agreement with utility service providers and public agencies under an approved critical areas permit	RR	RR	CAR	RR
Activities by utility service providers or public agencies subject to a memorandum of agreement	E	E	E	E
Chemical applications subject to applicable local, state or federal handling and application requirements	E	E	E	E
Minor site investigative work, up to 10 cubic yards of fill or removal or removal of trees of six-inch dbh or less	E	E	E	E
Hand removal of invasive weeds and blackberries	E	E	E	E
Walkways and trails located in the outer 25 percent of a wetland or riparian buffer	RR	RR	CAR	RR
Walkways and trails located in the inner 75 percent of a wetland or riparian buffer	CAR	CAR	CAR	CAR
Select removal of hazard trees and vegetation when necessary to comply with fire codes	RR	RR	RR	RR
Construction of fences in a critical area or buffer	RR	RR	RR	RR
Vegetation removal and maintenance activities inside existing landscaped areas on lots that predate adoption of this chapter (other than removal of trees greater than six-inch dbh)	E	E	E	E

[1] Emergencies: See LCMC 18.300.070. Within one week of substantially completing the emergency work, the party responsible for the emergency activity shall file a report with the planning director demonstrating compliance with this chapter.

[Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.050 Allowed uses with critical areas review or permit.

(1) Unless the requirements of this chapter are met, La Center shall not grant any approval or permission to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement regulated through the following: building permit, commercial or residential; binding site plan; franchise right-of-way construction permit; site development permit; right-of-way permit; shoreline permit; short subdivision; use permit; subdivision; utility permit; or any subsequently adopted permit or required approval not expressly exempted by this chapter.

(2) Compliance with these regulations does not remove an applicant's obligation to comply with applicable provisions of any other federal, state, or local law or regulation.

(3) The city may approve uses listed in subsection (4) of this section, Allowed Uses, subject to a Type II process, if the proposed development activity meets the standards in LCMC 18.300.110, Development standards, and LCMC 18.300.120, Mitigation.

(4) Allowed Uses. The city may allow the following uses on critical areas and within buffer areas subject to the development standards of LCMC 18.300.110 and appropriate mitigation standards as described in LCMC 18.300.120:

(a) Walkways and trails. Walkways and trails may be permitted in a wetland or riparian buffer with review; provided, that they are generally parallel to the perimeter of the wetland or stream, are located in the outer 25 percent of the buffer area, are constructed with a surface that does not interfere with soil permeability, and their surface is no more than five feet wide. The design and construction of walkways and trails shall avoid impacts to established native woody vegetation. Raised boardwalks using nontreated materials are acceptable. Walkways and trails may be located in the inner 75 percent of a wetland or riparian buffer or crossing a stream or wetland, provided there is no alternative location in the outer buffer area, and shall be minor crossings that minimize impact with approval of a critical areas permit. Wetland or riparian buffer widths shall be increased to compensate for the loss due to the width of the trail.

(b) Below or aboveground utilities, facilities and improvements, where necessary to serve development consistent with the La Center comprehensive plan and development code, including: streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, open space, and parks and recreational facilities, where there is no other reasonable alternative, based on topographic and environmental conditions, as determined by the director.

(c) Removal of diseased or dangerous trees, as determined by the director of public works, or the removal of invasive or nuisance plants.

(d) Construction, replacement, expansion, or alteration of a single-family dwelling unit in a residential zoning district exceeding 1,000 square feet of impact in a buffer or any impacts in a critical area requires a Type II critical areas permit with critical area report. The construction, replacement, expansion or alteration must conform with the height regulations, lot coverage and dimension standards, and other design provisions for the zone in which the residence is located. The dwelling unit shall be used solely for single-family purposes. The city may modify underlying zoning district dimensional standards applicable by up to a 50 percent adjustment, if necessary to protect critical areas. The following requirements must be met:

(i) There is no alternate location for the single-family residence and ordinary residential improvements on the subject property outside the critical area or buffer;

(ii) All new structures on the subject property are constructed in areas that will minimize disruption to the critical area and buffer;

(iii) Impacts to the critical area or buffer from the development are mitigated and restored to the maximum extent possible;

(iv) When necessary to ensure the effectiveness of mitigation or restoration, the city 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;

(v) The construction and use of the single-family residence and ordinary residential improvements are consistent with all other applicable law, including, but not limited to, the La Center Municipal Code.

(vi) Low impact development techniques that allow for a greater amount of stormwater to infiltrate into the soil should be encouraged to reduce runoff; and

(vii) All development activities on the subject property are consistent with a site development plan approved by the city, which may include requirements to reduce the impact on the critical area and buffer from the construction and use of the single-family residence and ordinary residential improvements.

(e) Existing agricultural practices on lands used continuously for agricultural purposes since December 31, 1994. Allowed agricultural practices include: pasture, vineyards, Christmas tree farms, gardens, etc., but do not include machine intensive row crop production. Best management practices shall be required.

(5) Limited Uses. Limited uses, as described in this section, shall avoid critical areas, to the greatest extent reasonable and practicable. Limited uses may be allowed within critical area buffers subject to the mitigation measures and implementation of a monitoring plan as described in LCMC 18.300.120. Applications for development within critical areas or buffers shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas and buffers. All limited uses shall be consistent with the provisions of this chapter and shall be subject to SEPA review.

(a) Subdivision or Short Plat. The subdivision or short plat process may be used when provisions are made (e.g., avoidance, mitigation, dedication of land or conservation easements) that substantially minimize adverse effects upon critical areas.

(b) Development Subject to Site Plan Review. Any new building or structure affecting critical areas or buffers shall be subject to site plan review, unless otherwise exempted in this chapter.

(c) Stormwater Facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, runoff treatment or flow control BMP if all of the following criteria are met:

(i) The wetland is classified as a Category IV or a Category III wetland with a habitat score of three to five points; and

(ii) There will be "no net loss" of functions and values of the wetland;

(iii) The wetland does not contain a breeding population of any native amphibian species;

(iv) The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the "Guide for Selecting Mitigation Sites Using a Watershed Approach," (Department of Ecology Publication No. 09-06-032, December 2009); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a shoreline master program or other local or regional watershed plan;

(v) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing;

(vi) All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits; and

(vii) Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

~~**18.300.060 Variances.**~~

~~(1) An applicant who seeks to vary from the requirements of this chapter may seek a variance pursuant to this section. The city shall review a request to vary from the requirements of this chapter through a Type III review process.~~

~~(2) An application to vary from the requirements of this chapter shall demonstrate compliance with all of the following criteria:~~

~~(a) There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to other properties;~~

~~(b) The variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property, but which because of special circumstances is denied to the property in question;~~

~~(c) Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvement;~~

~~(d) Granting the variance will not violate, abrogate, or ignore the goals, objectives, or policies of the La Center comprehensive plan;~~

~~(e) In addition to the approval criteria above, an application to vary from the buffer requirements of a fish habitat conservation area or riparian area shall demonstrate that the requested buffer width modification preserves adequate vegetation to:~~

~~(i) Maintain proper water temperature;~~

~~(ii) Minimize sedimentation; and~~

~~(iii) Provide food and cover for critical fish and wildlife species;~~

~~(f) When granting a variance, the city may attach specific conditions to the variance that will serve to meet the goals, objectives, and policies of this chapter, including the preparation and implementation of a mitigation and monitoring plan consistent with LCMC 18.300.120. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]~~

18.300.070 Exemptions.

(1) Exempt Activities in All Critical Areas. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements, and a written request for exemption has been filed with and approved by the planning director:

(a) Developments that propose no impact to a critical area or buffer.

(b) The director shall have the authority to negotiate memoranda of agreements with utility service providers or public agencies, and said agreements shall specify best management practices (BMPs) to be used in situations of emergency and usual and customary repair, which, if rigorously adhered to, may exempt said emergency or repair activity, including routine operation and maintenance, from further review under this chapter. Memoranda of agreements shall be authorized by the La Center city council only after notice and completion of a public hearing on the full terms and merits of the agreement.

(c) Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity. Following the emergency appropriate mitigation shall be implemented and permanent activities, installations or impacts are subject to review and compliance with the applicable standards.

(i) Authorization. Notwithstanding the provisions of this chapter, the planning director may issue a temporary emergency permit prospectively or, in the case of imminent threats to public health, safety or welfare, retroactively, where the anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by the Act and other applicable laws.

(ii) Prior to issuing an emergency permit, the planning director shall issue a finding that extraordinary circumstances exist and that the potential threat to public health, safety or welfare from the emergency situation is clearly significant and substantial.

(iii) Conditions. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for nonemergency activities under this Act and shall:

(A) Be limited in duration to the time required to complete the authorized emergency activity, not to exceed 90 days; and

(B) Require, within this 90-day period, the restoration of any wetland altered as a result of the emergency activity, except that if more than 90 days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration.

(C) Within one week of substantially completing the emergency work, the party responsible for the emergency activity shall file a report with the planning director demonstrating compliance with this chapter.

(iv) Notice. Notice of issuance of an emergency permit shall be published in a newspaper having general circulation in the city of La Center not later than 10 days after issuance of such permit.

(v) Termination. The emergency permit may be terminated at any time without process upon a determination by the city that the action is no longer necessary to protect human health or the environment.

(d) Repair, alteration, replacement, or expansion of an existing structure and related improvements. Structures and related improvements may continue to exist in their present form and may be altered; this includes remodel, reconstruction, or expansion, if such alteration complies with the following:

(i) The expansion of the structure's footprint is outside a landslide hazard area or landslide hazard area buffer unless required for safety or seismic upgrades;

(ii) Any expansion of the structure's footprint is located only within a critical area buffer. No expansion of the footprint is allowed within a wetland or fish and wildlife habitat conservation area;

(iii) Cantilevers over critical areas are not allowed;

(iv) The expansion of the structure's footprint at ground level does not exceed 500 square feet;

(v) Any expansion of the structure's footprint is no closer to the critical area than its existing footprint; and

(vi) If a building is harmed or destroyed by more than 90 percent of its valuation exclusive of foundations, the building must be reconstructed in compliance with the requirements of this chapter.

(e) Repair. Repair or replacement of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees or drainage systems, including operation and maintenance of existing facilities, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed maintenance or repair.

(f) Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, WAC Title 222, and those that are exempt from La Center's jurisdiction; provided, that forest practice conversions are not exempt.

(g) Activities within the Improved Public Right-of-Way or Recorded Easement. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or recorded easement, or a city-authorized private roadway except those private activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater.

(h) Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary; provided, that their use shall be restricted in accordance with Department of Fish and Wildlife Management recommendations, the Washington State Department of Ecology, and the regulations of the Department of Agriculture and the U.S. Environmental Protection Agency.

(i) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

(j) Boundary Markers. Construction or modification of boundary markers or fences.

(k) Construction and modifications to existing structures that do not increase the footprint of the structure.

(l) The removal of the following vegetation with hand labor and light equipment, and vegetation removal that is a hazard to electrical power lines with hand-held and walk-beside equipment such as mowers and weed eaters in compliance with the provisions contained in the ANSI A300 (Part 1) guidelines, including, but not limited to:

(i) Invasive nonnative weeds;

(ii) English ivy (Hedera helix);

(iii) Himalayan blackberry (Rubus armeniacus); and

(iv) Evergreen blackberry (Rubus laciniatus).

(m) Emergency or hazard tree removal conducted so that habitat impacts are minimized.

