Revisions to Planning Commission Hearing Draft: Reformat and Text Reductions and Responses to Comments

CITY OF CHELAN SHORELINE MASTER PROGRAM

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DRAFT SHORELINE MASTER PROGRAM

CITY OF CHELAN

READER'S GUIDE

Chelan County and its Cities developed and adopted Shoreline Master Programs (SMPs) in 1975 for the purpose of "focusing comprehensive, coordinated planning attention at the critical land-water interface" (page 1). The current SMP (1975 SMP) was developed more than 30 years ago and since then much has changed along Chelan County shorelines. In addition, knowledge of best development and conservation practices has evolved. There have also been changes in State laws and rules.

This SMP has been prepared for the City of Chelan and its urban growth area (UGA) to meet the requirements of the Shoreline Management Act of 1971 (RCW 90.58), the implementing State rules codified as Chapter 173-26 of the Washington Administrative Code (WAC) "State Master Program Approval/Amendment Procedures and Master Program Guidelines" that were revised in 2003, and other applicable local, state, and federal laws. As was the case in 1975 and today, the SMP is developed locally, but must meet the Shoreline Management Act and implementing State rules, and is subject to approval by the Washington State Department of Ecology (Ecology) before it can be implemented.

The SMP has been prepared under a grant agreement with Ecology. For planning purposes and as part of the grant agreement, Chelan County and the Cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee conducted nine Vision Workshops in fall 2008 to capture citizen questions, concerns, goals and aspirations regarding County and City shorelines. The Vision Workshop results have factored into the development of this Draft SMP as well. Further the City of Chelan's unique conditions and planning aspirations have also been incorporated into the SMP within the framework of the State laws and rules.

The contents of this Draft Shoreline Master Program are structured as follows:

- Chapter 1 Comprehensive Plan Shoreline Goals, Objectives, and Policies
- Chapter 2 Authority and Purpose
- Chapter 3 Shoreline Jurisdiction and Environment Designations
- Chapter 4 General Policies and Regulations
- Chapter 5 Shoreline Modifications and Uses
- Chapter 6 Chelan River Standards
- Chapter 7 Shoreline Permits, Procedures and Administration
- Chapter 8 Nonconforming Uses and Development Standards

- Chapter 9 Definitions

Chapters 1 through 9 include goals, policies and regulations applicable to the City of Chelan and its UGA.

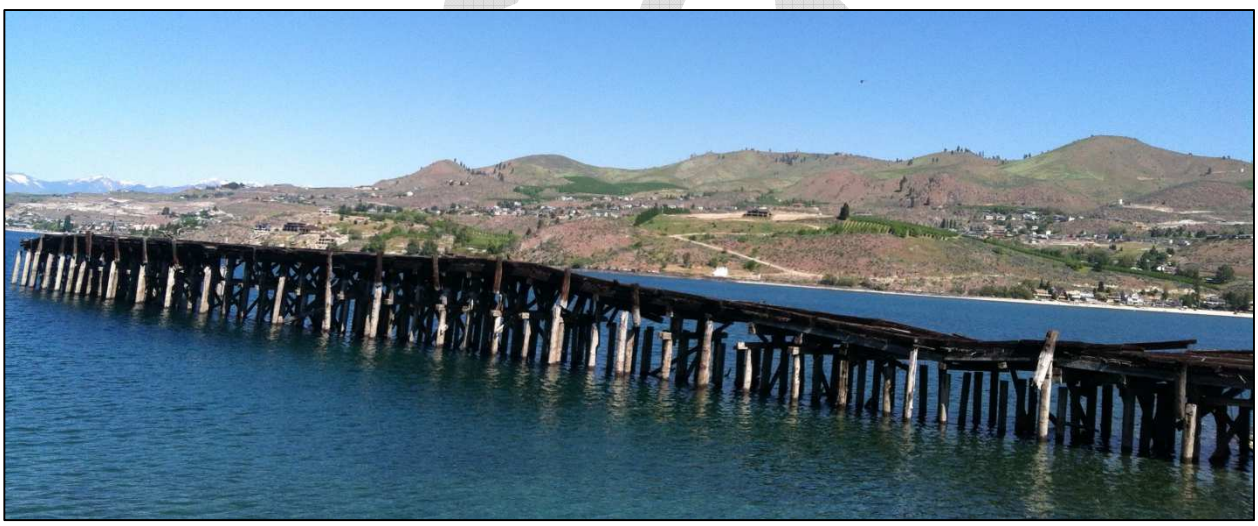
When reading the SMP, it is useful to consider the definitions of the following terms that are based on definitions in the State Shoreline Master Program Guidelines (WAC 173-26-020):

- Shall or must: means a mandate; the action must be done.
- Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and shoreline master program, against taking the action.
- May: means the action is acceptable, provided it conforms to the provisions of this shoreline master program and the Act.

In general, this SMP uses the word "should" in goals, objectives, and policies, and "shall" in the regulations.

The SMP has a high level of detail for the following reasons: 1) to allow for more shoreline applications to be approved administratively for an efficient and cost-effective process, 2) to cross-reference applicable state and federal laws to help consolidate requirements and be a resource for property owners and City staff, and 3) to provide some certainty of interpretation and application that benefits property owners and City staff over time.

This Draft SMP will be subject to public review and hearings and adapted to meet City needs prior to submittal to Ecology. More information about the SMP public review process and opportunities for public comment and public meetings can be found at: http://cityofchelan.us/planbuild/planning.aspx and http://www.co.chelan.wa.us/nr/planning/natural_resources_planning/default.htm.



1 SHORELINE GOALS AND POLICIES

The City of Chelan contains two shorelines: Lake Chelan and the Chelan River, both of which are governed by the Shoreline Management Act (SMA). Further, both are considered shorelines of statewide significance calling for optimum implementation of the SMA in local Shoreline Master Programs (SMPs).

Per WAC 173-26-186(3), all relevant policy goals must be addressed in the planning policies of the SMP. This chapter contains City of Chelan SMP shoreline goals and policies, and comprises the Shoreline element of the City of Chelan Comprehensive Plan. Goals express the ultimate aim of the County, Cities and citizens along their shorelines. Policies are statements of principles that guide and determine present and future decisions. Goals and policies provide a framework upon which the more detailed SMP shoreline use environments, policies, regulations, and administrative procedures are based in the City of Chelan Municipal Code.

This chapter contains sub-elements or topics around which goals and policies are presented. The SMP sub-elements are as follows:

1. Economic development sub-element for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;
2. Public access sub-element for provision for public access to shorelines, particularly publicly owned areas;
3. Recreational sub-element for preserving and enlarging recreational opportunities including but not limited to parks, beaches, and recreational areas;
4. Circulation sub-element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;
5. Shoreline use and modification sub-element for considering:
   - The proposed general distribution and general location and extent of the use on shorelines and adjacent land areas, including, but not limited to, housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;
   - The pattern of distribution and location requirements of water uses including, but not limited to, aquaculture, recreation, and transportation; and
   - Establishing the importance of locating water-oriented uses within shoreline jurisdiction. Of the three categories of water-oriented uses, water-dependent is most preferred, followed by water-related and water-enjoyment.
6. Conservation sub-element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and critical areas' functions and values, fisheries and wildlife protection, and shoreline ecological functions;

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7. Historical/cultural/scientific/and educational sub-element for protecting and restoring buildings, sites and areas having historic, archaeological, cultural, scientific, or educational values;

8. Flood hazard prevention sub-element for giving consideration to the state-wide interest in the prevention and minimization of flood damages, and construction, modification, and restoration of flood-damaged structures consistent with federal and state standards.

1.1 Economic Development Element

Goal ED-1. Permit those commercial, industrial, recreational, and other developments requiring a shoreline location which may contribute to the economic well-being of the City.

Goal ED-2. Encourage the protection and restoration of unique, fragile, and scenic elements in shoreline areas as a means to promote long-term economic well-being.

1.1.1 Commercial Policies

A. Encourage water-oriented uses. Water-oriented commercial developments which provide an opportunity for substantial numbers of people to enjoy the amenities of the shorelines should be encouraged to locate near the water. Nonwater-oriented commercial development should be encouraged to locate landward or outside shoreline jurisdiction.

B. Commercial use preferences. Preference should be given for water-dependent commercial uses above water-related uses. Water-related uses should have priority above water-enjoyment uses. All water-oriented commercial uses have preference over nonwater-oriented commercial uses.

C. Location in existing commercial areas. New commercial development should be encouraged to locate in those areas where current commercial uses exist.

D. Design. New commercial development should be designed to provide economic activity meeting the needs of residents, businesses, and tourists, protect the public's health, safety, and welfare, protect shoreline ecological functions, and provide public access where feasible and consistent with constitutional limits.

E. **Compatibility.** Proposed commercial development must be compatible with the character of the surrounding area.

F. **Design and Redevelopment of Waterfront.** When reviewing shoreline applications, the City should consider design and redevelopment of private and public waterfront areas for mixed-use development projects that include retail shops, living spaces, overnight lodging, boardwalks, and water-related commercial activities.

G. **Waterfront Development Priority.** When reviewing shoreline applications, the City should prioritize the area bounded by the alley between Wooden Avenue and Wapato Avenue on the north, Saunders Street on the east, and the Chelan River for expansion of the downtown Riverfront Park and the downtown business district.

H. **Lord Acres.** The Lord Acres area should be designated as a special use district as a mixed-use agricultural, tourist commercial, and residential use area.

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I. **Transition of Heavy Commercial to Mixed Uses.** When reviewing shoreline applications, the City should encourage relocation of the heavy commercial uses out of the South Shore waterfront area and promote a mixed-use development which includes water-related/dependent tourist commercial activities, and residential.

J. **Adequate Circulation, Parking, and Landscaping.** New development should adequately address parking, traffic and circulation, and landscaping requirements.

K. **Limit Outdoor Storage.** Restrict outside storage of vehicles or materials to approved screening or enclosed areas in conformance with the fire code.

1.1.2 Industrial Policies

A. **Industrial use preference.** Industries are an appropriate land use along shorelines where compatible with existing land use plans and zoning. However, first priority should be given to water-dependent industries over nonwater-dependent uses, and second priority to water-related industries over nonwater-oriented uses.