(n) Public improvement projects located within existing impervious surface areas.

(o) Public agency and utility exemption. If application of this chapter would prohibit development or other alteration by a public agency or public utility, the agency or utility may apply for an exemption pursuant to this section. The request shall be supplemented with an explanation as to how the public agency and utility exception criteria below are satisfied. The administrator may require additional information or studies to supplement the exemption request. To qualify for an exception the agency or utility must demonstrate that:

(i) There is no other practical alternative to the proposed development that has less impact on critical areas;

(ii) The application of this chapter would unreasonably restrict the ability to provide needed services or benefit to the public;

(iii) The proposed use does not pose a threat to the public health, safety, or welfare;

(iv) The proposal protects critical area functions and values to the extent feasible and provides for mitigation in accord with the provisions of this chapter; and

(v) The proposal is consistent with other applicable regulations and standards.

(2) Exemption Request and Review Process. The proponent of the activity shall submit a completed exemption request form to the building official that describes the activity and states the exemption listed in this section that applies. The director shall review the exemption request to verify that it complies with this chapter and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the department and the requesting party notified. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this chapter. Determinations shall be considered a Type I process pursuant to LCMC 18.30.080 and subject to appeal pursuant to LCMC 18.30.130.

(3) Exempt Activities Shall Minimize Impacts to Critical Areas. All exempted activities shall use reasonable methods to avoid potential adverse impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

~~**18.300.080 Reasonable economic use exception.**~~

~~(1) Reasonable Economic Use Exceptions. The following exceptions shall apply. The city shall apply the standards of this chapter to the maximum extent practicable to avoid and minimize adverse impacts on the functions and values of critical areas and buffers. Mitigation of impacts, consistent with this chapter, is required.~~

~~(2) General Requirements.~~

~~(a) Except when application of this chapter would deny all reasonable economic use of a lot, an applicant who seeks a modification from the regulations of this chapter may pursue a variance as provided in LCMC 18.300.060, Variances, and consistent with the requirements of this section.~~

~~(b) The mayor or his or her designee shall prepare and maintain application forms necessary to implement this section.~~

~~(3) Application Requirements.~~

~~(a) Preliminary Review. The provisions for conducting a preliminary review of a proposed reasonable economic use exception are set forth in this section.~~

~~(b) Regulations – General Provisions – Application Filing.~~

~~(i) Reasonable economic use exception applications shall be reviewed for completeness in accordance with city submittal standards checklists and pursuant to LCMC 18.30.050.~~

~~(ii) An applicant for a development proposal may file a request for a reasonable economic use exception which shall include the following information:~~

~~(A) A description of the areas of the site which are critical areas or within setbacks required under this title;~~

~~(B) A description of the amount of the site which is within setbacks required by other standards of this title;~~

~~(C) A description of the proposed development, including a site plan;~~

~~(D) An analysis of the impact that the amount of development described in subsection (3)(b)(ii)(C) of this section would have on the critical area(s);~~

~~(E) An analysis of whether any other reasonable economic use with less impact on the critical area(s) and associated buffer(s) is possible;~~

~~(F) A design of the proposal so that the amount of development proposed as reasonable economic use will have the least impact practicable on the critical area(s);~~

~~(G) An analysis of the modifications needed to the standards of this chapter to accommodate the proposed development;~~

~~(H) A description of any modifications needed to the required front, side, and rear setbacks; building height; and buffer widths to provide for a reasonable economic use of the site while providing greater protection to the critical area(s); and~~

~~(I) Such other information as the city determines is reasonably necessary to evaluate the issue of reasonable economic use as it relates to the proposed development.~~

~~(4) Public Review.~~

~~(a) The city shall process a request for a reasonable economic use exception as a Type III procedure pursuant to LCMC 18.30.100.~~

~~(b) The city shall forward a copy of a request for reasonable economic use exception to the state and federal agencies with jurisdiction over the resource at issue and to all property owners within 300 feet of the subject property.~~

~~(c) The city shall provide public notice of the request for reasonable economic use exception pursuant to LCMC 18.30.120.~~

~~(d) A party shall appeal a final decision of a request for reasonable economic use exception pursuant to LCMC 18.30.130.~~

~~(5) Reasonable Economic Use Approval Criteria. The hearings examiner shall approve a reasonable economic use exception if the examiner determines the following criteria are met:~~

~~(a) There is no other reasonable economic use or feasible alternative to the proposed development with less impact on the critical area(s);~~

~~(b) The proposed development does not pose a threat to the public health, safety, or welfare on or off the site;~~

~~(c) Any alteration of the critical area(s) shall be the minimum necessary to allow for reasonable economic use of the property;~~

~~(d) The proposed development will not result in a "take" of a threatened or endangered species;~~

~~(e) The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of the ordinance codified in this chapter; and~~

~~(f) The proposal mitigates the impacts on the critical area(s) while still allowing reasonable economic use of the site. The applicant shall prepare and implement a mitigation and monitoring plan consistent with LCMC 18.300.120. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]~~

18.300.090 Critical lands.

(1) Critical Aquifer Recharge Areas. Due to the exceptional susceptibility and/or vulnerability of groundwaters underlying aquifer recharge areas to contamination and the importance of such groundwaters as sources of public water supply, it is the intent of this chapter to safeguard groundwater resources by mitigating or precluding future discharges of contaminants from new land use activities. The provisions of this chapter shall apply to regulated activities specified herein within those portions of the La Center UGA classified as Category I aquifer recharge areas.

(a) Category I Aquifer Recharge Areas (CARA I). For purposes of this chapter, critical aquifer recharge areas include lands within the 10-year zone of contribution around wellheads, as shown on the La Center critical areas map. Category I CARAs are subject to the following prohibitions:

(i) Development, other than the maintenance of vegetation, shall be prohibited within 50 feet of any wellhead within the UGA.

(ii) The following uses are prohibited in Category I aquifer recharge areas:

(A) Landfills;

(B) Class V injection wells: (I) agricultural drainage wells; (II) untreated sewage waste disposal wells; (III) cesspools; (IV) industrial process water and disposal wells; and (V) radioactive waste disposal;

(C) Radioactive disposal sites; and

(D) Surface mining operations.

(b) Storage Tank Permits. The Clark County fire marshal regulates and authorizes permits for underground storage tanks, pursuant to the Uniform Fire Code (Article 79) and this chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (Chapter 173-360 WAC).

(i) Facilities with Underground Tanks – New Underground Tanks.

(A) All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

(I) Prevent releases due to corrosion or structural failure for the operational life of the tank;

(II) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and

(III) Use material in the construction or lining of the tank that is compatible with the substance to be stored.

(ii) Aboveground Tanks.

(A) No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the ground, groundwaters, or surface waters of La Center within a CARA I.

(B) For a tank that will contain a hazardous substance, no new aboveground tank or part thereof shall be fabricated, constructed, installed, used, or maintained without having constructed around and under it an impervious containment area enclosing or underlying the tank or part thereof.

(C) A new aboveground tank that will contain a hazardous substance will require a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks located within an aquifer recharge area. The secondary containment system or dike system must be designed and constructed to contain the material stored in the tank(s).

(c) The applicant shall demonstrate, through the land use approval process, that the proposed activity will not have any adverse impacts on groundwater in critical aquifer recharge areas, based on the Safe Drinking Water Act and the Wellhead Protection Area Program, pursuant to Public Water Supplies, Chapter 246-290 WAC; Water Quality Standards for Groundwaters of the State of Washington, Chapter 173-200 WAC; and Dangerous Waste Regulations, Chapter 173-303 WAC.

(d) Level 1 Hydrogeological Reports Required. Unless the city of La Center waives one or more of the informational requirements listed below, nonexempt applications for activities undertaken in a Category I CARA must complete a Level 1 hydrogeological report containing these items:

(i) A site development plan that shows the entire parcel of land owned by the applicant, and the features of the parcel that are relevant to groundwater source protection, including but not limited to:

(A) The exact boundary and description of wellhead protection areas, including the source well and sanitary control area, if applicable;

(B) The locations of susceptible soils on the site;

(C) Groundwater contours indicating the direction of shallow groundwater flow, shown in relation to the wellhead and its wellhead protection area if applicable, and existing and proposed stormwater facilities;

(D) Any existing well(s) on site, whether in use or abandoned;

(E) All potential sources of soil or groundwater contamination on the site; and

(F) The locations of proposed temporary construction dewatering wells or other resource protection wells.

(ii) A description of the proposed use of the site, and descriptions of the types and quantities of hazardous materials that would be used or stored on the site, including fuels and fuels associated with mechanical equipment and retail products.

(iii) Descriptions of how the engineering design and planned operation and maintenance of the project will mitigate impacts to groundwater quality and quantity at the development site. The descriptions shall also identify how the characteristics of the site, such as soils and geology, limit the mitigation of impacts to site development.

(e) Level 2 Hydrogeological Reports Required. A Level 2 hydrogeological report shall be required by the city for a project located in a Category I CARA if:

(i) There is insufficient hydrogeological information provided in the Level I report to perform an adequate review to assure aquifer protection; or

(ii) The project is likely to possess, store, use, transport, or dispose of hazardous materials.

(f) Hydrogeological reports shall be prepared, signed, and dated by a professional who is licensed in the state of Washington in hydrogeology or geology.

(g) The report shall identify and characterize the aquifer recharge area as it relates to the development site and assess the impacts of the development proposal on the aquifer, and assess the impacts of any alteration proposed for the aquifer recharge or wellhead protection area.

(h) The Level 2 hydrogeological report shall contain the information required by the Level 1 report and the following:

(i) Information sources;

(ii) Site geology and hydrostratigraphy, supported by well logs or borings;

(iii) Available data on wells and springs located within one-quarter mile of the site;

(iv) Location and depth of perched water tables;

(v) Groundwater elevations, flow direction, and gradient;

(vi) Recharge potential of the site, including aquifer permeability and transmissivity;

(vii) Background water quality;

(viii) Identification of all hazardous materials to be used or stored on the site;

(ix) Analysis of the increase or change in nitrate concentrations predicted to occur in groundwater beneath the site as a result of the project;

(x) A description of site conditions prior to project development, including vegetation and other conditions relating to existing and historic groundwater recharge at the site;

(xi) An analysis of site conditions as they are likely to exist during and after construction of the proposed project, and their cumulative impacts on groundwater quantity and quality;

(xii) Discussion of proposed mitigation measures to minimize impacts to groundwater quality and quantity, including training, maintenance and monitoring plans, and the mechanisms and financial measures that are proposed that will ensure the long-term implementation of mitigation measures; and

(xiii) Any other information as required by the city.

(2) Fish and Wildlife Habitat Conservation Areas.

(a) Identified sensitive fish and wildlife habitat conservation areas shall be preserved or adverse impacts mitigated. Fish and wildlife habitat conservation areas that must be considered for classification and designation include:

(i) Riparian.

(A) Overwhelming evidence exists to support the use of riparian buffers of adequate size to maintain healthy, productive fish and wildlife habitat. Although riparian areas comprise only a small portion of the surface landscape, approximately 90 percent of Washington's land-based vertebrate species prefer, or are dependent upon, riparian habitat for essential life.

(B) Riparian habitat areas may include frequently flooded areas, critical recharge areas and wetlands. Riparian habitat areas are those areas immediately adjacent to waterways that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. WAC 222-16-030, relating to stream classification, shall be the city's classification system for streams.

(ii) Endangered or Threatened.

(A) Areas that have a primary association with federally listed endangered or threatened species of fish or wildlife and which if altered may reduce the likelihood that the species will maintain and reproduce over the long term.

(B) Point locations are the specific sites (nests, dens, etc.) where critical wildlife species are found. Many of these sites have been identified and mapped by the Washington Department of Fish and Wildlife (WDFW). Point locations are lands where species designated as endangered or threatened have a primary association with that land. Development of such lands shall be controlled in accordance with a site-specific fish and wildlife management plan consistent with the WDFW's priority habitats and species management recommendations and prepared by a qualified consultant. The Washington Department of Fish and Wildlife should be consulted to provide a technical review and an advisory role in the decision making process.

(iii) Local Habitat Areas.

(A) Species of local importance are those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

(B) Habitats of local importance include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.

(C) Local habitat areas include those areas specifically identified as local habitat areas on the city's adopted critical areas map and background maps used to prepare the critical areas map.

(I) The city or private citizens may nominate areas for consideration as local habitat areas and for inclusion on the critical areas map.

(II) The applicant shall be responsible for preparing the nomination using city-prescribed forms. The applicant shall pay a processing fee of one percent of the assessed value of the proposed area as zoned at the time of application.

(III) The hearings examiner, through a Type III process, and in reliance upon all best available science in the hearing record, shall make a determination of whether the nominated area qualifies as a local habitat area.

(iv) Priority Habitat Species (PHS) Areas. Areas with which state-listed monitor or candidate species or federally listed candidate species have a primary association, as specified in Washington Department of Fish and Wildlife Policies 4802 and 4803, and which if altered may reduce the likelihood that the species will maintain and reproduce over the long term.

(v) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.

(vi) Waters of the state.

(vii) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

(viii) State natural area preserves, natural resource conservation areas, and state wildlife areas.

(ix) Buffers.

Table 18.300.090(2)(a) – Priority Habitat and Species Buffers

Resource Type	Critical Zone	Protected Buffer
Wildlife Habitat		
Local Habitat	Delineated	Use BAS for species.
Nonriparian Priority Habitat and Species	Delineated	300 feet or threshold based upon consultation with WDFW or through the city's peer review process.[1]
Subject to the ESA	Delineated	Use BAS for species up to 1,300-foot threshold distance.

[1] For example, the city may allow a reduced buffer around a single Oregon white oak tree as a result of consultation with the regulatory agency or as a result of the city peer review process if the important functions and values of the resource will not be significantly diminished as a result of the buffer reduction.

(b) Sources. The city consulted the following sources to identify critical fish and wildlife habitat areas and protective measures:

(i) Water Type Reference Maps, Washington Department of Natural Resources;

(ii) Natural Heritage Data Base, Washington Department of Natural Resources;

(iii) Priority Habitats and Species Program and Priority Habitat Species Maps, Washington Department of Fish and Wildlife;

(iv) Non-Game Data Base, Washington Department of Fish and Wildlife;

(v) Washington Rivers Information System, Washington Department of Fish and Wildlife;

(vi) Water Resource Index Areas (WRIA), Washington Department of Fish and Wildlife;

(vii) Water Crossing Design Guidelines, Washington Department of Fish and Wildlife (2013);

(viii) Stream Habitat Restoration Guidelines, Washington Department of Fish and Wildlife (2012);

(ix) Land Use Planning for Salmon, Steelhead, and Trout, Washington Department of Fish and Wildlife (2011);

(x) Landscape Planning for Washington's Wildlife, Washington Department of Fish and Wildlife (2009);

(xi) Aquatic Habitat Guidelines (2010, 2014), Washington Department of Fish and Wildlife;

(xii) Management Recommendations for Washington's Priority Habitat: Oregon White Oak Woodland Habitat, Washington Department of Fish and Wildlife (1998) and as amended;

(xiii) Management Recommendations for Washington's Priority Habitat: Riparian, Washington Department of Fish and Wildlife (1997); and

(xiv) Field studies performed by qualified natural resource specialists.

(c) Education and Information. A voluntary education program to explain the need for and methods of habitat management may provide for long-term protection and enhancement of critical fish and wildlife habitat areas. By informing citizens about the declining populations of several fish and wildlife species in La Center, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the city can foster good stewardship of the land by property owners.

(i) The city will provide educational materials and lists of additional sources of information to applicants proposing regulated activities in the vicinity of critical fish and wildlife habitat areas. Materials will be selected from a variety of state and local resources.

(ii) The city may accumulate information on the number of proposed activities associated with fish and wildlife habitat areas as identified by this chapter and indicated by state and local governmental maps to be in the vicinity of identified critical fish and wildlife habitats. Information shall include the number of single-family residences and other development occurring in the vicinity of critical fish and wildlife areas. Based on this information, additional regulations could be developed.

(iii) The education and information program is an important adjunct to the implementation of the regulatory provisions of this chapter.

(d) Critical Area Report. A critical area report is required where specifically indicated and when an activity is proposed within a critical area or buffer that is not specifically exempt, or is permitted only with review. Where a critical area report is required, it must:

(i) Be completed by a qualified professional.

(ii) Use scientifically valid and professionally recognized and accepted methods and studies or best available science in the analysis of critical area data and field reconnaissance and refer to the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.

(iii) Minimum Report Contents. At a minimum, the report shall contain the following:

(A) The name and contact information of the applicant, the name and address of the qualified professional who prepared the report, a description of the proposal, and an identification of the permit requested;

(B) A copy of the site plan for the development proposal showing:

(I) Identified critical areas, buffers, and the development proposal with dimensions;

(II) Limits of any areas to be cleared;

(III) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations; and

(IV) General location and types of vegetation;

(C) The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

(D) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;

(E) A statement specifying the accuracy of the report, and all assumptions made and relied upon;

(F) A description of reasonable efforts made to apply mitigation sequencing pursuant to LCMC 18.300.030(52) to avoid, minimize, and mitigate impacts to critical areas;

(G) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with mitigation plan requirements, LCMC 18.300.120, including, but not limited to:

(I) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

(II) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;

(H) A discussion of the performance standards applicable to the critical area and proposed activity;

(I) Financial guarantees to ensure compliance; and

(J) Any additional information required for the critical area as specified in the corresponding chapter.

(iv) Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared, by a qualified professional, for and applicable to the development proposal site, as approved by the director.

(v) The director may waive specific requirements of the critical area reports where less information is required to address the impacts to the critical area adequately or where existing information is on file with the city that addresses the impacts.

(vi) The director may require additional information that is necessary to determine compliance with the standards of this chapter.

(vii) A qualified professional shall be a person who has the education, training, experience, and/or certification that meets the specific requirements to evaluate fish and wildlife habitat.

(e) Best Available Science. Critical area reports and decisions to alter fish and wildlife habitat conservation areas shall rely on the best available science to protect the functions and values of critical habitat areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat. Best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, and that is consistent with criteria established in WAC 365-195-900 through 365-195-925.

(f) Habitat Buffers. Fish and wildlife habitat conservation areas and buffers are assigned to the lands regulated by this section according to Table 18.300.090(2)(a). Development activities are restricted within buffer areas as indicated in Table 18.300.090(2)(f).

Table 18.300.090(2)(f) – Riparian Areas

Fish and Wildlife Habitat Areas RIPARIAN AREAS	Characteristic	Riparian Ecosystem Area (in feet)
Type S (fish bearing)	East Fork of the Lewis River	250
Type F (perennial or fish bearing)	Brezee, Jenny and McCormick Creeks and stream < 5 feet wide, if fish bearing	200
Type Np streams, low mass wasting potential	Less than 3 feet in width on average	150
Type Ns stream, high mass wasting potential	Seasonal streams with a defined channel	75

(i) Water types are defined and mapped based on WAC 222-16-030 or 222-16-031, whichever is in effect on the date of application. While the WAC definitions control, generally, Type S streams include shorelines of the state and have flows averaging 20 or more cubic feet per second; Type F streams are those that are non-Type S but still provide fish habitat; and Type N streams do not have fish habitat and are either perennial (Np) or seasonal (Ns). Erosion gullies or rills, and streams which are manmade, or streams less than six inches wide or not having a defined bed and/or bank are not included.

(g) Buffer Standards.

(i) Building Setback and Construction near Buffer. A minimum setback of 15 feet from the buffer shall be required for construction of any impervious surface(s) greater than 120 square feet of base coverage from the head or toe of a slope where the overall slope is greater than 35 percent. Clearing, grading, and filling within 15 feet of the buffer setback shall be allowed only when the applicant can demonstrate that native vegetation within the buffer will not be damaged. The additional impervious surface setback from the toe and head of a slope may be waived if the applicant demonstrates, by credible evidence, that the proposed impervious surface will not significantly affect the stability of the slope.

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

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

(h) Riparian Area Ecosystem Buffers. Regulated activities proposed along rivers and streams shall provide for habitat protection.

(i) The riparian ecosystem buffer is generally an area of no building, consisting of undisturbed natural vegetation. The buffer shall be required along all streams as classified by the DNR water typing classification system (WAC 222-16-030). The buffer shall extend landward from the ordinary high water line of the water body.

(ii) Land that is located wholly within a riparian ecosystem buffer may not be subdivided.

(iii) Land that is located partially within a riparian ecosystem buffer may be subdivided; provided, that:

(A) New urban residential lots are not platted within riparian ecosystem buffers; and

(B) New lots located outside the riparian buffer must meet the minimum lot size requirements of the city zoning code or the residential density transfer section of this code (LCMC 18.300.130).

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

(i) Mitigation.

(i) Approval. City approval of a mitigation plan is a prerequisite for approval of any development activities within a designated habitat area or habitat buffer.

(ii) Application. The applicant shall submit a written request describing the extent and nature of the proposed development activity on critical areas and buffers. The request shall include boundary locations of all critical areas and associated buffers.

(A) The application for development shall include a mitigation plan prepared in compliance with this section.

(B) The city may require the applicant to prepare special reports evaluating potential adverse impacts upon critical areas and potential mitigation measures as part of the land use application process. These reports may include, but are not limited to, the following: stormwater management plan; hydrology, geology, and soils report; grading and erosion control plan; native vegetation report; fish and wildlife assessment and impact report; water quality report; wetlands delineation; and other reports determined necessary by the city.

(iii) The city may consult with state and federal resource management agencies and, in order to protect wildlife habitat or natural resource values, shall attach such conditions as may be necessary to effectively mitigate identified adverse impacts of the proposed development activity.

(iv) The city may request third party "peer review" of an application by qualified professionals and may incorporate recommendations from such third party reports in findings approving or denying the application.

(v) All reports recommending mitigation shall include provisions for monitoring of programs and replacement of improvements, on an annual basis, consistent with report recommendations and at years one, three, five, seven, and, if mitigation measures will result in reclassification of the resource to a higher category, year 10 shall be required.

(vi) The city may require replacement mitigation to be established and functional concurrent with project construction.

(j) No Net Loss.

(i) Mitigation efforts, when allowed, shall ensure that development activity does not yield a net loss of the area or function, including fish and wildlife habitat values, of the critical area. No net loss shall be measured by:

(A) Avoidance or mitigation of adverse impacts to fish or wildlife; or

(B) Avoidance or mitigation of net loss of habitat functions necessary to sustain fish life; or

(C) Avoidance or mitigation of loss of area by habitat type.