B. **Industries requiring navigable water. Water-dependent** industries which require frontage on navigable water should be given priority over other industrial uses.

C. **Environmental limitations.** Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas.

D. **Water and wastewater facilities.** Sewage treatment and potable water facilities should be located with consideration for economic operation and compatibility with surrounding uses, designed to assure no net loss of ecological functions, and designed not to have significant adverse impacts to other shoreline resources and values.

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

1.2 Public Access Element

Goal PA-1. Ensure public access to shorelines:

- Is safe, convenient and diversified;
- Makes provisions for public access to publicly owned shoreline jurisdiction areas;
- Avoids endangering life or adverse effects on property or fragile natural features;
- Minimizes conflicts between the public and private property;
- Enables the public to enjoy the physical and aesthetic qualities of natural shorelines of the state which shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally;
- Is designed for persons with disabilities, where feasible, consistent with federal standards; and
- That alters the natural conditions of the shorelines of the state, in those limited instances when development provides an opportunity for substantial numbers of people to enjoy the shorelines of the state.

1.2.1 Public Access Policies

A. **Types of public access.** Public access includes both physical and visual approaches to shorelines. Scattered, small access points with low levels of alteration are preferred by some recreators for

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certain uses (e.g., fishing), but not others (e.g., RV camping, swim beaches, picnicking, event facilities).

B. **Increase public access where appropriate.** The City should seek to increase the amount and diversity of public access to shorelines consistent with its shoreline public access plans, the natural shoreline character, property rights, public rights under the Public Trust Doctrine[1], and public safety.

C. **Priorities.** Public access should be maintained, enhanced, and increased in accordance with the following priorities unless found infeasible or unconstitutional:

1. Maintain existing public access sites and facilities, rights of way, and easements.
2. Provide new or enhance existing public access opportunities on existing public lands and easements.
3. Acquire property or easements to add public access opportunities to implement adopted public access plans and/or to recognize opportunities to protect areas that hold unique value for public enjoyment.
4. Encourage public access to shorelines as part of shoreline development activities.

D. **Constitutional Considerations.** The City should require public access in private development projects where there is a demonstrated nexus, proportionality and reasonable necessity for the public access requirement.

E. **Public access planning standards.** The City should implement planning standards that are consistent with its adopted parks and recreation plans as identified in Appendix C.

F. **Implementation.** The City should implement its shoreline public access plan contained in Appendix D to meet the needs of growing resident and tourist populations. Implementation strategies should address public access and recreation standards and a capital improvement program. The City should periodically review the shoreline public access plan, at a minimum every eight years.

G. **Public access exceptions.** Public access should not be required where it is demonstrated to be impracticable or infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

H. **Willing property owners.** The City and other agencies should seek willing property owners to participate in public access projects, such as through voluntary agreements such as conservation easements and trail easements. Where purchase of property is negotiated, the City, agencies, or private parties seeking off-site mitigation areas are obligated to pay fair market value for private properties included in public access projects.

I. **Respect private property.** Public access does not include the right to enter upon or cross private property, except on dedicated public rights-of-way or easements or where development is specifically designed to accommodate public access. The design of public access should minimize potential impacts to private property and individual privacy. This may include providing a physical separation to reinforce the distinction between public and private space, and may be achieved by providing signage, adequate space, and/or through screening with landscape planting or fences, and signage.

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[1] The "public trust doctrine" is a common law principle holding that "the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses." While the doctrine "protect(s) public use of navigable waterbodies below the ordinary high water mark," the doctrine "does not allow the public to trespass over privately owned uplands to access the tidelands." See: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/public_trust.html.

J. **Safety and environment.** Public access should be designed consistent with public safety principles. Public access design should also conserve or protect natural amenities. Where public access is determined to be incompatible due to reasons of safety, security, or impact to the shoreline, the proponent should consider alternate methods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design and restricting hours of public access. Off-site public access improvements may be allowed if such improvements would provide a greater public benefit and reduce safety and environmental impacts.

K. **Visual access.** Views to shorelines contribute to the City and County's quality of life, tourism economy, and property values. The City should consider the following sub-policies when considering new development:

1. Views from Public Properties and Significant Numbers of Single Family Dwellings: Flexible development standards, such as height, bulk, scale, setbacks, lighting, and view corridors, should be established to assure preservation of unique, fragile, and scenic elements and to protect existing views from public property or large numbers of residences, particularly where development would exceed three stories in height.

2. Private views of the shoreline although considered during the shoreline permit review process, are not expressly protected, particularly when development is less than 35 feet in height. Property owners concerned with the protection of views from private properties are encouraged to obtain view easements, purchase intervening property, or seek other means of minimizing view obstruction.

L. **Roads, streets, and alleys abutting bodies of water.** Roads, streets, and alleys abutting bodies of water should be preserved, maintained, consolidated enhanced, and/or created for public access. Vacations of roads, streets, and alleys should be discouraged and only allowed in strict compliance with RCW 35.79.035 (Streets and Alleys) or RCW 36.87.130 (County Roads).

M. **Accessibility.** Public access should be provided as close as possible to the water's edge without causing significant ecological impacts and should be designed in accordance with the Americans with Disabilities Act.

N. **Plan Implementation.** The City should implement the goals, policies and facilities identified within the City of Chelan Recreation Department, Parks Division: Comprehensive Plan, the Lakeside Trail Feasibility Study and the Don Morse Park Shoreline Study, Lake Chelan Valley Trail Plan, and Northshore Pathway Feasibility Study.

O. **Water Oriented Recreation.** The City should allow public and private development of adequate camping, boat launching, docking and moorage facilities, marinas, and other water-related recreational opportunities on Lake Chelan and the Chelan River.

P. **Trail Connections to Public Sites.** The City should maximize the use of parks, schools, recreation and open space resources within the City by connecting them with a coordinated system of trails.

Q. **Lakeside Trail, Northshore Pathway, and Other Routes.** The City should continue efforts to develop trails and pathways that would provide connections among recreation sites and community features. Specifically, pursue development of the Lakeside Trail, Northshore Pathway, and other routes outlined in the Lake Chelan Valley Trail Plan or other future plans.

R. **Accessible Parks and Recreation Facilities.** The City should provide parks and recreation facilities that are inclusive and accessible to all of the population regardless of age or physical ability.

S. **Onsite and Offsite Recreation Facilities.** The City should require on-site (or nearby off-site) development of recreation facilities or appropriate and usable park land in conjunction with the approval of development projects that create a demand for such facilities.

T. **Shoreline Public Access Plan.** The City should encourage shoreline uses and activities to provide their own shoreline public access or to contribute to the implementation of the City of Chelan Shoreline Public Access Plan.

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U. **Incorporate Trails.** The City should require development projects along designated trail routes to be designed to incorporate the trail as part of the project.

1.3 Recreation Element

Goal REC-1. Promote diverse, convenient, and adequate recreational opportunities along public shorelines for local residents and visitors.

1.3.1 Recreation Policies

A. **Promote recreation and public access.** Developments and uses should be designed and operated to provide the public with recreational areas, facilities, and access to the shorelines. Recreational developments and uses in the shoreline should be primarily related to access to, enjoyment and use of the water and shorelines of the state.

B. **Support facilities and access.** Recreational areas should be supported by multi-use trails and parking to prevent undue concentration and pressure on fragile natural areas. Parking is not a preferred shoreline use, and should be located only as necessary to support an authorized use, minimizing environmental and visual impacts.

C. **Pedestrian-oriented.** Direct access to the water should be via paths, walkways, or other pedestrian-oriented features. Vehicular traffic on beaches and fragile shorelines should be prohibited.

D. **Public acquisition.** To reduce overcrowding of current facilities and avoid adverse impacts on adjacent properties, the increased public acquisition and dedication of land for shoreline parks and recreation areas are encouraged.

E. **Grounds management.** The use of fertilizers, herbicides, and pesticides to maintain recreational facilities such as golf courses and playfields should be closely monitored to prevent contamination of waterbodies by runoff. Management that utilizes organic treatments, integrated pest management, or non-synthetic chemicals is preferred where feasible and practical over management that utilizes synthetic chemicals.

F. **Prevent impact to private property.** The location, design, construction and operation of recreational facilities should prevent undue adverse impacts on adjacent or nearby private properties.

G. **Scenic views and vistas.** Scenic views and vistas should be preserved in the design of recreational facilities, wherever practical.

H. **State and Federal recreation use preferred to local acquisition.** As an economical alternative to new acquisition by local agencies, the use of State and Federal lands for recreational facilities should be considered. Federal and state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public.

1.4 Circulation Element

Goal CIRC-1. Since major transportation and utility systems pre-exist near many shorelines, minimize conflicts between these systems and shoreline uses when considering circulation additions or modifications.

1.4.1 Transportation and Circulation Policies

A. **Circulation.** Public agencies and developments should provide for a safe, efficient, and environmentally sensitive circulation facilities including roads, streets, alleys, pedestrian, bicycle, and public transportation facilities, consistent with federal, state, or local standards and sufficient to meet adopted levels of service and to provide for movement of goods, services, and people to places of employment, retail trade, education, recreation, and residence within the City and UGA.

B. **Essential public facilities.** Comprehensive Plans, which include Shoreline Master Programs, may not preclude the siting of essential public facilities, which include state or regional transportation facilities as defined in RCW 47.06.140.

C. **Minimize land consumption.** Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction. When transportation facilities must be located along shorelines, efforts should be made to minimize the amount of land consumed. Where feasible, such transportation facilities should be sufficiently set back so that a usable shoreline area remains. Where feasible, roads should not run parallel to shorelines.

D. **Erosion and groundwater.** Roads in shoreline areas should be designed and maintained to prevent erosion and to permit a natural movement of groundwater.

E. **Protect shorelands.** All construction should be designed to protect the adjacent shorelands from erosion, uncontrolled drainage, slides, pollution, and other factors detrimental to the environment. Transportation facilities and parking facilities should be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

F. **Fit topography.** Road locations should be planned to fit the topography so that minimum alterations of natural conditions will be necessary.

G. **Scenic highways and bridges.** Scenic highways and major bridge crossings should have provisions for safe pedestrian and other non-motorized travel. Also, provision should be made for sufficient viewpoints, rest areas and picnic areas along shorelines of the state, if feasible.