(ii) Mitigation to achieve no net loss should benefit those organisms being impacted.

(iii) Where development results in a loss of habitat area, the mitigation plan shall demonstrate that habitat area is replaced at an equal or greater functional value(s).

(A) Wherever possible, replacement or enhancement shall occur on site.

(B) However, where the applicant can demonstrate that off-site mitigation will provide greater functional values, the city may approve such off-site mitigation.

(k) Mitigation Plan. A mitigation plan shall provide for the design, implementation, maintenance, and monitoring of mitigation measures. A mitigation plan shall include but is not limited to the following:

(i) Methods and techniques to be used to mitigate impacts to the critical area;

(ii) Explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;

(iii) Methods and techniques for monitoring the proposed mitigation and a time frame for such monitoring.

(l) Buffer Reduction. The city may allow the reduction of Np and Ns stream buffers by no more than 50 percent of the required buffer width if the area proposed for buffer reduction:

(i) Is currently adversely impacted by development such as roads, parking areas, buildings, or public facilities; or

(ii) Has primarily nonnative vegetation, such as grass pasture; and

(iii) The proposed reduction will not significantly reduce the water quality and habitat functions of the buffer;

(iv) When buffer reduction is allowed, the applicant shall provide the city with a vegetative buffer enhancement plan for review and approval;

(v) Stormwater facilities are not permitted in the remainder of buffers reduced by operation of this buffer reduction provision.

(m) Vegetative Buffer Enhancement. Where the city permits the use of buffer reduction opportunity described in this section, the following enhancement standards shall apply:

(i) The applicant shall submit to the city a written request describing the extent and nature of the proposed development activity and shall submit an enhancement plan prepared by a professional biologist, landscape architect or other equally qualified person;

(ii) Buffer shall not be reduced to less than 50 percent of the base buffer width listed in Tables 18.300.090(2)(a) and 18.300.090(2)(f);

(iii) The enhancement plan shall include calculations and maps that illustrate:

(A) Required boundary locations of all critical areas and associated buffers;

(B) Proposed buffer areas after reduction;

(C) The nature and extent of the enhancement measures proposed;

(D) A timeline for completion of the enhancement plan;

(E) A financial surety mechanism acceptable to the city;

(F) Methods and techniques used to mitigate impacts to critical areas, consistent with best management practices (BMPs);

(G) An explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;

(H) Methods and techniques for monitoring said mitigation and a proposed time frame for monitoring;

(iv) The enhanced area shall be of equal or greater habitat value(s) based on best available science;

(v) Enhancement shall occur on site, unless the applicant can demonstrate that off-site mitigation will provide greater functional value(s);

(vi) The city may elect to submit the vegetative buffer enhancement plan to one or more qualified experts for peer review.

(n) Standard Requirements. All applications requiring review under this section shall have the following minimum conditions applied:

(i) Marking Buffer During Construction. The location of the outer extent of the habitat buffer, or if no buffer is required the habitat area, shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

(ii) Permanent Marking of Buffer Area. A permanent and perpetual physical demarcation along the upland boundary of the habitat buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedgerow, wood or wood-like fencing, or other prominent physical marking approved by the director. In addition, signs (measuring minimum size one foot by one foot and posted three and one-half feet above grade) shall be posted at an interval of one per lot or every 100 feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the habitat buffer approved by the director worded substantially as follows: "Habitat Buffer – Please Retain in a Natural State."

(iii) A conservation covenant shall be recorded in a form approved by the city attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a permit prior to engaging in regulated activities within a habitat area or its buffer.

(3) Frequently Flooded Areas.

(a) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study, Clark County, Washington and Incorporated Areas" revised January 19, 2018, with accompanying flood insurance rate maps (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the office of the city clerk/treasurer.

(b) Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

(c) Abrogation and Greater Restrictions. Where this chapter and another code, ordinance, easement, covenant or deed restriction conflict or overlap, that which imposes the more stringent restriction shall prevail.

(d) Interpretation. In the interpretation and application of this section, all provisions shall be:

(i) Considered as minimum requirements;

(ii) Liberally construed in favor of the governing body; and

(iii) Deemed neither to limit nor repeal any other powers granted under state statutes.

(e) Interpretation of FIRM Boundaries. The local administrator, the governing body or its agent or employee may interpret and apply when necessary the exact location of the boundaries of the areas of special flood hazards where there appears to be a conflict between a mapped boundary and actual field conditions. Any aggrieved person may contest the location of the boundary and shall be given a reasonable opportunity to appeal the interpretation to the local administrator and then the governing body. Such appeal shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR Parts 59 through 79).

(f) Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes, and is based upon scientific and engineering considerations. Larger floods

can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of La Center, any officer or employee thereof, or the Federal Emergency Management Agency or Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(g) Floodplain (FP) Combining District. A floodplain (FP) combining district is established and shall be applied to all areas of special flood hazard identified on the flood insurance rate maps, which have been adopted by reference. The land use and siting provisions of these areas shall be in addition to other zoning provisions applied. For areas of special flood hazards that include a floodway, two distinct areas are recognized within the FP district: the "floodway" area and the "floodway fringe" area.

(h) Regulatory Area. The areas for state and local floodplain management regulations shall be those areas subject to a base (100-year) flood (except as noted for siting of critical facilities). Base floodplains are designated as special flood hazard areas on the most recent flood insurance rate maps provided by the Federal Emergency Management Agency for the National Flood Insurance Program. Best available information shall be used in areas where a base flood elevation has not been determined.

(i) Relationship to Other Requirements. Land uses in the floodplain combining district shall be subject to all relevant local, state, or federal regulations including those of the underlying zoning district. Where applicable, permit requirements under the Shoreline Management Act (Chapter 90.58 RCW), or the State Flood Control Zone Act (Chapter 86.16 RCW) may be substituted for permits required under this chapter; provided, that the standards of this chapter are applied.

(j) Criteria for Land Management and Use. The standards and definitions contained in 44 CFR Parts 59 and 60 for the National Flood Insurance Program are adopted by reference as the minimum state standards.

(k) Uses Permitted in the Floodplain (FP) Combining District. Park, recreational, agricultural, and other similar open space uses allowed in the underlying zoning district that do not change the topography of the land, and not involving structures, fill, storage of equipment or materials, or other development, are permitted outright in the FP district.

(l) Uses Prohibited in the Floodway. Structures for human habitation and other structures or works posing a high flood damage potential are prohibited in the floodway, except for the replacement of structures or works, single-family residences in accordance with WAC 508-60-040, and travel trailers subject to the provisions set forth in this chapter. Any use other than those permitted outright in a floodway shall be subject to the terms of a floodplain permit.

(m) Uses Allowed Under a Floodplain Permit. All other uses permitted in the zoning district with which the FP district has been combined are allowed in the floodway and floodway fringe areas subject to the terms of a floodplain permit.

(n) A floodplain permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be required for all structures, including manufactured homes, and other development. Permit application forms shall be furnished by the mayor or his or her designee. The application shall include, but is not limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, and existing or proposed structures, fill, storage of materials, and drainage facilities. Specifically, the following information is required:

(i) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 086-0-33) with Section B completed by the local official;

(ii) Elevation in relation to mean sea level to which any structure has been floodproofed;

(iii) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing requirements; and

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

(o) Designation of the Local Administrator. The mayor or his or her designee is authorized to administer and implement this title by granting or denying floodplain permit applications in accordance with its provisions.

(p) Duties and Responsibilities of the Local Administrator. Duties of the local administrator, if applicable, shall include, but not be limited to:

(i) Development Review.

(A) Review all proposed developments to determine whether or not a floodplain permit is required.

(B) Review all proposed developments with respect to the flood insurance study maps and zoning district boundaries. Make interpretations where needed as to the exact location of special flood hazard area boundaries.

(ii) Permit Review.

(A) Review all proposed development permits to determine that the permit requirements of this title have been satisfied.

(B) Review all proposed development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(C) Review all proposed development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions are met.

(iii) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with subsection (3)(a) of this section (Basis for Establishing the Areas of Special Flood Hazard), the mayor or his or her designee shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from an agency of federal or state government, or other sources, in order to administer this section, including specific standards for residential construction, nonresidential construction and floodways and floodway requirements.

(iv) Information to Be Obtained and Maintained.

(A) Where base flood elevation data is provided through the flood insurance study or required as in subsection (3)(a) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement recorded on a current elevation certificate (FF 086-0-33) with Section B completed by the local official.

(B) For all new or substantially improved floodproofed structures, the local administrator shall:

(I) Verify and record the actual elevation (in relation to mean sea level) to which any structure has been floodproofed;

(II) Maintain the floodproofing certifications;

(III) Maintain for public inspection all records pertaining to the provisions of this chapter;

(IV) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration and the Federal Emergency Management Agency;

(V) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and

(VI) Interpretation of FIRM Boundaries. Make interpretation, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.

(q) Variance Procedure – Additional State Requirements. The variance procedure contained in 44 CFR Part 60.6 and this title shall apply to the additional state requirements contained in WAC 173-158-060 and 173-158-070, unless an activity or use is expressly prohibited therein.

(r) Appeal and Review of City Action.

(i) A person with standing may appeal the approval or denial of a floodplain permit as provided in LCMC 18.30.130.

(A) In acting on appeals or permit approval requests, the city shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this chapter, and:

(I) The danger that materials may be swept onto other lands to the injury of others;

(II) The danger of life and property due to flooding or erosion damage;

(III) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;

(IV) The importance of the services provided by the proposed facility to the community;

(V) The necessity to the facility of a waterfront location where applicable;

(VI) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;

(VII) The compatibility of the proposed use with existing and anticipated development;

(VIII) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(IX) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(X) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site; and

(XI) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets and bridges.

(B) Upon consideration of the above factors, and the purposes of this chapter, the appeal hearing body may attach such conditions to actions on appeals and approvals as it deems necessary to further the purpose of this chapter.

(C) The mayor or his or her designee shall maintain the records of all appeal and approval actions of the city of La Center.

(s) Conditions for Variances.

(i) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases, the technical justification required for issuing the variance increases.

(ii) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places.

(iii) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(iv) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(v) Variances shall only be issued upon:

(A) Showing a good and sufficient cause;

(B) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(vi) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations shall be quite rare.

(vii) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (3)(s)(i) of this section, and otherwise complies with anchoring and construction materials and methods general standards below.

(viii) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(t) Penalties and Enforcement.

(i) The attorney general or the attorney for the local government shall bring such injunctive, declaratory, or other actions as are necessary to ensure compliance with this chapter.

(ii) Any person who fails to comply with this chapter shall also be subject to a civil penalty not to exceed $1,000 for each violation. Each violation or each day of noncompliance shall constitute a separate violation.

(iii) The penalty provided for in this section 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 or local government, describing the violation with reasonable particularity and ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.

(iv) Any penalty imposed pursuant to this section by the department shall be subject to review by the pollution control hearings board. Any penalty imposed pursuant to this section by the city shall be subject

to review by the city council. Any penalty jointly imposed by the department and city shall be appealed to the pollution control hearings board.

(u) General Standards. In all areas of special flood hazards the following standards set forth in this section are required:

(i) Anchoring.

(A) All new construction and substantial improvements shall be designed (or modified) and anchored adequately enough to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads and including the effects of buoyancy.

(B) All manufactured homes must likewise be elevated and anchored to resist flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA P-85 "Protecting Manufactured Homes from Floods and Other Hazards" guidebook for additional techniques). This requirement is in addition to the applicable state and local anchoring requirements for resisting wind forces.

(ii) Construction Materials and Methods.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

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

(iii) Utilities.

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

(D) Water wells shall be located on high ground that is not in the floodway.

(iv) 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 or eliminate flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(D) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(v) Review of Building Permits. Where elevation data is not available either through the flood insurance study 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 grade in these zones may result in higher insurance rates.

(v) Additional Standards.

(i) Critical Facilities.

(A) Critical facilities should be afforded additional flood protection due to their nature. The city shall use the 500-year frequency flood as a minimum standard instead of the 100-year frequency flood as used for other types of development.

(B) Construction of new critical facilities shall be, to the extent possible, located outside the limits of the 500-year floodplain as identified on the city's FIRM. Construction of new critical facilities shall be permissible within the 500-year frequency floodplain if no feasible alternative site is available. Critical facilities constructed within the 500-year frequency floodplain shall have the lowest floor elevated to or above the level of the 500-year frequency flood or the flood protection elevation, whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters.

(C) Access routes elevated to or above the level of the 500-year frequency flood shall be provided to all critical facilities to the extent possible.

(ii) Flood Protection Elevation. In order to account for the impacts of future development on flood depths, and in order to ensure the least expensive insurance rates for floodplain occupants, all development within special flood hazard areas which requires elevation or floodproofing shall be elevated or floodproofed to the flood protection elevation (base flood elevation plus one foot).

(w) Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in subsection (3)(a) of this section, Basis for Establishing the Areas of Special Flood Hazard, or subsection (3)(p)(iii) of this section, Use of Other Base Flood Data, construction must include the following provisions:

(i) Residential Construction.

(A) New construction and substantial improvement of any residential structure shall have the lowest floor, including basements and crawlspaces, elevated to one foot or more above the base flood elevation.

(B) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited.

(ii) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of one foot or more above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(A) Be floodproofed so that below the flood protection elevation 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 registered professional engineer or architect 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.

Specific elevation data (in relation to mean sea level) shall be provided to the official along with the certification;

(D) Nonresidential structures that are elevated, not floodproofed, with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of flood waters. Designs for meeting this requirement must either (I) be certified by a registered professional engineer or architect, or (II) must meet or exceed the following minimum criteria:

(I) 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 shall be provided.

(II) The bottom of all openings shall be no higher than one foot above grade.

(III) Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters.

(E) Nonresidential buildings shall be floodproofed to a level that is one foot above the base flood level.

(x) Manufactured Homes. All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(y) Recreational Vehicles. Recreational vehicles placed on sites are required to either:

(i) Be on site for fewer than 180 consecutive days; or

(ii) Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(iii) Meet the requirements for a manufactured home and the elevation and anchoring requirements for manufactured homes; may be allowed in the floodway and floodway fringe areas on a temporary basis.

(z) Floodways and Floodway Requirements. Located within areas of special flood hazard established in subsection (3)(a) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris and increase erosion potential, the following provisions apply:

(i) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

(ii) Prohibit construction or reconstruction of residential structures within designated floodways, except:

(A) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area;

(B) Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:

(I) Before the repair or reconstruction, or improvement begins, or

(II) Before the damage occurred, if the structure has been damaged and is being restored. Work done on structures to comply with existing health, sanitary, or safety codes which have been identified by

the local code enforcement or building official and are the minimum necessary to assure safe living conditions, or to structures identified as historic places, shall not be included in the 50 percent determination;

(C) Existing farmhouses in designated floodways that meet the provisions of WAC 173-158-075;

(D) Residential dwellings other than farmhouses that meet the depth and velocity and erosion analysis provisions of WAC 173-158-076; and

(E) Structures identified as historical places.

(iii) Residential dwellings located partially within a designated floodway will be considered as totally within a designated floodway and must comply with subsections (3)(z)(i) and (ii) of this section.

(iv) If subsections (3)(z)(i) and (ii) of this section are satisfied, all new construction and substantial improvements shall comply with all the other applicable flood hazard reduction provisions of this section. The placement of any manufactured homes in floodways is not allowed.

(aa) In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

(4) Geologically Hazardous Areas.

(a) Development on lands classified as "erosion hazard areas," "landslide hazard areas" or "seismic hazard areas" as defined in LCMC 18.300.030 shall be prohibited unless the applicant meets the requirements of this section.

(b) Exempt, Prohibited, and Permitted Activities in Geologically Hazardous Areas.

(i) Alterations. In the limited instances when development in geologically hazardous areas is permitted, it shall meet all applicable provisions of this section as determined by the review authority prior to issuance of a critical areas permit. Alterations of geologically hazardous areas or associated buffers may occur only for activities that:

(A) Will not increase the threat of the geologic hazard to adjacent properties beyond predevelopment conditions;

(B) Will not impact other critical areas adversely;

(C) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than predevelopment conditions; and

(D) Are recommended by a qualified professional in a signed and stamped geotechnical engineering report.

(ii) Critical facilities, as defined in LCMC 18.300.030, shall not be sited in geologically hazardous areas unless there is no other practical alternative, as demonstrated in a geotechnical assessment.

(iii) Utilities Transmission Facilities. Utility facilities which carry liquid petroleum products or any other hazardous substance as defined in Chapter 173-303 WAC may be permitted within geologically hazardous areas only when a qualified professional demonstrates that the design and location of the proposed facility will not cause adverse impacts.

(c) General Design Standards for Landslide and Erosion Hazard Areas.

(i) Protection of Landslide and Erosion Hazard Areas. Modification of topography and vegetation in landslide and erosion hazard areas shall be limited in order to preserve the long-term stability of sensitive slopes, reduce erosion potential and stormwater runoff, and preserve related ecological values.

(ii) Development or alterations within a landslide or erosion hazard area and/or buffer shall be designed to meet the following requirements. Deviations from one or more of these standards may be permitted where it can be demonstrated by a qualified professional that an alternative design provides equal or greater protection of the critical area and proposal. The basic development design standards are:

(A) Structures and improvements shall be located to avoid landslide and erosion hazard areas and other critical areas, unless impacts are unavoidable;

(B) Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;

(C) The removal of vegetation from a landslide or erosion hazard area or landslide hazard area buffer shall be permitted only when approved by a qualified professional. If the landslide or erosion hazard area or landslide hazard area buffer lacks adequate vegetation, a vegetation restoration plan or other slope stability measure(s) may be required. Development within a landslide hazard area buffer must conform to the buffer provisions of this section;

(D) The proposed development shall not result in an increase in surface water discharge or sedimentation to adjacent properties;

(E) The following uses and activities may be situated on landslide and erosion hazard areas only where analysis by a qualified professional finds that they will not result in increased risk of landslide or erosion:

(I) Stormwater retention and detention systems, including percolation systems utilizing buried pipe;

(II) On-site sewage disposal system drainfields;

(III) Utility lines and pipes. A qualified professional shall design and verify to the city that said systems are installed and functioning as designed;

(F) Drainage Plan. Applicants proposing development within landslide and erosion hazard areas must develop a drainage plan in consultation with a qualified professional that complies with all applicable requirements of Chapter 18.320 LCMC. Surface drainage (including downspouts) must avoid draining to landslide and erosion hazard areas. Drainage originating above a landslide or erosion hazard area shall be collected and directed by tight line drain, and be provided with an energy dissipative device for discharge to a swale or other acceptable natural drainage area.

(G) Seasonal Restriction.

(I) Clearing activities that disturb the soil shall be allowed from May 1st to October 1st; provided, that the city may extend or shorten the dry season on a case-by-case basis, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit;

(II) Outside of the designated dry season, clearing activities that disturb the soil may occur only when demonstrated by a qualified professional that no increased risk to landslide and erosion hazard and buffer areas will occur from clearing activities.

(d) Design Standards – Landslide Hazard Areas.

(i) Landslide Hazard Area Buffers. A buffer shall be established from all edges of landslide hazard areas.

(A) Buffer Size. The minimum dimension of the buffer shall be 50 feet from the edge of the landslide hazard area.

(B) Buffer Reduction. The buffer may be reduced to a minimum of 25 feet when a qualified professional demonstrates that the reduction will provide adequate protection for the proposed development, the adjacent developments and uses, and the subject critical area.

(C) Buffer Use. Where reduction of the buffer is not recommended by a qualified professional, development encroachment within the buffer area may be allowed provided a qualified professional demonstrates that the site alteration will not impact a landslide area and/or the adjacent properties.

(D) Increased Buffer. The buffer may be increased where the review authority or a qualified professional determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

(E) The buffer shall be clearly staked before and during any construction or clearing.

(F) All portions of landslide hazard areas and buffers shall be designated as landslide protection areas and recorded as such on the approved site plan or plat document.

(e) Design Standards – Erosion Hazard Areas.

(i) Buffers. Erosion hazard area buffers shall be as recommended in an approved geotechnical report.

(ii) Erosion Control Plan. An erosion control plan is required for all development in identified erosion hazard areas. The plan shall:

(A) Demonstrate that roads, driveways, and other vehicular accesses, trails, walkways, and parking areas are designed with lower gradients and/or are parallel to the natural contours of the site;

(B) Include stabilization best management practices (BMPs) such as temporary/permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, tree protection, and preservation of mature vegetation. Stabilization BMPs shall address conveyance outlets and streambanks;

(C) Demonstrate that no exposed or disturbed soils will be allowed to overwinter without erosion control BMPs in place;

(D) Preserve existing vegetation and undergrowth where feasible;

(E) Ensure cut and fill slopes will be designed and constructed to minimize erosion; and

(F) Demonstrate that clearing, grading, and impervious surfaces will be minimized.

(f) Design Standards – Seismic Hazard Areas. Development proposed in seismic hazard areas shall conform to the applicable provisions of the International Building Code concerning structural standards and safeguards to reduce risks from seismic activity.

(5) Wetlands.

(a) Purpose. Wetlands constitute important natural resources which provide significant environmental functions including: the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provisions of significant habitat areas for fish and wildlife. Uncontrolled urban-density development in and adjacent to wetlands can eliminate or significantly reduce the ability of wetlands to provide these important functions, thereby detrimentally affecting public health, safety, and general welfare.

(b) Applicability. The provisions of this chapter apply to any soil disturbance occurring or land use proposal affecting a Category I, II, III, or IV wetland or its buffer unless otherwise expressly exempted by this chapter.

(c) Regulated Activities.

(i) For any regulated activity, a critical area report may be required to support the requested activity.

(ii) The following activities are regulated if they occur in a regulated wetland or its buffer:

(A) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.

(B) The dumping of, discharging of, or filling with any material.

(C) The draining, flooding, or disturbing of the water level or water table.

(D) Pile driving.

(E) The construction, reconstruction, demolition, or expansion of any structure.

(F) The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.

(G) "Class IV – General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222-12-030, or as thereafter amended.

(H) Activities that result in:

(I) A significant change of water temperature.

(II) A significant change of physical or chemical characteristics of the sources of water to the wetland.

(III) A significant change in the quantity, timing, or duration of the water entering the wetland.

(IV) The introduction of pollutants.

(iii) Subdivisions.

(A) Land that is located wholly within a wetland or its buffer may not be subdivided.