H. **Maintain old highways.** Extensive loops or sections of old highways with high aesthetic quality or multi-use potential should be kept in service.

I. **General maintenance and reconstruction.** Road maintenance and reconstruction should be allowed in accordance with best management practices adopted by the City and the State of Washington Department of Transportation.

J. **Trails.** Multi-purpose trails should be encouraged in shoreline jurisdiction consistent with public access policies and regulations.

K. **Appropriate bridges and culverts.** Road design for stream crossings should consider appropriate bridge and culvert designs based on federal, state, or local standards, for example, Washington Department of Fish and Wildlife's 2003 *Design of Road Culverts for Fish Passage*.

L. **Coordinate land use and transportation.** Since land use and transportation facilities are so highly interrelated, the plans for each should be closely coordinated and consider shoreline goals, policies, and standards.

M. **Parking.** Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use. Parking facilities should be located as far inland as possible from the OHWM.

N. **Design Standards.** The City should ensure that design standards have some flexibility to allow for both environmentally sensitive road construction and reasonable efficiency in balancing the public interests. The City should minimize, to the degree possible, locating new roads in sensitive areas to minimize environmental disruption and construction costs. The City should design roads to minimize impacts on hydrologic systems, including surface and groundwater.

O. **View Potential.** The City should attempt to maximize view potentials when establishing roadway locations and designs.

P. **Nonmotorized Facilities.** The City and development applicants should consider provisions for non-motorized and pedestrian features in the design of all roadway and bridge projects.

Q. **Tourist Routes.** The City should improve the safety and capacity of roadways, while retaining the rural aesthetic features on tourist routes.

R. **Water Transportation.** The City should support water transportation on Lake Chelan as a crucial means of moving people and goods to Stehekin and other locations along the lake.

1.5 Shoreline Use and Modification Element

Goal LU-1. Assure an appropriate pattern of sound development in suitable locations without diminishing the quality of the environment along shorelines.

1.5.1 General Design Policies

A. **Designs Avoid Sensitive Areas.** Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation, both upland and aquatic; minimize impervious surfaces and runoff; protect riparian, nearshore, aquatic and wetland habitats; protect wildlife and habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values.

B. **Location of Nonwater-Oriented Accessory Uses.** Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments. When sited within shoreline jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs, and materials storage should be located landward of shoreline setbacks, landward of vegetation conservation areas and wetland buffers, and landward of water-oriented developments and/or other approved uses.

C. **Minimize Impacts on Shoreline and Upland Uses.** Development should be located, designed, and managed to minimize impacts on shoreline or upland uses through bulk and scale restrictions, setbacks, buffers, light shielding, noise attenuation, and other measures.

D. **Vistas and Viewpoints.** Vistas and viewpoints from public properties and rights of way should not be degraded and visual access to the water from such vistas should not be impaired by the placement of signs.

1.5.2 Agricultural Policies

A. **Maintain Agriculturally Productive Lands.** Lands well suited for agriculture may be maintained in agricultural production.

B. **Encourage Vegetative Conservation.** The maintenance of permanent vegetation along the shoreline in agricultural areas should be encouraged in order to retard surface runoff, reduce siltation, and provide sanctuary for fish and other wildlife.

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C. **Protect Airsheds.** Natural airsheds, made up of ravines, swales, tributaries, and other topographic features which direct the flow of cold air down to major streams, should be protected. Obstructions which would create frost pockets should be avoided. Adverse effects of highways, buildings, dikes, landfills, and dense plantings which may obstruct airflow and threaten existing orchards should be minimized.

D. **Avoid Water Pollution.** Agricultural activities should be conducted and buildings designed to avoid surface or groundwater pollution.

E. **Manage Water Resources.** Water resources should be managed in accordance with federal and state laws and adopted County watershed plans.

F. **Water Quality.** The City should support ongoing measures found in the Lake Chelan Water Quality Plan or promulgated by the Lake Chelan Reclamation District, Chelan County Conservation District, area orchardists, and other related agencies and groups, as they raise awareness levels, and monitor and mitigate water quality issues related to agriculture.

G. **Continued Agricultural Use.** The City should recognize that lands can continue to be used for agricultural purposes. Existing agricultural uses within the UGA are grandfathered uses that have the right to continue as long as the owner chooses to operate them.

H. **Avoid Incompatible Uses.** The City should review existing land use plans and regulations to ensure that existing agricultural uses are protected from incompatible uses and are provided with reasonable flexibility regarding permitted uses and structures.

I. **Agricultural Support and Processing Facilities.** Review and update existing land use and infrastructure plans and regulations to ensure, without limiting uses, that there are a variety of locations ready for development or expansion of agricultural support and processing facilities.

J. **Agri-Tourism.** The City should promote and support efforts to diversify the agricultural industry through agri-tourism, wineries and other value-added agricultural products, and produce stands.

1.5.3 Boating Policies

A. **Recognize that boating facilities are water-dependent uses.** Boating facilities, including portions of marinas and public boat launch facilities, are water-dependent uses. When facilitating public access or providing an opportunity for substantial numbers of people to enjoy the shoreline, these uses should be given priority for shoreline location. Shorelines particularly suitable for marinas and public boat launch facilities are limited and should be identified and reserved to prevent irreversible commitment for other uses having less stringent site requirements.

B. **Plan and coordinate public boating facilities regionally.** Regional needs for marina and boat launch facilities should be carefully considered in reviewing new public proposals as well as in allocating shorelines for such development. Such facilities should be coordinated with park and recreation plans and, where feasible, co-located with other compatible water-dependent uses. Review of such facilities should be coordinated with recreation providers, including other local governments, adjacent counties, the Washington State Parks and Recreation Commission, and the Washington

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State Department of Natural Resources, to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes.

C. **Minimize modifications.** Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred.

D. **Balance public access and ecological functions.** All new marinas should provide physical and/or visual public shoreline access, particularly where water-enjoyment uses are associated with the marina, to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use.

E. **Limitations on accessory uses.** Accessory uses at boating facilities should be limited to water-oriented uses, or uses that provide physical and/or visual shoreline access for substantial numbers of the general public. Nonwater-dependent accessory uses should be located outside of the shoreline setback or outside of shoreline jurisdiction whenever possible.

F. **Minimize impacts to adjacent uses and users.** Boating facilities should be located, designed, constructed and maintained to avoid adverse impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; impacts to public visual or physical access to the shoreline; or other adverse impacts to water-dependent uses.

G. **Site facilities appropriately.** New boating facilities should be located only at sites where suitable environmental conditions, shoreline configuration, access, and compatible or similar uses are present.

H. **No net loss of ecological functions.** Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features.

1.5.4 Breakwaters, Jetties, Groins, Weirs and Barbs Policies

A. **Allowed circumstances.** Breakwaters, jetties, groins, weirs and barbs located waterward of the OHWM should be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

B. **Regional benefit and no net loss of ecological functions.** Breakwaters, jetties, groins weirs and barbs should be permitted only for water-dependent uses when the benefits to the region outweigh short-term resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.

C. **Use less-impacting alternatives.** Alternative structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, should be considered where physical conditions make such alternatives with less impact feasible.

D. **Shoreline Conditional Use Permit required.** Breakwaters, jetties, groins, weirs, barbs and similar structures should require a Shoreline Conditional Use Permit, except for those structures installed to protect or restore ecological functions, such as woody debris, engineered log jams, or habitat-forming rock weirs installed in streams.

E. **Protect critical areas.** Breakwaters, jetties, groins, weirs and barbs should be designed to protect critical areas and should provide for mitigation sequencing as stated in the SMP regulations.

1.5.5 Dredging Policies

A. **Permitted.** Dredging should be permitted for water-dependent uses and/or essential public facilities only when necessary and when alternatives are infeasible or less consistent with this SMP. Dredging as part of flood hazard abatement, ecological restoration or enhancement, beach nourishment, public access or public recreation should be permitted if consistent with this SMP.

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B. **Prohibited.** Dredging of bottom materials for the primary purpose of obtaining material for fill, construction, or beach nourishment should not be permitted.

C. **Disposal.** Spoil disposal on land outside of shoreline jurisdiction is generally preferred over open water disposal. Disposal of dredged material on shorelands should be discouraged.

D. **Siting and design.** New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.

E. **Ecological impacts.** Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

F. **Navigation channels and basins.** Dredging for the purpose of establishing, expanding, relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized locations, depths and widths.

1.5.6 Fill and Excavation Policies

A. **Minimize fill and excavation.** Fill and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.

B. **Location.** Fills and excavation should be located and developed so that water quality, hydrologic and runoff patterns are not altered.

C. **Shoreline stabilization.** Fill should not be allowed where shoreline stabilization would be required to maintain the materials placed.

D. **Restoration.** Excavation and grading may be permitted landward of the OHWM of a waterbody for projects with the primary purpose of restoring ecological functions and natural character.

E. **Creation of uplands.** Fill in waterbodies should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity or provides some other public benefit.

F. **Benefits and impacts.** The predicted economic benefits of fills and excavation should be weighed against long-term cumulative impacts on ecological processes and functions.

1.5.7 Private Moorage Policies

A. **Moorage as water-dependent use.** Moorage associated with a single-family residence is considered a water-dependent use provided that it is designed and used as a facility to access watercraft.

B. **Preferred moorage.** To minimize continued proliferation of individual private moorage, reduce the amount of over-water and in-water structures, and reduce potential long-term impacts associated with those structures, mooring buoys are preferred over docks and shared (either joint-use docks or community docks) or public moorage facilities are preferred over single-user moorage.

C. **Avoid impacts to ecological functions.** Moorage should be sited and designed to avoid adversely impacting shoreline ecological functions or processes, and any unavoidable impacts to ecological functions should be mitigated.

D. **Minimize interference with navigation and other uses.** Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating.

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E. **Minimize size.** Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of over-water structures and other developments should be no greater than that required for safety and practicality for the primary use.

F. **Materials.** Moorage should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term, and have been approved by applicable state or federal agencies.

1.5.8 Residential Policies

A. **Compatibility with shoreline.** All subdivisions and residential development should be designed at a level of site coverage and density compatible with the physical capabilities of the shoreline and water in order to minimize probabilities of damage to life, property and the environment.

B. **Cluster development and other flexible standards.** Flexible standards such as zero lot line development, lot size averaging, clustering and other innovative designs should be encouraged outside shoreline jurisdiction wherever feasible to minimize shoreline impacts by residential development, to maintain both on-site and off-site aesthetic appeal, and to minimize disruption of the natural shoreline. Compact developments should ensure that public safety and convenience are not unreasonably compromised. The City should provide incentives for planned residential development to encourage more efficient and creative development.

C. **Encourage restoration and environmental design.** Ecological restoration and measures to minimize environmental impacts, such as low impact development and vegetation conservation and enhancement, should be encouraged.

D. **Aesthetics.** All subdivisions and residential development should be designed to adequately protect and/or improve the water and shoreline aesthetic qualities.

E. **Overwater residential development.** New over-water residential development should be prohibited.

F. **Floating homes.** New floating homes should be prohibited.

G. **Liveaboards.** Liveaboards may be authorized provided the use is managed to limit impacts to shoreline resources consistent with State regulations.

H. **Adequate utilities.** Residential development should have adequate provision for sanitary sewage disposal, storm drainage, and water supply which minimizes harmful effects on shorelines.

I. **Focus residential development into areas with utilities and streets.** Residential development should be encouraged upland of areas presently having such improvements as utilities and streets so as to minimize additional expenditures of public funds, maximize use of existing public facilities, and not decrease availability of open space.

J. **Provide public access.** Residential developments should be encouraged to provide public access to shorelines within the development and to minimize impacts of vehicular use and parking upon shoreline aesthetics.

K. **Scenic views.** Residential development should be designed to avoid impacts to scenic views and vistas.

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L. **Mix of Housing.** The City should encourage an adequate mix of housing units to meet the needs of existing and future residents of the area. Housing types should not be concentrated in one area but distributed in the UGA.

M. **Accessory Dwelling Units.** The City should allow accessory dwelling units in all residential districts for permanent residences, if allowed in zoning districts and if applicable standards of this SMP are complied with.

1.5.9 Shoreline Stabilization Policies

A. **Ecological functions and processes.** Shoreline stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing stream or lake processes and the probable effects of proposed shoreline stabilization on other properties and shoreline features should be considered. Shoreline stabilization should not be developed for the purpose of filling shorelines or creating additional property.

B. **Alternatives.** Structural shoreline stabilization measures should only be used when more natural, flexible, non-structural methods such as placing the development farther from the OHWM, planting vegetation, or installing on-site drainage improvements, beach nourishment and bioengineering have been determined infeasible.

C. **Future stabilization.** Structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require shoreline stabilization for reasonable development to occur.

D. **Protect existing structures.** New or expanded structural shoreline stabilization should only be permitted where demonstrated to be necessary to protect an existing primary structure, including residences, that is in danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.

E. **Adjacent properties.** New development that would require shoreline stabilization which causes adverse impacts to adjacent or down-current properties and shoreline areas should not be allowed.

1.5.10 Utilities Policies

A. **Meet demand for utilities.** Utilities should be located to meet the needs of current underserved areas or future growth. Development proposals should provide for adequate utility right of ways or easements concurrent with development.

B. **Use existing corridors. Intensified** use of existing utility corridors should be encouraged, as opposed to the addition of new corridors. For example, the City should encourage the consolidation of utility facilities such as towers, poles, antennas, substation sites, trenches, easements and communication facilities where reasonably feasible. Efforts should be made to reduce the visual impact of existing utility corridors. The City should require effective and timely coordination of all public and private utility trenching activities.

C. **Minimize visual impact.** Whenever utilities must be placed in a shoreline area, the location should be chosen so as to minimize their visual impact. Whenever feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline area.

D. **Upland and underwater utilities.** Upland locations are recommended for utility pipelines and cables. If an underwater location becomes necessary, easements for the utility must include proper provisions to insure against substantial or irrevocable damage to the waterway or the resident aquatic ecosystems.

E. **Restoration of disturbed areas.** Upon completion of installation or maintenance projects on shorelines, all disturbed areas within shoreline jurisdiction should be restored to pre-project

configuration where feasible, replanted with suitable plant species, and maintained until the newly planted vegetation is established consistent with Vegetation Conservation policies and standards of the SMP.

F. **Outfalls.** Site outfalls to avoid impacts to critical areas. Design outfalls to reduce impacts to aquatic vegetation and water quality.

G. **Water Quality**. The City should ensure that shoreline developments are consistent with applicable standards in the Lake Chelan Water Quality Plan and the Stormwater Management Manual for Eastern Washington, as applicable.

1.5.11 Redevelopment, Repair, and Maintenance Policies

A. **Continue existing uses.** The SMP should recognize existing uses and developments in the shoreline and allow them to continue consistent with their lawfully established condition.

B. **Proportional application.** The City should apply applicable SMP provisions to the shoreline use or development proposed in shoreline jurisdiction, considering the size, location, duration and scope of the proposal where appropriate.

1.5.12 Nonconforming Structures, Uses, and Lots Policies

The following policies on nonconforming structures, uses, and lots are intended to guide the application of City nonconforming standards:

A. **Continuation of nonconforming uses and structures.** Nonconforming existing legal uses and structures may continue according to City standards.

B. **Transition to conforming uses.** Transitions from nonconforming uses to conforming uses should be encouraged.

C. **Expansion of nonconforming structures.** Owners of nonconforming structures that wish to expand the structure should not increase the nonconformity according to City standards.

D. **No-net-loss of ecological function.** The SMP no-net-loss of ecological function objective should guide review of proposed expansions or other changes to nonconforming uses and new development on nonconforming vacant lots. This objective may be addressed in an area-wide manner consistent with the SMP cumulative impacts analysis.

E. **Balance historic character.** The City should consider balancing historic character of the community with conformity to SMP rules when considering changes to nonconforming uses, structures, and lots.

1.5.13 Shorelines of Statewide Significance Policies

Consistent with the use preferences for shorelines of statewide significance contained in RCW 90.58.020, the City shall base decisions administering this SMP on the following policies in order of decreasing priority:

A. Recognize and protect the state-wide interest over local interest.

1. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating amendments to the Master Program, and any proposed amendments affecting Shorelines of Statewide Significance, to state agencies, affected Tribes, adjacent local governments' land areas, citizen's advisory committees and local officials, and state-wide interest groups.

2. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.

3. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.

B. Preserve the natural character of the shoreline.

1. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of human intrusions on shorelines.

2. Restore, enhance, and/or redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.

3. Protect and restore existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.

4. Protect and restore habitats for State-listed "priority species."

C. Support actions that result in long-term benefits over short-term benefits.

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

2. Preserve resources and values of shorelines of statewide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.

3. Ensure the long-term protection of ecological resources of statewide importance.

D. Protect the resources and ecology of the shoreline.

1. All shoreline development should be located, designed, constructed and managed consistent with mitigation sequencing provisions outlined in Section 4.2.2 to minimize adverse impacts to regionally important wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes and result in no net loss of shoreline ecosystems and ecosystem-wide processes.

2. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.

E. Increase public access to publicly owned areas of the shoreline.

1. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines, especially those trail corridors that would be a regional recreational and transportation resource.

2. Locate development landward of the OHWM so that access is enhanced and opportunities for access are not precluded.

3. Increase public access opportunities for those with disabilities consistent with the Americans with Disabilities Act.

4. Provide incentives to landowners that provide shoreline public access, such as development incentives, tax reductions, or other measures.

F. Increase recreational opportunities for the public on the shoreline.

1. Plan for and encourage development of facilities for public recreational use of the shoreline, including facilities for boating, swimming, fishing, and other water-oriented activities.

2. Reserve areas for lodging and related facilities on uplands with provisions for appropriate public access to the shoreline.

1.6 Conservation Element

Goal CONS-1. Protect shoreline resources by:

- Preserving unique and fragile environments, and scenic elements such as views of natural features that support area tourism;
- Conserving non-renewable natural resources; and
- Managing renewable resources such as timber, water, and wildlife.

1.6.1 Ecological Protection and Critical Areas Policies

A. **No net loss of ecological functions.** Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts, both on site and to the extent that impacts may propagate up- or downstream, so that the resulting ecological condition does not become worse than the current condition. For each development, this means assuring no net loss of ecological functions and processes relative to the existing condition, protecting critical areas designated in Appendix B of this SMP, and protecting additional established vegetation conservation areas in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Shoreline ecological functions that should be protected include, but are not limited to, priority or native fish and wildlife habitat and water quality maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.

B. **Evaluating potential for adverse impacts**. In assessing the potential for new uses and developments to cause adverse impacts on ecological functions or processes, the City should take into account all of the following based on the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern:

1. Effects on ecological functions and ecosystem processes; and
2. Effects that occur on-site and effects that may occur off-site; and
3. Immediate effects and long-term effects; and
4. Direct effects of the project and indirect effects; and
5. Individual effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and
6. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.

C. **Development standards should protect functions.** Development standards for density, frontage, setbacks, impervious surface, shoreline stabilization, vegetation conservation, critical areas and their buffers, and water quality should protect existing shoreline ecological functions and processes. During permit review, the Shoreline Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

D. **Avoid Environmentally Sensitive and Hazardous Areas.** The City should discourage development in areas of natural hazard such as those susceptible to landslide, unstable soils and excessive slopes, unless appropriate safeguards are taken.

1.6.2 Vegetation Conservation and Shoreline Setback Policies

A. **Conserve shoreline vegetation.** Where new developments, uses and/or redevelopments are proposed, shoreline vegetation, both upland and waterward of the OHWM, should be conserved to maintain shoreline ecological functions and processes. Vegetation conservation and restoration should be used to mitigate the direct, indirect and cumulative impacts of shoreline development,

wherever feasible. Important functions of shoreline vegetation in the City of Chelan include, but are not limited to:

1. Regulating microclimate in riparian and nearshore areas.
2. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.
3. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence and severity of landslides.
4. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
5. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
6. Providing habitat elements for riparian-associated and aquatic species, including downed wood, snags, migratory corridors, breeding and rearing sites, food, and/or cover.