(B) Land that is located partially within a wetland or its buffer may be subdivided; provided, that an accessible and contiguous portion of each new lot is:

(I) Located outside of the wetland and its buffer; and

(II) Lots located outside of the wetland buffer must meet the minimum lot size requirements of the city zoning code or the residential density transfer section of this code (LCMC 18.300.130).

(d) Exempted Wetlands.

(i) The following wetlands may be exempt from the requirement to avoid impacts, and they may be filled if the impacts are fully mitigated. In order to verify the conditions, a critical area report for wetlands must be submitted.

(A) All isolated Category IV wetlands less than 4,000 square feet that:

(I) Are not associated with riparian areas or their buffers.

(II) Are not associated with shorelines of the state or their associated buffers.

(III) Are not part of a wetland mosaic.

(IV) Do not score five or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology).

(V) Do not contain a priority habitat or a priority area for a priority species identified by the Washington Department of Fish and Wildlife, and do not contain federally listed species or their critical habitat, or species of local importance identified in subsection (2) of this section.

(B) Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter.

(e) Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

(i) Existing and ongoing agricultural activities; provided, that they implement applicable best management practices (BMPs) contained in the latest editions of the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG), or develop a farm conservation plan in coordination with the local conservation district. BMPs and/or farm plans should address potential impacts to wetlands from livestock, nutrient and farm chemicals, soil erosion and sediment control, and agricultural drainage infrastructure. BMPs and/or farm plans should ensure that ongoing agricultural activities minimize their effects on water quality, riparian ecology, salmonid populations, and wildlife habitat.

(ii) Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class IV – General Forest Practice Permits (conversions) as defined in Chapter 76.09 RCW and Chapter 222-12 WAC.

(iii) Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.

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

(v) Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer; provided, that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the groundwater connection to the wetland or percolation of surface water down through the soil column will be disturbed.

(vi) Enhancement of a wetland through the removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

(vii) Educational and scientific research activities.

(viii) Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way; provided, that the maintenance or repair does not expand the footprint of the facility or right-of-way.

(f) City Policy towards Alteration of Wetlands and Wetland Buffers.

(i) The city has limited oversight, staffing and expertise in monitoring and management of impacted wetlands or wetland buffers. Therefore, as a matter of public policy, the city prefers avoidance of wetlands and wetland buffers and discourages disturbance of wetlands or wetland buffers for private purposes.

(ii) The city prohibits platting of privately held lots in wetlands or wetland buffers.

(iii) The city may allow disturbance of Category II, III, and IV wetlands or wetland buffers for public purposes if the disturbance directly advances the provision of infrastructure facilities and services. Public purpose includes streets, potable water, sanitary sewer, stormwater facilities, schools, and utilities.

(iv) In limited circumstances, the city may allow impacts to Category I wetlands and wetland buffers if the impacted area is dedicated to the city, or similarly protected, with funds deemed by the city to be sufficient to restore and enhance the wetland and buffer and to inspect, monitor, and maintain the mitigation area for a minimum of 10 years.

(g) Wetland Delineation.

(i) An application for wetland impacts shall not be deemed technically complete until completion (if required) of a wetland delineation.

(ii) The mayor or his or her designee shall determine whether a wetland delineation is required based upon several factors including but not limited to a site visit, review of existing critical areas maps, review of National Wetland Inventory maps, the presence of hydric soils, historical evidence, or consultation with a qualified expert.

(iii) Wetland Delineation Report.

(A) Methodology. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this chapter. If a wetland is located off site and is inaccessible, the best available science shall be used to determine the wetland boundary and category.

(B) Information Requirements. Wetland boundaries shall be staked and flagged in the field and a delineation report shall be submitted to the city. The report shall include the following information:

(I) U.S.G.S. quadrangle map with site clearly defined;

(II) Topographic map of area;

(III) National Wetland Inventory map showing site;

(IV) Soil Conservation Service soils map of the site;

(V) Site map, at a scale no smaller than one inch equals 400 feet, if practical, showing the following information: (1) wetland boundaries; (2) sample sites and sample transects; and (3) boundaries of forested areas;

(VI) Discussion of methods and results with special emphasis on technique used from the wetlands delineation manual;

(VII) Acreage of each wetland on the site based on the survey;

(VIII) All completed field data sheets (U.S. Army Corps of Engineers' format for three parameter application) numbered to correspond to each sample site;

(IX) All completed wetland rating forms from the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology).

(C) Responsibility. The wetland delineation is the responsibility of the applicant.

(iv) Buffers. All buffers shall be measured perpendicularly outward from the delineated wetland boundary.

(h) Wetland Ratings. The Washington State Department of Ecology 2014 publication Washington State Wetland Rating System for Western Washington (Ecology Publication No. 14-06-029, or as revised and approved by Ecology), as updated, shall be used in part to determine base buffer widths and to determine mitigation and enhancement requirements.

(i) The determination of the specific category of wetland and buffer type for each wetland shall be the responsibility of the applicant and subject to city approval.

(ii) Wetlands that are enhanced thereafter shall provide buffers that satisfy the function requirements of the buffer for the enhanced and higher category wetland.

(iii) Wetland Rating System.

(A) Category I. These wetlands represent a unique or rare wetland type; are more sensitive to disturbance than most wetlands; are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or provide a high level of water quality, hydrologic and habitat functions. Category I wetlands are identified as such because they satisfy one or more of these criteria:

(I) Wetlands that are identified by scientists of the Washington Department of Natural Resources Washington Natural Heritage Program as (1) wetlands of high conservation value; (2) relatively undisturbed wetlands; or (3) wetlands that support state-listed threatened or endangered plants;

(II) Bogs due to their sensitivity to disturbance and because they are irreplaceable through compensatory mitigation;

(III) Mature (stands where the largest trees are 80 to 200 years old or the species that make up the canopy have an average diameter at breast height (dbh) exceeding 21 inches) and old growth forested wetlands (stands larger than one acre and composed of at least two tree species, forming a multi-layered canopy with occasional small openings, with at least eight trees/ac (20 trees/ha) that are at least 200 years of age and have a dbh of 32 inches or more);

(IV) Wetlands that perform many functions well, as indicated by scoring 23 to 27 points in the rating system.

(B) Category II. These wetlands are difficult, but not impossible, to replace and perform most functions relatively well or perform one group of functions (water quality, hydrologic or habitat) very well and the other two groups moderately well. These wetlands have moderately high level of function, as indicated by scoring 20 to 22 points in the Ecology rating system.

(C) Category III. These wetlands perform a moderate level of functions, typically have been disturbed in some manner, and are often less diverse and more isolated from other natural resources in the landscape than Category II wetlands. These wetlands score between 16 to 19 points in the Ecology rating system.

(D) Category IV. These wetlands have the lowest levels of functions and are often heavily disturbed. These wetlands score less than 16 points in the Ecology rating system.

(i) Base Buffer Width.

(i) Buffer width, measured in feet, shall be based upon Alternative 3 in Appendix 8C of Wetlands in Washington State, Vol. 2. Intensity of use shall be based upon Table 8C-3 (Types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands) that is included in that source and is attached to the ordinance codified in this chapter.

Table 18.300.090(5)(i)(i)-1 – Buffers Required to Protect Hydrologic Functions

Wetland Rating	Low Intensity Use	Moderate Intensity Use	High Intensity Use
Category I	50 ft.	75 ft.	100 ft.
Category II	50 ft.	75 ft.	100 ft.
Category III	40 ft.	60 ft.	80 ft.
Category IV	25 ft.	40 ft.	50 ft.

Table 18.300.090(5)(i)(i)-2 – Buffers Required to Protect Habitat Functions in Category III Wetlands

Habitat Score in the Rating Form	Low Intensity Use	Moderate Intensity Use	High Intensity Use
≤ 5 points	See Table 1	See Table 1	See Table 1
≥ 6 points	75 ft.	110 ft.	150 ft.

Table 18.300.090(5)(i)(i)-3 – Buffers Required to Protect Habitat Functions in Category I and II Wetlands

Habitat Score in the Rating Form	Low Intensity Use	Moderate Intensity Use	High Intensity Use
≤ 5 points	See Table 1	See Table 1	See Table 1
6 points	60 ft.	90 ft.	120 ft.
7 points	90 ft.	130 ft.	180 ft.
8 points	130 ft.	195 ft.	260 ft.
≥ 9 points	150 ft.	225 ft.	300 ft.

(ii) New urban residential lots shall not be platted within wetland buffers.

(iii) Stormwater facilities and public utilities, if approved by the city, may be located within the outer 25 percent of Category IV or Category III wetland with a habitat score of three to five points, provided no other location is feasible and that it will not degrade the functions of the wetland or its buffer. Stormwater facilities may not be allowed in wetland buffers that have been reduced through the buffer reduction or buffer averaging provisions of this chapter.

(j) Wetland Buffer Reduction.

(i) Functionally Isolated Buffer Areas. Areas which are functionally separated from a wetland and do not protect the wetland from adverse impacts due to preexisting roads, structures, or vertical separation shall be excluded from buffers otherwise required by this chapter.

(ii) The city may allow the averaging of a buffer of a Category III or IV wetland if:

(A) The buffer proposed for reduction has a habitat rating of five points or less;

(B) No area averaged is less than 75 percent of the width of the required base buffer;

(C) The proposed reduction will not create a net loss of buffer function; and

(D) The total area contained in the buffer after averaging shall be at least functionally equivalent and equal in size to the area contained within the buffer prior to averaging.

(iii) A buffer for a Category III or IV wetland may be reduced by no more than 25 percent of the area of the buffer if:

(A) The buffer proposed for reduction has a habitat rating of five points or less;

(B) The proposed reduction will not create a net loss of buffer function;

(C) Buffer width shall not be less than 50 percent of the base buffer width at any point; and

(D) Mitigation and enhancement measures, consistent with the provisions of this chapter, are approved by the city and implemented by the developer.

(E) The city may elect to submit the mitigation and enhancement plans to one or more qualified experts for peer review.

(iv) Reduction of Buffers for High Intensity Uses. High intensity buffers may be reduced to moderate intensity buffers if all of the following mitigation measures are applied to the greatest extent practicable:

(A) Buffer Enhancement. The intent and effect of an approved buffer enhancement program shall be to measurably improve low functioning buffers by increasing the identified functions of the buffer. This may include the removal and management of noxious weeds and/or invasive vegetation or specific measures to improve hydrologic or habitat function.

(B) Shielding of High Intensity Uses.

(I) Lights. Direct all lights away from wetlands;

(II) Noise. Locate activity that generates noise away from wetlands;

(III) Pets and Human Disturbance. Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract.

(C) Surface Water Management.

(I) Existing Runoff. Retrofit stormwater detention and treatment for roads and existing development and disperse direct discharge of channelized flows from lawns and landscaping.

(II) Change in Water Regime. Infiltrate and/or disperse stormwater runoff from impervious surfaces and drainage from lawns and landscaping into the buffer at multiple locations, except where the infiltration or dispersal would either be in opposition to the recommendations contained in the geotechnical report for the project or where the infiltration or dispersal would occur in a geologically hazardous area.

(III) Low Impact Development. In the alternative to reduction of buffers for high intensity uses, if the development of the site has a low impact upon the critical area, the applicant may reduce the buffer width. However, the following reductions cannot be used in combination:

(IV) Limiting Effective Impervious Surface – Use of Low Impact Development Techniques and/or Limiting the Extent of Impervious Site Area. Areas set aside as pervious surface must be protected by some type of permanent legal protection such as a covenant or easement.