B. **Shoreline setbacks**. Regulations for shoreline setbacks should be developed for the City consistent with SMA objectives to protect existing ecological functions, accommodate water-oriented and preferred uses, recognize existing development patterns, and minimize creation of non-conforming uses and developments.

C. **Native plant list**. When native plants are desired or required, property owners may choose species from the list located in Appendix E, or from lists maintained by the Washington Native Plant Society, Washington Department of Natural Resources Natural Heritage Program, Washington Department of Fish and Wildlife, or other agency or entity that has expertise.

D. **Noxious and invasive weeds.** Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality. Use of mechanical, non-toxic or natural controls is preferred.

1.6.3 Water Quality, Stormwater and Nonpoint Pollution Policies

A. **Do not degrade waters.** The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and groundwater over the long term.

B. **Assess and mitigate stormwater impacts.** New developments or expansions or retrofits of existing developments should assess the effects of additional stormwater runoff volumes and velocities, and mitigate potential adverse effects on shorelines through design and implementation of appropriate stormwater management measures.

C. **Low impact development.** Use of low impact development (LID) techniques for minimization of impervious surfaces and management of stormwater runoff is encouraged.

D. **Minimize need for synthetic chemical applications.** Shoreline use and development, including invasive or noxious weed control, should minimize the need for synthetic chemical fertilizers, pesticides or other similar synthetic chemical treatments to prevent contamination of surface and ground water and/or soils and adverse effects on shoreline ecological functions and values. Use of natural and non-synthetic applications is encouraged when treatment is necessary.

E. **Water Quality**. The City should ensure that shoreline developments are consistent with applicable standards in the Lake Chelan Water Quality Plan, the Storm Water Management section of the City's *Development Standards Manual*, and the Stormwater Management Manual for Eastern Washington, as applicable.

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1.6.4 General Aquatic Policies

A. **Protect beneficial uses, including ecological functions and water-dependent uses.** Shoreline modifications and uses should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Modifications should not be permitted where they would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely impact other habitat conservation areas, or interfere with navigation or other water-dependent uses.

B. **Minimize and mitigate unavoidable impacts.** All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible and then mitigated.

1.6.5 Shoreline Habitat and Natural Systems Enhancement Projects Policies

A. **Design.** Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.

B. **Improve shoreline ecological functions.** Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife and Washington Department of Natural Resources.

C. **Pursue funding.** The City should, and private entities are encouraged to, seek funding from State, Federal, private and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP or the local watershed plans.

D. **Streamline review.** The City should develop processing guidelines that will streamline the review of restoration-only projects.

E. **Coordination.** Restoration and enhancement projects should be coordinated with local public utility and conservation districts.

F. **Alternative mechanisms.** Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

1.7 Historic, Cultural, Scientific, and Educational Element

Goal HIST-1. Protect and restore areas having documented significant historic, cultural, educational or scientific values.

1.7.1 Archaeological and Historic Resources Policies

A. **Preservation, Restoration, Education.** Whenever possible, archeological or historic sites should be permanently preserved for scientific study and public observation. In areas known to contain significant archaeological and historic data, a condition should be placed on shoreline permits which would allow for site inspection and evaluation to ensure proper salvage of such data.

B. **Impact Avoidance.** Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, or that have been inadvertently uncovered.

Any proposed site development and/or associated site demolition work should be planned and carried out so as to avoid impacts to the cultural resource or to provide appropriate mitigation.

C. **Consultation.** Consultation with professional archaeologists and historians is encouraged to identify areas containing potentially valuable archaeological data, and to establish procedures for salvaging data. Appropriate agencies to consult include, but are not limited to, the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Colville Reservation, and the Washington State Department of Archaeology and Historic Preservation (DAHP).

D. **Adjacent Cultural Site.** If development or demolition is proposed abutting an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.

1.8 Chelan River Element

1.8.1 Flood Hazard Prevention Element

The Federal Emergency Management Agency has defined areas showing the extent of the 100 year flood boundary in order to establish actuarial flood insurance rates and assist communities in efforts to promote sound floodplain management. Development on floodplains retards their ability to absorb water, restricts the flow of water from land areas, and causes hazards downstream. The presence of the Lake Chelan hydroelectric dam limits the flooding hazard along the main lake valley. The presence of numerous hydroelectric dams along the Columbia River also limits flooding on this system. The possibility of flash flooding is a factor for the many smaller drainages and tributaries at lower elevations in the basin.

Goal FLOOD-1. Recognize the hydrologic functions of floodplains, and protect frequently flooded areas.

1.8.2 Flood Hazard Reduction Policies

A. **Implement flood hazard plans and regulations.** The City should ensure public and private development applications site and design flood control measures consistent with appropriate engineering principles, including guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, Chelan County Multi-Jurisdiction Natural Hazard Mitigation Plan, watershed plans, restoration plans, critical area regulations, floodplain regulations, and stormwater management plans and regulations in order to prevent flood damage and conserve limited resources such as fish habitat, water, and soil.

B. **No net loss of ecological functions.** Flood protection measures should result in no net loss of ecological functions and ecosystem-wide processes. Cumulative impacts associated with flood protection measures should be considered.

C. **Non-structural methods preferred.** Where feasible, non-structural methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural flood control works. Non-structural methods may include, but are not limited to, shoreline setbacks, land use controls, use relocation, biotechnical measures, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs.

D. **Avoid structural flood control works.** New or expanding development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood control works should not be allowed.

E. **When non-structural flood control is infeasible.** New structural flood control works should only be allowed in shoreline jurisdiction when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, that appropriate vegetation conservation actions are undertaken, and where non-structural flood hazard reduction measures are infeasible.

F. **Avoid damage to other properties.** Flood control works and shoreline uses, development, and modifications should be located, designed, constructed and maintained so their resultant effects on

geo-hydraulic shoreline processes will not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained.

1.8.3 In-Water Structures Policies

A. **Long-term compatibility.** In-water structures should be planned and designed to be compatible with appropriate multiple uses of resources over the long-term, especially in Shorelines of Statewide Significance. Appropriate multiple uses include, but are not limited to, public access and recreation.

B. **Considerations.** The location, design, construction and maintenance of in-water structures should give due consideration to the full range of public interests; watershed processes, including prevention of damage to other properties and other shoreline resources from alterations to geologic and hydrologic processes; and ecological functions, with special emphasis on protecting and restoring priority habitats and species.

C. **Siting and design.** In-water structures shall be sited and designed consistent with appropriate engineering principles, including, but not limited to, guidelines of the Washington Department of Fish and Wildlife, Natural Resources Conservation Service, and the U.S. Army Corps of Engineers. Planning and design of in-water structures should be consistent with and incorporate elements from applicable watershed management and restoration plans and/or surface water management plans.

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2 AUTHORITY AND PURPOSE

2.1 The Shoreline Management Act

Washington State's citizens voted to approve the Shoreline Management Act of 1971 in November 1972. The adoption of the Shoreline Management Act (Act) recognized "that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation" and that "coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest" (RCW 90.58.020). The Act seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses as follows: (RCW 90.58.020)

> *The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefor, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.*
>
> *It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.*
>
> *The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:*
>
> *(1) Recognize and protect the statewide interest over local interest;*
>
> *(2) Preserve the natural character of the shoreline;*
>
> *(3) Result in long term over short term benefit;*
>
> *(4) Protect the resources and ecology of the shoreline;*
>
> *(5) Increase public access to publicly owned areas of the shorelines;*
>
> *(6) Increase recreational opportunities for the public in the shoreline;*

(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

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

Under the Act, shoreline master programs are created and implemented based on a "cooperative program of shoreline management between local government and the state" (RCW 90.58.050). The roles of local governments and the state are:

"Local government shall have the primary responsibility for initiating the planning required by this chapter and administering the regulatory program consistent with the policy and provisions of this chapter. The department [of Ecology] shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and on insuring compliance with the policy and provisions of this chapter." (RCW 90.58.050)

In recognition of the Act and citizen ideas collected through a local shoreline planning process, the City of Chelan has developed this Shoreline Master Program (SMP), and continually implement and administer it through shoreline permits and reviews. The Washington State Department of Ecology (Ecology) reviews and approves local master programs and certain local permit decisions.

2.2 Authority

This SMP is enacted and administered according to the following state law and rules:

A. The Shoreline Management Act of 1971, Chapter 90.58 RCW;

B. State master program approval/amendment procedures and master program guidelines, WAC 173-26; and

C. Shoreline management permit and enforcement procedures, Chapter 173-27 WAC.

2.3 Applicability

A. All proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 2.2 and this SMP whether or not a

permit or other form of authorization is required. See Chapter 3 for the definition of shoreline jurisdiction and Chapter 9 for definitions of uses, activities, and development.

B. This SMP does not apply to the following activities:

1. Interior building improvements that do not change the use or occupancy;
2. Exterior building structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections.

C. The shoreline permit procedures, policies and regulations established in this SMP shall apply to all nonfederal uses, activities, and development.

D. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

E. Federal lands include, but are not limited to, National Forests, National Parks, National Wilderness Areas, and lands owned by the Federal Bureau of Land Management (BLM). The following subsections shall guide the determination of SMP applicability on federal lands:

1. Federal development on federally owned land is not subject to this SMP nor required to obtain a Shoreline permit unless otherwise required by federal law, or unless the state by statute has ceded all regulatory authority over the federal ownership;
2. Federal development on a federally owned lease is not subject to this SMP nor required to obtain a Shoreline permit unless otherwise required by federal law, or unless the state by statute has ceded all regulatory authority over the federal ownership as long as the development is consistent with the purpose of the lease;
3. Development on federally owned land under a federal lease or easement for a non-federal activity is subject to this SMP and must obtain a Shoreline permit; for example, the SMP applies to private activities on federal land such as leases where the private citizen owns the structure but the federal government owns the land;
4. Non-federal development or use on federally owned land is subject to this SMP and must obtain a Shoreline permit;
5. Development on non-federal land is subject to this SMP and must obtain a Shoreline permit, even if it is leased, rented, etc. to the federal government, or it is within the boundaries of federal ownership unless the state by statute has ceded all regulatory authority over the federal ownership.

F. As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Indian Nations or tribes.

G. 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.

2.4 Purpose and Intent

The purposes of this SMP are:

A. To promote the public health, safety, and general welfare of the community by providing comprehensive policies and effective, reasonable regulations for development, use and protection of jurisdictional shorelines; and

B. To further assume and carry out the City's responsibilities established by the Act in RCW 90.58.050 including planning and administering the regulatory program consistent with the policy and provisions of the Act in RCW 90.58.020; and

C. Promote reasonable and appropriate use of the shorelines considering State and local interests defined in laws, rules, and plans as well as private property rights; and

D. Protect against significant adverse effects to the land, its vegetation and wildlife, and the waters and their aquatic life within jurisdictional shorelines; and

E. To give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas, as illustrated in use allowances of this SMP; and

F. Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline, such as through application of vegetation management, water quality, restoration and similar standards. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses in assigning permit types; and

G. Assure no net loss of ecological functions associated with the shoreline; and

H. Protect rights of navigation; and

I. Recognize private property rights and constitutional limitations on the regulation of private property and protect those rights while implementing this SMP; and

J. Maintain or recreate a high quality of environment along jurisdictional shorelines; and

K. Preserve and protect fragile natural resources and cultural significant features; and

L. Increase public access to publicly owned areas of the shorelines where increased use levels are desirable; and

M. Protect public and private properties from adverse effects of improper development in hazardous shoreline areas; and

N. Recognize the importance of an informed and responsible public observing basic rules of good behavior in the use and enjoyment of all shorelines; and

O. Recognize that this SMP does not alter existing law on access to or trespass on private property and does not give the general public any right to enter private property without the owner's permission.

2.5 Findings

A. **Arid Climate:** The City of Chelan is located in an arid area receiving less than 15 inches of rain annually, much of it likely falling as snow during the winter months.

B. **Water Quality:** The lake is known for its generally clean and clear waters, a result of the ultra-oligotrophic (low nutrient) conditions. Total Maximum Daily Loads (TMDLs) have been developed by the Washington Department of Ecology for certain chemicals (DDT/PCBs) and for total phosphorus.

C. **Recreation:** Lake Chelan is a popular recreation destination because of its climate and waters.

D. **Limited Known Presence of Priority Habitats:** With the exception of a common loon heritage point and a number of fish species (e.g., pygmy whitefish, rainbow trout, kokanee and Chinook salmon, and westslope cutthroat trout), no other Washington Department of Fish and Wildlife-designated priority habitats or species are mapped in the City's lake shoreline jurisdiction.

E. **Lack of Wetlands:** Wetlands are not mapped in the City's lake shoreline jurisdiction.

F. **Lake Level Management:** The Chelan Public Utility District (PUD) manages the lake level through its FERC license, maintaining a full pool from July through early September and for other months between May and October managing lake level so that it does not go below a certain minimum level necessary for lake recreation unless necessary to accomplish higher-priority purposes (such as maintenance of Chelan River flows for fish, flood hazard reduction, etc.). How far down the lake is drawn each year is determined by the PUD based on their predicted inflow from rain and snowmelt.

G. **Seasonal Variation of Water's Edge:** Lake level management has resulted in seasonal variation of the water's edge. In the winter months, when potential stormwater impacts are greatest, the water level drops to a distance of 40 feet in some of the steeper shoreline areas, but more commonly 80 to 150 feet, and in some cases is ~1,000+ feet waterward of the high lake level. Yet it is at the high lake level where armoring and the limit of upland development are found. Overwater structures are often completely in the dry during 6-9 months of the year, with only the larger public, community or commercial structures extending partially waterward of the low lake elevation.

H. **Developed Properties:** In the City and much of the Urban Growth Area (UGA), lakeshore properties are either developed or in many cases have been altered in preparation for development or associated with adjacent development. A significant number of properties already have an overwater structure, and even more properties have armored shorelines.

I. **Structure Setbacks:** Existing primary structure setbacks for single-family development range widely, from minimums of 6 and 8 feet from the Ordinary High Water Mark (OHWM) to maximums of 100-200 feet from the OHWM. Sampled properties showed about 25% have primary structure setbacks of less than 25 feet and another 25% have setbacks between 25 and 50 feet.

J. **Alteration:** The level of alteration is characteristically very high between the shoreline and the primary structure, including primarily lawn and other hardscape, such as pools, large patios and other impervious surfaces, a number of which are parallel and adjacent to the shoreline edge. Non-native trees and shrubs as well as lawns are also found on properties.

K. **Less Developed Lands with Geologic Hazards:** On Lake Chelan, mapped geologically hazardous areas in the City's shoreline jurisdiction coincide with those currently undeveloped properties on the northshore that still retain some native shrub-steppe vegetation, lack overwater structures, and appear to lack armoring. SMP standards reflect the varying undeveloped and developed conditions.

L. **Limited Shoreline Functions:** Many of the potential functions of shoreline vegetation have little to no application in the City of Chelan and its UGA, including those related to temperature control and provision of large woody debris. Other potential functions have very reduced opportunity to perform because of the management of the lake level by the PUD, which places the water's edge 10s to 100s of feet landward of the summer high water mark for 6-9 months of the year. The existing developed and armored condition of most of the City and the naturally rocky/steep sloped condition of the few remaining undeveloped areas limits the actual and potential value of any vegetation, particularly for wildlife or as a source of organic lake inputs.

M. **Water Quality Functions:** Shoreline vegetation functions related to water quality, however, do have some application regarding Lake Chelan. Sediment filtration, pollution filtration, and erosion control, are the primary functions potentially applicable in the City's Lake Chelan shoreline jurisdiction.

N. **Available Scientific Literature and Setbacks:** Scientific literature specific to Lake Chelan is limited. The SMP setbacks and vegetation conservation standards are consistent with existing conditions. The proposed standards, which include on-site infiltration, are also generally consistent with the scientific literature for maintaining riparian functions on a developed lake with varying pool levels in an arid environment.

O. **Water Quality Treatment Standards:** The City's SMP provisions account for the most important shoreline ecological functions – i.e. water quality – by requiring water quality treatment and onsite infiltration or detention for new development as well as connection to sewer.

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P. **Existing Native Vegetation Protection:** While there is less native vegetation present given altered conditions, the SMP contains a suite of regulations that protect existing vegetation, particularly native vegetation and trees, in Vegetation Conservation and Shoreline Setbacks (Section 4.4).

Q. **Soil Erosion Protection:** The SMP addresses soil erosion through the general Water Quality section (Section 4.5), and also in provisions of Vegetation Conservation and Shoreline Setbacks (Section 4.4) which require retention of stormwater runoff onsite.

R. **Avoiding Chemical Applications:** The SMP also discourages use of chemical treatment of landscaping, and requires that any application of chemicals must be in strict conformance to the manufacturer's instructions.

S. **Effective Package of Regulations addressing Shoreline Ecological Functions:** Together, the provisions for vegetation replacement, water quality treatment, and onsite infiltration for all new or redeveloped properties are expected to compensate for any potential effects of smaller setback widths on the shorelines of Lake Chelan.

2.6 Relationship to Other Codes, Ordinances and Plans

A. All applicable federal, state, and local laws shall apply to properties in the shoreline jurisdiction.

B. At the time of application or initial inquiry, the Shoreline Administrator shall inform the applicant/proponent of other local laws and rules that may be applicable to the project. The responsibility for determining applicable federal, state or special district statutes and regulations and complying with the same rests with the applicant/proponent or responsible person carrying out the activity, use, or development in question.

C. Consistent with RCW 36.70A.480, the goals and policies of this SMP approved under Chapter 90.58 RCW shall be considered an element of City's comprehensive plans. All regulatory elements of this SMP, including, but not limited to definitions and use regulations, shall be considered a part of the City's development regulations. The County shall apply City regulations in unincorporated urban growth areas.

D. Certain non-regulatory elements of this SMP, limited to Appendix C, may be updated at any time without requiring a formal SMP amendment.

E. All local development regulations including, but not limited to, zoning and subdivision rules shall apply in addition to this SMP. This SMP includes critical areas regulations applicable only in the shoreline jurisdiction, and shall control within shoreline jurisdiction over other City critical area regulations adopted pursuant to the Growth Management Act.

F. In the event provisions of this SMP conflict with provisions of Federal, State, County or City regulations, the provision that is most protective of shoreline resources shall prevail, when consistent with policies set out in the Act.

2.7 Liberal Construction

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

2.8 Severability

Should any section or provision of this SMP be declared invalid, such decision shall not affect the validity of this SMP as a whole.

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2.9 Effective Date

The SMP is hereby adopted on the XX date of XX, 2014. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

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3 SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

3.1 Shoreline Jurisdiction

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. Certain shoreline waterbodies and their associated shorelands have elevated status under the Act if they are lakes equal to or larger than 1,000 acres or they are streams and rivers in Eastern Washington that are "…downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer" (RCW 90.58.030(2)(e)(v)(B)). These waterbodies are considered to be "shorelines of statewide significance," and have unique supplemental provisions outlined in Section 3.4. The City of Chelan contains two shorelines: Lake Chelan and the Chelan River. Both waterbodies are a shoreline of statewide significance.

The City of Chelan adopts the minimum shoreline jurisdiction defined as:

> *"those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter…." (RCW 90.58.030)*

The extent of shoreline jurisdiction for Lake Chelan and the Chelan River in the City of Chelan is indicated on the Official Shoreline Maps included in Appendix A as well as map databases maintained by City of Chelan. Lake Chelan extends to the lake side of the Lake Chelan Dam; the Chelan River begins at the downstream side of the Lake Chelan Dam. The purpose of the Official Shoreline Maps, and accompanying map databases, is to identify Environment Designations (Section 3.2). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.

3.2 Environment Designations

3.2.1 Environment Designation System

This SMP is intended to meet the requirements in WAC 173-26-211. It states that:

> *Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. Each master program's classification system shall be consistent with that described in WAC 173-26-211 (4) and (5) unless the alternative proposed provides equal or better implementation of the act.*

This SMP is consistent with these requirements, deviating from WAC 173-26-211 (4) and (5) with respect only to some environment designation names, or the addition of new environment designations where such

provides the City with opportunity to provide further, but complementary, designations consistent with existing land management plans. Each environment designation contains a purpose statement, designation criteria, and management policies components.