• Less than 35 percent effective impervious surface results in a low intensity impact.

• Less than 50 percent effective impervious surface results in a moderate intensity impact.

(V) Enhanced Stormwater Management. Reduction of high land use intensity buffer to moderate land use intensity buffer for implementation of stormwater treatment measures that exceed adopted city standards. (For example, stormwater facilities designed to the Western Washington Manual rather than the Puget Sound Manual.) This could include measures such as pretreatment or tertiary treatment of runoff and limiting discharge from the site to predevelopment runoff flow and volume.

(VI) Habitat Corridors. Establishment of a minimum 100-foot-wide functioning or enhanced vegetated corridor between the wetland and any other priority habitat areas as defined by the Washington State Department of Fish and Wildlife:

• Applies only to wetlands with habitat function scores higher than five on the rating system form;

• The habitat corridor must be protected for the entire distance between the wetland and the priority habitat area by some type of permanent legal protection such as a covenant or easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist.

(k) Wetland Development Standards – General.

(i) Any development proposal that impacts a wetland or wetland buffer shall not be allowed without an approved mitigation or enhancement plan consistent with LCMC 18.300.120 and the mitigation sequencing preference. (See "mitigation" in subsection (5)(o) of this section.)

(ii) The city shall not approve a development proposal that impacts wetlands or wetland buffers without a finding that:

(A) The proposed activity shall not cause significant degradation of groundwater or surface water quality or fish and wildlife habitat;

(B) The proposed activity shall comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, stormwater management, and on-site wastewater disposal; and

(C) Wetland and wetland buffer impacts shall be avoided or substantially minimized consistent with the mitigation sequencing criteria.

(l) Wetland Activities. Activities that trigger a wetland permit shall meet the following standards:

(i) Wetland impacts to Category I wetlands that are bogs or natural heritage sites are prohibited unless approved through a critical areas variance.

(ii) All other wetland impacts shall meet the compensation ratios stated in Table 18.300.090(5)(l), Wetland Mitigation Ratios, for projects in the La Center urban growth area.

Table 18.300.090(5)(l) – Wetland Mitigation Ratios

Impacted Wetland Category and Type	Reestablishment or Creation	Rehabilitation	1:1 Reestablishment or Creation (R/C) plus Enhancement (E)	Enhancement Only
Category I bog	Not considered possible	6:1 rehabilitation of a bog	Case-by-case	Case-by-case
Category I natural heritage site	Not considered possible	6:1 rehabilitation of a natural heritage site	Case-by-case	Case-by-case
Category I forested	6:1	12:1	1:1 R/C and 20:1 E	24:1

Impacted Wetland Category and Type	Reestablishment or Creation	Rehabilitation	1:1 Reestablishment or Creation (R/C) plus Enhancement (E)	Enhancement Only
Category I based on score for functions	4:1	8:1	1:1 R/C and 12:1 E	16:1
Category II	3:1	6:1	1:1 R/C and 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 E	6:1
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1

(m) Requirements for Compensatory Mitigation.

(i) Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans – Version 1, (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006, or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication No. 09-06-32, Olympia, WA, December 2009).

(ii) Mitigation requirements may also be determined using the ratios established in Table 18.300.090(5)(l) or the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication No. 10-06-011, Olympia, WA, March 2012, or as revised).

(n) Types of Compensatory Mitigation.

(i) Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland.

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

(iii) Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present.

(o) Location of Compensatory Mitigation.

(i) Compensatory mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable. When considering off-site mitigation, preference should be given to site within the city then alternatives using alternative mitigation, such as a mitigation bank, an in-lieu-fee program, or advance mitigation.

(p) Wetland Mitigation – Preliminary Plan. The preliminary mitigation plan consists of two parts, baseline information for the site and a conceptual plan.

(i) Baseline information shall include:

(A) Wetland delineation report;

(B) Description and maps of vegetative conditions at the site;

(C) Description and maps of hydrological conditions at the site;

(D) Description of soil conditions at the site based on a preliminary on-site analysis;

(E) A topographic map of the site;

(ii) The contents of the conceptual plan shall include:

(A) Goals and objectives of the proposed project;

(B) Description of type of mitigation to be proposed;

(C) Map showing proposed wetland and buffer. This map should include the base buffer and the proposed buffer;

(D) Development site plan and proposed mitigation site plan;

(E) Discussion and map of plant material to be planted and planting densities;

(F) Preliminary drainage plan identifying location of proposed drainage facilities including detention structures and water quality features (e.g., swales);

(G) Discussion of water sources for the wetland;

(H) Project schedule;

(I) Discussion of how the completed project will be managed and monitored;

(J) Discussion of contingency plans in case the project does not meet the goals initially set for the project.

(q) Wetland Mitigation – Final Plan. The contents of the final mitigation plan shall include:

(i) Preliminary enhancement/mitigation plan and all conditions imposed on that plan.

(ii) Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the enhancement/mitigation project are being met. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

(iii) Marking Buffer during Construction. The location of the outer extent of the wetland buffer shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

(iv) Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedgerow, fencing, or other prominent physical marking approved by the hearings examiner. In addition, small signs shall be posted at an interval of one per lot or every 50 feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the wetland buffer worded substantially as follows: “Wetland and Buffer – Please Retain in a Natural State.”

(v) A conservation covenant shall be recorded in a form approved by the city attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a wetland permit prior to engaging in regulated activities within a wetland or its buffer.

(vi) In the cases of plats, short plats, and recorded site plans, include on the face of such instrument the boundary of the wetland and its buffer and a reference to the separately recorded conservation covenant provided for in subsection (5)(q)(v) of this section.

(vii) Detailed Construction Plans. Written specifications for the enhancement/mitigation project shall be provided. The specifications shall include: the proposed construction sequence, grading and excavation

details, water and nutrient requirements for planting, specification of substrate stockpiling techniques, and planting instructions, as appropriate. These written specifications shall be accompanied by detailed site diagrams, sealed cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(viii) Monitoring Program. Description of a detailed program for monitoring the success of the mitigation project. In addition to the standards described in LCMC 18.300.120, a monitoring program shall include, but is not limited to:

(A) Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved;

(B) Establishing vegetation plots to track changes in plant species composition and density over time;

(C) Using photo stations to evaluate vegetation community response;

(D) Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, and heavy metals);

(E) Measuring base flow rates and stormwater runoff to model and evaluate water quality predictions, if appropriate;

(F) Measuring sedimentation rates, if applicable; and

(G) Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

(ix) Associated Plans and Other Permits.

(A) Final landscaping plan;

(B) Final drainage plan; and

(C) Final erosion and sediment control plan.

(x) Evidence of Financial and Scientific Proficiency. A description of how the enhancement/mitigation project will be managed during construction and the scientific capability of the designer to successfully implement the proposed project. In addition, a demonstration of the financial capability of the applicant to successfully complete the project and ensure it functions properly over a 10-year period. Evidence that required bonding can be obtained.

(xi) Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

(r) Wetland Permit – Application.

(i) Applications for wetland permits shall be made to the city on forms furnished by the city. The city shall process a wetland permit application as a request for land use approval pursuant to Chapter 18.30 LCMC.

(ii) Wetland permit applications shall include:

(A) Wetland delineation reports and required buffer width;

(B) A site plan for the proposed activity overlaid on an aerial photograph at a scale no smaller than one inch equals 400 feet showing the location, width, depth and length of all existing and proposed structures, roads, stormwater management facilities, sewage treatment, and proposed development within the wetland and its buffer;

(C) The exact sites and specifications for all regulated activities including the amounts and methods;

(D) A proposed preliminary enhancement/mitigation plan meeting the requirements of this chapter.

(s) Wetland Permit – Approval.

(i) The city shall issue a decision on a wetland permit when the applicant completes the following:

(A) Submittal and approval of a final enhancement/mitigation plan;

(B) Installation and approval of the required field markings;

(C) The recording of a conservation covenant.

(ii) Conditions. An approval of a wetland permit shall incorporate the following condition:

(A) Posting of a cash performance bond or other security acceptable to the city in an amount and with surety and conditions sufficient to fulfill the requirements of the required final plan, mitigation plan and enhancement plan and to secure compliance with other conditions and limitations set forth in the permit.

(B) The city shall release the bond upon determining that:

(I) All activities, including any required compensatory mitigation and monitoring, have been completed in accordance with the terms and conditions of the permit and the requirements of this chapter; and

(II) Upon forfeiture of a performance or maintenance bond, the proceeds thereof shall be utilized either to correct deficiencies which resulted in forfeiture or, if such correction is deemed by the city to be impractical or ineffective, to enhance other wetlands in the same watershed. The city shall coordinate with the Department of Ecology and the United States Army Corps of Engineers to ensure consistent requirements for correcting deficiencies.

(iii) Duration. Wetland permit final approval shall be valid for a period of two years from the date of issuance unless:

(A) A longer period, not to exceed five years, is specified in the permit; or

(B) The city grants an extension upon the written request of the original permit holder or successor in title demonstrating to the satisfaction of the city:

(I) That the original intent of the permit would not be altered or enlarged by the extension; and

(II) That relevant circumstances and standards have not changed substantially since the permit application; and

(III) That the applicant has complied with the terms of the permit.

(iv) Revocation. In addition to other remedies provided for elsewhere, the city may suspend or revoke a permit if the applicant or permittee has not complied with any of the conditions or limitations set forth in

the permit, has exceeded the scope of work set forth in the permit, or has failed to undertake the project in the manner set forth in the permit. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.100 Best available science.

Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat. Best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through 365-195-925. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.110 Development standards.

Within critical areas and their buffers, the city shall prohibit soil excavation, grading, removal of native vegetation species, draining, intentional burning, planting of invasive or nuisance vegetation, placement of structures and new construction on critical areas unless otherwise authorized in this chapter.

(1) These development standards apply to uses on critical areas and within buffers unless otherwise exempted in this title.

(2) In order to approve application for development on lands subject to this chapter, the mayor or his or her designee shall find that the following standards have been met:

(a) All reasonable alternatives for locating the development activity in such a way so as to avoid critical areas have been considered and the development activity will be located in the least environmentally sensitive area as practicable and the purpose of this chapter, as described in LCMC 18.300.010, is fulfilled. If avoidance is not practicable, as determined by the city, development shall minimize adverse impacts to critical areas and buffers consistent with the mitigation sequencing measures and mitigation and enhancement measures prescribed in this chapter.

(b) The city has approved the vegetation removal methods and the removal of native plants has been avoided.

(c) All adverse impacts to all affected critical areas and buffers are either avoided or fully mitigated.

(d) The plan minimizes cuts and fills.

(e) Soils are not exposed during the rainy season (November 1st through April 30th) and construction activity is limited to the dry season (May 1st through October 31st).

(f) The mayor or his or her designee has reviewed and approved an erosion control plan, grading plan, and vegetation removal and replanting plan prior to construction activity.

(g) All activities have received applicable state and federal permits, and comply with SEPA requirements if the lead agency makes a threshold determination of significance (DS), or a mitigated determination of nonsignificance (MDNS).

(h) Hydraulic permits are required for any activity occurring within the ordinary high water line of any state-regulated streams.

(i) Compliance with this chapter does not constitute compliance with state and federal environmental standards. The applicant shall be responsible for demonstrating such compliance.

(3) Review Process.

(a) The review process shall be the type specified in the LCMC for each particular land use action unless otherwise specified in this chapter.