A. Shoreline Park/Public

A.1 Purpose

The purpose of the "Shoreline Park/Public" environment in the City of Chelan is to:

A. Protect and restore ecological functions of open space, floodplain and other sensitive, public or protected lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

B. Ensure appropriate management and development of existing and future public parks and recreation areas.

A.2 Designation Criteria

A "Shoreline Park/Public" environment designation will be assigned to shorelines that:

A. are within existing or planned public parks or public lands intended to accommodate public access and recreational developments that are compatible with maintaining or restoring the ecological functions of the area, and that are not generally suitable for commercial or industrial water-dependent uses ;

B. are suitable for water-related or water-enjoyment uses;

C. may be designated as open space, floodplain or other sensitive or protected areas that should not be more intensively developed; or

D. retain important ecological functions, even though partially developed.

A.3 Management Policies

Development within the “Shoreline Park/Public” environment shall be consistent with the following policies:

A. Public access and public recreation objectives should be implemented in parks or other public lands located within the City or its UGA whenever feasible and when any significant ecological impacts can be mitigated.

B. When considering park and urban recreational development proposals, water-oriented uses and their accessory uses should be given priority over nonwater-oriented uses. Nonwater-oriented uses should be allowed when located upland of other water-oriented uses or when the nonwater-oriented use does not preclude implementation of planned water-oriented uses.

C. Uses that preserve the natural character of the area, where present, or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of this environment and the setting.

D. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Shoreline Park/Public" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

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B. Shoreline Residential – Single Family

B.1 Purpose

The purpose of the "Shoreline Residential – Single Family" environment is to accommodate single-family residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

B.2 Designation Criteria

A "Shoreline Residential – Single Family" environment designation will be assigned to City of Chelan's shorelands if they are predominantly single-family residential development or are planned for single-family residential development.

B.3 Management Policies

Development within the "Shoreline Residential – Single Family" environment shall be consistent with the following policies:

A. Commercial development should be limited to water-oriented uses and not conflict with the single-family residential character of lands in the Shoreline Residential – Single Family environment.

B. Water-oriented recreational uses should be allowed.

C. Adequate land area and services should be provided.

D. Land division and development should be permitted only 1) when adequate setbacks and vegetation conservation measures are provided to protect ecological functions; 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available; and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.

E. Development standards for setbacks, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.

F. New single-family residential development should be located and designed so that future shoreline stabilization is not required.

C. Shoreline Residential – Multi-Family

C.1 Purpose

The purpose of the "Shoreline Residential – Multi-Family" environment is to accommodate multi-family residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

C.2 Designation Criteria

A "Shoreline Residential – Multi-Family" environment designation will be assigned to City of Chelan's shorelands if they are predominantly multi-family residential development or are planned for multi-family residential development.

C.3 Management Policies

Development within the Shoreline Residential – Multi-Family environment shall be consistent with the following policies:

A. Commercial development should be limited to water-oriented uses and not conflict with the multi-family residential character of lands in the "Shoreline Residential – Multi-Family" environment.

B. Water-oriented recreational uses should be allowed.

C. Adequate land area and services should be provided.

D. Land division and development should be permitted only 1) when adequate setbacks and vegetation conservation measures are provided to protect ecological functions; 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available; and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.

E. Development standards for setbacks, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.

F. Multi-family and multi-lot residential and recreational developments should provide public access to the shoreline and joint-use community recreational facilities.

G. New multi-family residential development should be located and designed so that future shoreline stabilization is not required.

D. High Intensity

D.1 Purpose

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

D.2 Designation Criteria

A "High Intensity" environment designation will be assigned to shorelands designated for commercial or industrial use within the City and its urban growth area (UGA) if they currently support or are suitable and planned for high-intensity commercial, industrial, or institutional uses that either include, or do not detract from, the potential for water-oriented uses, shoreline restoration, and/or public access.

D.3 Management Policies

Development within the “High Intensity” environment shall be consistent with the following policies:

A. In the "High Intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline, but only if identified in shoreline use analysis or through special area planning as described in WAC 173-26-201(3)(d)(ix).

B. Developments in the “High Intensity” environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.

C. Where feasible, visual and physical public access should be required as provided for in Section 4.3 of this SMP.

D. Aesthetic objectives should be actively implemented in development proposals and should be in compliance with sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative screens.

E. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

F. Full utilization of existing urban areas should be achieved before considering expanding this environment designation through future SMP amendments. Reasonable long-range projections of

regional economic need should guide the amount of shoreline designated "High Intensity." During an analysis of shoreline uses, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas. In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas is encouraged.

E. Aquatic

E.1 Purpose

The purpose of the "Aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

E.2 Designation Criteria

An "Aquatic" environment designation will be assigned to shoreline areas waterward of the OHWM.

E.3 Management Polices

Development within the “Aquatic” environment shall be consistent with the following policies:

A. New over-water structures should be prohibited except for water-dependent uses, public access, necessary shoreline crossings, or ecological restoration.

B. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

C. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities is encouraged.

D. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of priority or native fish and wildlife, particularly those species dependent on migration.

E. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in Section 4.2, Ecological Protection and Critical Areas.

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

F. Use Matrix and Development Standards

A. Table 3-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Applicants shall avoid piecemealing applications; for example, accessory structures are only allowed in association with a primary use. Accessory uses shall be subject to the same shoreline permit process and SMP provisions as their primary use when proposed after the establishment of a primary use. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.

B. An accessory use shall not be established on a property prior to the development of its primary use.

C. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.

D. Any use, development or modification not classified in the Shoreline Master Program or listed below shall require a Shoreline Conditional Use Permit.

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E. Uses and modifications identified as "Permitted" require either a Shoreline Substantial Development Permit or may be exempt from the requirement to obtain a Shoreline Substantial Development Permit, as outlined in the definition of *Substantial Development* included in Chapter 9, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.

F. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.

G. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit.

H. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline setbacks, lot frontage, side setbacks, and height are provided in Table 3-2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the City zoning and subdivision codes.

I. When a development or use is proposed that does not comply with the shoreline setback, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Shoreline Variance. Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.

J. Except as otherwise stated, in addition to this SMP, the City zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other City regulations, the more protective of shoreline ecological functions and processes shall prevail.

K. Where a use or modification may occur in the Aquatic environment as indicated in Table 3-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.

L. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 3-1 indicates "P." However, if "CU" is listed for the use or modification, that use or modification is not eligible for an exemption.

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Table 3-1. Shoreline Use and Modification Matrix for the City of Chelan.

The Permit Table is coded according to the following legend. P = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Shoreline Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit NA = Not Applicable All permitted and conditional uses are subject to general policies and regulations and use and modification regulations in Chapters 4 and 5 of this SMP and the zoning code	Shoreline Park/Public	Shoreline Residential – Single Family	Shoreline Residential – Multi-Family	High Intensity	Aquatic
Agriculture	P	P	P	X	X
Agricultural-Commercial	X	CU	CU	P	X
Aquaculture	X	X	X	X	X
Boating Facilities and Private Moorage Structures					
Community dock	X	P	P	P	P
Marina, commercial dock, and public dock	P	CU	CU	P	P
Public boat launch facility	P	CU	P	P	P
Private commercial boat launch facility	X	X	X	P	P
Private community boat launch facility	X	CU	CU	CU	CU
Buoys	NA	NA	NA	NA	P
Residential dock	P	P	P	P	P
Watercraft lift and canopy	NA	NA	NA	NA	P
Covered moorage or boathouse	X	X	X	X	X
Private residential boat launch facility	X	X	X	X	X
Breakwaters/jetties/weirs/groins/barbs	P/ CU	CU	CU	CU	P/ CU[1]
Commercial Uses					
Water-dependent uses	P, CU[3]	X	X	P	CU
Water-related uses					
Boat servicing and fueling	CU	X	X	CU	CU
Boat sales	X	X	X	P	CU
Other water-related uses	P, CU[3]	X	X	P	X
Water-enjoyment uses	P, CU[3]	CU	CU	P	X
Nonwater-oriented uses	X	X	X	CU	X
Mixed-use commercial	CU	X	X	P	X
Mixed-use residential	CU	X	X	P	X
Transient businesses	X	X	X	P	X

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The Permit Table is coded according to the following legend. P = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Shoreline Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit NA = Not Applicable All permitted and conditional uses are subject to general policies and regulations and use and modification regulations in Chapters 4 and 5 of this SMP and the zoning code	Shoreline Park/Public	Shoreline Residential – Single Family	Shoreline Residential – Multi-Family	High Intensity	Aquatic
Dredging and dredge materials disposal					
Dredging	NA	NA	NA	NA	P
In-water disposal	NA	NA	NA	NA	CU
Upland disposal outside of floodplain	CU	P	P	P	NA
Upland disposal inside of floodplain	CU	CU	CU	CU	NA
Fill					
Upland outside of floodplain	P	P	P	P	NA
Upland inside of floodplain	CU	CU	CU	CU	NA
In-water restoration	NA	NA	NA	NA	P
In-water non-restoration	NA	NA	NA	NA	CU
Forest Practices	X	X	X	X	NA
Industrial Uses					
Water-dependent uses	X	X	X	P	CU
Water-related uses					
Boat building	X	X	X	P	P
Industrial docks with appertaining machinery	X	X	X	P	P
Other water-related uses	X	X	X	P	CU
Nonwater-oriented uses	X	X	X	P	X
Institutional[2]					
Water-oriented	P	X	P	P	CU
Nonwater-oriented	CU	CU	CU	CU	X
In-Water Structures	P	P	P	P	P
Mining	X	X	X	X	X
Recreational Use[2]					
Water-oriented	P	P	P	P	P
Nonwater-oriented	P	P	P	P	X
Residential Use					
Single-family	P	P	P	P[5]	X