(b) Applications to develop on critical areas or their buffers shall be subject to Type I review if, within a one-year period, the cumulative impact on critical areas is:

(i) Disturbance of less than 10 cubic feet of soil;

(ii) An activity, the fair market cost of which is less than $500.00; or

(iii) The activity involves less than 1,000 square feet of critical areas. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.120 Mitigation.

(1) Approval. City approval of a mitigation plan is a prerequisite for approval of any development activities on critical areas.

(a) The applicant shall submit a written request describing the extent and nature of the proposed development activity on critical areas and buffers. The request shall include boundary locations and identification of all designated critical areas and buffers.

(b) The application for development shall include a mitigation plan prepared in compliance with this section.

(c) The city may require the applicant to prepare special reports evaluating potential adverse impacts upon critical areas and potential mitigation measures as part of the land use application process. These reports may include, but are not limited to, the following: stormwater management plan; hydrology, geology, and soils report; grading and erosion control plan; native vegetation report; fish and wildlife assessment and impact report; water quality report; wetlands delineation; and other reports determined necessary by the city.

(d) The city shall consult with state and federal resource management agencies and, in order to protect wildlife habitat or natural resource values, shall attach such conditions as may be necessary to effectively mitigate identified adverse impacts of the proposed development activity.

(e) The city may request third party "peer review" of an application by qualified professionals and may incorporate recommendations from such third party reports in findings approving or denying the application.

(f) All reports recommending mitigation shall include provisions for monitoring of programs and replacement of improvements, on an annual basis, consistent with report recommendations and at years one, three, five, and seven. The city reserves the right to require reporting at year 10.

(g) The city may require replacement mitigation to be established and functional prior to project construction.

(2) Mitigation Sequencing.

(a) Prior to authorizing impacts to critical areas or their buffers, the applicant shall demonstrate and the city shall verify that the applicant has met the following sequence in order of priority:

(i) Avoidance. Avoid the impact altogether by not taking a certain action or parts of an action;

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

(iii) Rectification. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;

(iv) Reduction or elimination. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;

(v) Compensation. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

(vi) Monitoring. Monitor the impact and the compensation projects and take appropriate corrective measures.

(b) Development shall avoid critical areas and their buffers, and where avoidance is not practical, development shall minimize adverse impacts to critical areas and buffers, as determined by the city after review of a critical area report filed by the applicant and consistent with the provisions of this chapter. To determine whether avoidance is practical, the city shall consider issues such as:

(i) Substantial evidence presented by the applicant demonstrating the avoidance measures the applicant considered;

(ii) The quality of the critical resource and buffer functions and values to be impacted, avoidance of impacts to higher quality resources and buffers is preferred;

(iii) The nature and extent of mitigation and enhancement measures proposed to compensate for the proposed impact;

(iv) Whether the impacts proposed are necessary to implement the city's capital facilities plan; and

(v) Other factors the city determines are relevant. The city may also consider the financial implications of avoidance but shall not give private gain greater weight than resource management founded upon best available science.

(3) No Net Loss.

(a) Mitigation efforts, when allowed, shall ensure that development activity does not yield a net loss of the area or function of the critical areas. No net loss shall be measured by:

(i) Avoidance or mitigation of adverse impacts to fish life; or

(ii) Avoidance or mitigation of net loss of habitat functions necessary to sustain fish life; or

(iii) Avoidance or mitigation of loss of area by habitat type.

(b) Mitigation to achieve no net loss should benefit those organisms being impacted.

(c) Where development results in a loss of wetland area, the mitigation plan shall demonstrate that wetland area is replaced consistent with the ratios described in Table 18.300.090(5)(l), Wetland Mitigation Ratios. The created or enhanced wetland shall be, acre for acre, of equal or greater biological values, including habitat value, and with equal or greater hydrological values including storage capacity.

(i) Wherever possible, mitigation, replacement or enhancement shall occur on site.

(ii) However, where the applicant can demonstrate that an off-site location is in the same drainage basin, and that equal or greater biological and hydrological values will be achieved, the city may approve such off-site mitigation.

(iii) Wetponds established and maintained for control of surface water shall not constitute mitigation for wetland alterations.

(iv) Where there is a wetland within 25 feet of the toe of a slope equal to or greater than 25 percent, the buffer shall be a minimum of 25 feet beyond the toe of the slope.

(4) Mitigation Plan. A mitigation plan shall provide for the design, implementation, maintenance, and monitoring of mitigation measures. A mitigation plan shall include but is not limited to the following:

(a) Methods and techniques to be used to mitigate impacts to critical areas;

(b) Explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;

(c) Methods and techniques for monitoring said mitigation and a proposed time frame for such monitoring.

(5) Stormwater Management. Any development on critical areas shall be consistent with either Chapter 18.320 LCMC, Stormwater and Erosion Control, or the most recent version of the "Stormwater Management Manual for Western Washington," Washington State Department of Ecology, at the discretion of the public works director.

(6) Buffer Enhancement. Where a development avails itself of the buffer reduction opportunity described in this chapter, the following enhancement standards shall apply:

(a) The applicant shall submit to the city a written request describing the extent and nature of the proposed development activity and shall submit a written enhancement plan.

(b) The enhancement plan shall include calculations and maps that illustrate:

(i) Required boundary locations of all critical areas and attendant buffers;

(ii) Proposed buffer areas after reduction;

(iii) Proposed areas to receive enhancement measures;

(iv) A timeline for completion of the enhancement plan;

(v) Methods and techniques to be used to mitigate impacts to critical areas;

(vi) An explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods; and

(vii) Methods and techniques for monitoring said mitigation and a proposed time frame for monitoring.

(c) The enhanced area shall provide an equal or greater level of functions, including habitat functions.

(d) Enhancement shall occur on site.

(e) Wetponds established and maintained for control of surface water shall not constitute mitigation for wetland alterations.

(f) Surface water management or flood control shall not be considered enhancement. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.130 Residential density transfer.

The city may permit density transfer from critical areas (sending lands) to designated noncritical areas (receiving areas).

(1) Residential Density Transfer. A property owner may transfer residential density to a receiving area.

(a) A receiving area shall be on the same parcel or same property, within the same zoning classification, owned by the property owner sending the density.

(b) Density may be transferred from a sending area only one time.

(c) The value of the transfer shall be calculated as follows:

(i) LDR Districts. Gross area of a critical area completely avoided multiplied by the minimum number of units allowed per gross acre in the affected zoning district. For example, in an LDR-7.5 zone, if two acres of critical areas are completely avoided and the minimum density allowed is four units per acre, the maximum allowable density transfer would be 8.0 units (two acres times four du/ac equals 8.0).

(ii) MDR-16 District. Gross area of a critical area completely avoided multiplied by the minimum number of units allowed per gross acre in the affected zoning district. For example, in an MDR-16 zone, if two acres of critical areas are completely avoided and the minimum density allowed is eight units per acre, the maximum allowable density transfer would be 16 units (two acres times eight du/ac equals 16).

(2) Transfer Criteria. The mayor, or his or her designee, shall approve requests to transfer density subject to the following criteria:

(a) Adverse impacts to natural resources on the receiving areas shall be mitigated consistent with the mitigation section of this chapter.

(b) The building height standards of the receiving area shall be met.

(c) No receiving area lot gross area shall be less than 20 percent of the minimum lot size within the receiving district. For example, if the receiving area is an LDR-7.5 district no lot created as a result of density transfer shall be less than 6,000 square feet.

(d) No lot created as a result of density transfer that is smaller than the average minimum lot required in the receiving district may be located on the perimeter of the project site.

(e) The transfer of density to a receiving area shall not result in an increase in density throughout the project greater than the maximum net density allowed in the base zone or in the construction of a housing type not otherwise allowed in the receiving area.

(f) On density-sending lands the remaining critical areas and buffers shall be enhanced at a ratio of four acres of enhanced function for every one acre (4:1) used in the density transfer calculations.

(g) Sending areas shall be:

(i) Dedicated to the city for public use; or

(ii) Protected as an unbuildable area by means of deed restriction, conservation easement, or other mechanism approved by the city council.

(3) Recordation Required. Density may be transferred from a protected critical area only once. The mayor, or his or her designee, (upon consultation with the city attorney) shall be responsible for approving the mechanism used for protecting each critical area. The mayor or his or her designee shall maintain a list of sites from which density has been transferred, and a corresponding list of sites that have received density from protected critical areas. The applicant shall record the density transfer mechanism with Clark County and shall furnish the mayor or his or her designee with a copy of the recorded instrument. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.140 Selective timber harvesting on critical lands.

(1) Applicability. Consistent with RCW 76.09.240, the city extends its planning and zoning jurisdiction over forest practices in critical areas to the extent that:

(a) Commercial forestry activity occurs on lands identified as critical areas on the city's adopted critical areas maps;

(b) An application submitted under RCW 76.09.060 indicates that the lands will be converted to a use other than commercial timber production;

(c) The subject lands were platted after January 1, 1960; and

(d) Consistent with the adopted La Center comprehensive plan, the city of La Center presumes that any application for commercial timber harvest within the La Center urban growth boundary that is subject to Chapter 76.09 RCW et seq. is for the purpose of converting forested lands into urban lands.

(2) Standards. Selective commercial timber harvesting may be permitted on critical areas subject to the following standards:

(a) Written Plan Required. Trees to be removed shall be identified through the development approval process and shall be clearly marked prior to their removal. An applicant shall present a written plan, explaining in detail the location of trees to be removed, and the method of removal, to the mayor, or his or her designee, for review and approval.

(b) In conjunction with a development application, selective tree cutting may occur to the minimum extent necessary in conjunction with an approved development.

(c) Prior to approval of a harvesting permit, the applicant shall sign and record an agreement with the city stating that no development application may be filed on the subject property, other than a single-family residence, for six years following completion of timber harvesting operations.

(d) Selective tree removal on critical lands shall not result in loss of more than 50 percent of existing tree canopy covering critical areas.

(e) The applicant shall demonstrate that the methods used for tree harvesting and removal are the least disruptive practicable.

(f) Operations shall be limited to the dry season, that is, from May 1st through October 30th.

(g) Applicants for selective timber harvesting shall prepare an erosion control plan for review and approval by the mayor or his or her designee and, if the plan is approved, shall comply with the plan during harvesting activity and shall maintain required erosion control mechanisms for a period of 180 days after completion of the timber removal project.

(3) Conditions. The mayor, or his or her designee, may recommend conditions of approval necessary to minimize adverse impacts on natural resource values, including water quality and wildlife habitat to the extent that such conditions are consistent with the La Center comprehensive plan. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.150 Modification to overlay zone.
Repealed by Ord. 2019-26. [Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.160 Application fees.
At the time of application for land use review or critical areas review, the applicant shall pay a critical areas review fee, adopted and amended by the city council, from time to time, by resolution. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.170 Bonds to insure mitigation, maintenance and monitoring.
(1) When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a performance bond and a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

(2) The bond shall be in the amount of 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater, and the cost of maintenance and monitoring for a 10-year period.

(3) The bond shall be in the form of an assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney or other method acceptable to the planning director.

(4) Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Mitigation bonds or other security shall be held by the city for a minimum

of 10 years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

(5) Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

(6) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

(7) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

(8) Any funds recovered pursuant to this section shall be used to complete the required mitigation, maintenance or monitoring. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.180 Critical area inspections.

Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]