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The Permit Table is coded according to the following legend. P = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Shoreline Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit NA = Not Applicable All permitted and conditional uses are subject to general policies and regulations and use and modification regulations in Chapters 4 and 5 of this SMP and the zoning code	Shoreline Park/Public	Shoreline Residential – Single Family	Shoreline Residential – Multi-Family	High Intensity	Aquatic
Multi-family	X	X	P	P[5]	X
Cabanas, existing legal	NA	NA	NA	NA	P
Over-water and Floating Homes	NA	NA	NA	NA	X
Liveaboards	NA	NA	NA	NA	CU
Shoreline habitat and natural systems enhancement projects	P	P	P	P	P
Shoreline Stabilization					
Bioengineering and Soft structural shoreline stabilization	P	P	P	P	P
Hard structural shoreline stabilization	CU	P	CU	CU	P
Dikes, levees	CU	CU	CU	CU	X
Transportation and Parking[3]					
Local	P	P	P	P	CU
Regional - new	CU	CU	CU	CU	CU
Regional – existing (maintenance,)	P	P	P	P	P
Regional – existing (improvement, expansion)	SD	SD	SD	SD	SD
Water transportation facilities	P	CU	CU	P	P
Utilities					
Small	P	P	P	P	CU
Large - new	CU	CU	CU	CU	CU[4]
Large - existing (maintenance, improvement, expansion)	P	P	P	P	P

[1] Those structures installed to protect or restore ecological functions, such as woody debris installed in streams, may be processed as a Shoreline Substantial Development Permit.
[2] When the use is also commercial, it is also subject to Commercial use standards and matrix allowances
[3] Water-oriented commercial uses are permitted when accessory to a public recreation facility. Otherwise the uses require Shoreline Conditional Use Permits.
4 Trails shall be permitted as a Recreational Use.
5 New utilities that are fixed to existing overwater structures may be processed as a Shoreline Substantial Development Permit.
5 Except not allowed as a stand-alone use in the underlying Commercial Waterfront zone; only allowed as part of a mixed use development with water-oriented uses as a primary use.

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Table 3-2. Shoreline Development Standards Matrix for the City of Chelan.

Standard Note: All dimensions are in feet. n/a = not applicable	Shoreline Park/Public	Shoreline Residential – Single Family	Shoreline Residential – Multi-Family	High Intensity	Aquatic
Shoreline Setbacks – All Uses	See Section 4.4.2 of this SMP.				
Shoreline Lot Frontage Minimum – Residential	n/a	60	50	50	n/a
Side Yard Setback Minimum – Residential	n/a	5	5	0	5
Side property line spacing: Boating Facilities and Private Moorage Structures	See Section 5.5, Table 5.5-1 and Table 5.5-2 of this SMP.				
Height Limit Maximum	35	30	35	35	35

3.2.2 Official Shoreline Maps and Unmapped or Undesignated Shorelines

A. Appendix A (Shoreline Jurisdiction Boundaries and Environment Designations Maps) includes a hard copy of the Official Shoreline Maps at the time of SMP adoption, which illustrate the delineation of shoreline jurisdiction and environment designations in the City and urban growth area (UGA). The electronic files of the Official Shoreline Maps will be considered the official version and may be updated administratively or through an SMP amendment as indicated in Subsections 3.2.2.B, C and D below. The Department of Ecology will be provided with electronic files of the Official Shoreline Maps when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.

B. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of ordinary high water mark, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned a Shoreline Park/Public environment designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Maps without an SMP amendment.

C. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned a Shoreline Park/Public designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and SMP Section 7.16.

D. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and ordinary high water mark determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps.

E. In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction (e.g., is more than 200 feet from the OHWM or floodway, is no longer in floodplain as documented by a Letter of Map Revision from FEMA, and does not contain associated wetlands) shall not be subject to the requirements of this SMP. Revisions to the Official Shoreline Maps may be made as outlined in this Section E without an SMP amendment.

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3.2.3 Interpretation of Environment Designation Boundaries

A. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:

1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
2. In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.
3. Boundaries indicated as approximately following roads shall be respectively construed to follow the nearest right-of-way edge.
4. Boundaries indicated as approximately parallel to or extensions of features indicated in (1), (2), or (3) above shall be so construed.

B. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in term of the correct environment designation to apply to a property, the Shoreline Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Section 7.13 and the City's appeal procedures referenced in Chapter 7 of this SMP. If the use environment criteria were misapplied, but the map does not show an unintentional error, a SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.16.

C. All shoreline areas waterward of the OHWM shall be designated Aquatic.

D. Upland environment designations shall apply to shorelands.

E. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map (for example: "boundary is 100 feet upland from the OHWM"). Application of shoreline setbacks to parallel designations is explained in Section 4.4.2

3.3 Shoreline Use Preferences

This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

> *It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*
>
> *In the implementation of this policy, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location*

on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state….

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. {See Section 2.1 for a full quote of this RCW]

When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

Reserve shoreline areas for water-dependent and associated water related uses … Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.

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

Limit non-water-oriented uses to those locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

3.4 Shorelines of Statewide Significance

3.4.1 Designation Criteria

Shorelines of statewide significance include those lakes, whether natural, artificial, or a combination thereof, with a surface area greater than or equal to 1,000 acres measured from the OHWM, and natural rivers or segments thereof downstream of a point where the annual flow is measured at two hundred (200) cubic feet per second or more, or those portions of rivers downstream from the first three hundred (300) square miles of drainage area, whichever is longer. In the City of Chelan and its UGA, Lake Chelan and the Chelan River are shorelines of statewide significance.

3.4.2 Use Preferences

In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all shorelines of statewide significance in the City and UGA, as defined in RCW 90.58.030(2)(e). Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses in the following order of preference that are consistent with the statewide interest in such shorelines. These are uses that:

1. *Recognize and protect the statewide interest over local interest;*
2. *Preserve the natural character of the shoreline;*
3. *Result in long term over short term benefit;*
4. *Protect the resources and ecology of the shoreline;*
5. *Increase public access to publicly owned areas of the shorelines;*
6. *Increase recreational opportunities for the public in the shoreline;*

7. *Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (WAC 173-26-251(2))*

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

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4 GENERAL REGULATIONS

Chapter 4 presents general regulations that apply to any developments, uses, or activities in any environment designation in order to protect environmental and cultural resources, reduce likelihood of harm to life or property from hazardous conditions, and promote access to shorelines.

Regulations are rules that govern developments, uses, or activities.

4.1 Archaeological and Historic Resources

4.1.1 Overview

Archaeological and historic resources are valuable links to the City of Chelan's past and should be considered whenever a development is proposed along regulated shorelines. Where such resources are either recorded at the Washington State Department of Archaeology and Historic Preservation (DAHP) and/or with the County or City, or have been inadvertently discovered or uncovered, the following regulations apply.

4.1.2 Regulations

A. **Known Archaeological Resources.** The City shall require that permits issued in areas documented by DAHP to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

B. **Uncovered Archaeological Resources.** Developers and property owners shall immediately stop work and notify the City, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological resources are uncovered during excavation.

C. **Historic Resources.** Where a professional archaeologist or historian, recognized by the State of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state or local historical registers, the City may require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian graves and records) and Chapter 27.53 RCW (Archaeological sites and resources) and development or uses that may impact such sites shall comply with Chapter 25-48 WAC, as well as the provisions of this Master Program.

4.2 Ecological Protection and Critical Areas

4.2.1 Overview

This Shoreline Master Program must collectively provide for balancing of appropriate shoreline uses, public access and environmental protection in a manner that assures "no net loss of shoreline ecological functions." This section provides standards that require proposed individual uses and developments to analyze environmental impacts of the proposal and includes measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with this SMP and other applicable regulations.

In addition, any critical areas found within shoreline jurisdiction must be managed in a way that also results in no net loss of ecological functions and is based on the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern."

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4.2.2 Regulations

A. **Applicability**. The provisions of this Section and Appendix B, Critical Areas Regulations, shall apply to any use, alteration or development, including accessory/appurtenant uses, within shoreline jurisdiction, whether or not a shoreline permit or written letter of exemption is required.

B. **Mitigation sequencing**. Applicants shall demonstrate all reasonable efforts have been taken to avoid, minimize and then mitigate likely adverse impacts to ecological function resulting from new development and redevelopment in shorelines in the following sequence of steps listed in prioritized order:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
7. Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

C. **Mitigation required for impacts.** A mitigation plan shall be developed and implemented for all projects within shoreline jurisdiction, including those waterward of the OHWM, that have adverse impacts identified during mitigation sequencing applied per Section 4.2.2.B to prevent net loss of ecological functions. As part of the analysis of potential impacts, the applicant shall also evaluate whether the project may adversely affect existing hydrologic connections between streams and/or wetlands, and either modify the project or mitigate any impacts as needed. Mitigation must be designed to result in no net loss of ecological functions to the extent feasible. Except where mitigation ratios are otherwise identified for specific critical areas impacts in Appendix B, mitigation for adverse impacts to shoreline ecological functions shall be required at a ratio of one unit of mitigation for one unit of impact by area. However, depending on the nature and extent of adverse impacts and proposed mitigation, a reduction in the ratio may be allowed to meet the no net loss of ecological functions standard as specifically outlined in later sections of this SMP (e.g., 5.5.2.F) or if justified in a critical areas report per Appendix B (Section 1.030.G.3) or a mitigation plan per Subsection F.

D. **Cumulative effects.**

1. In review of applications for Shoreline Variance and/or Shoreline Conditional Use Permits, the City shall consider the cumulative impacts of individual uses and developments, including preferred uses and uses that are exempt from permit requirements, when determining whether a proposed use or development could cause a net loss of ecological functions. The geographic scope of the analysis shall include the shoreline waterbody potentially affected by the proposal within the bounds of the City's geographic authority, unless the Shoreline Administrator determines that a larger or smaller area of analysis is appropriate.
2. The City shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts

including, but not limited to, impacts on priority or native fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.

3. Proponents of shoreline use and development shall take the following factors into account when assessing cumulative impacts:

   a. Current ecological functions and human factors influencing shoreline natural processes; and

   b. Reasonably foreseeable future use and development of the shoreline; and

   c. Beneficial effects of any established regulatory programs under other local, state, and federal laws; and

   d. Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.

4. The City shall add conditions as needed based on the findings of H.1-H.3 above to address any adverse cumulative effects, and may prohibit any use or development that would result in unmitigated adverse cumulative impacts.

E. **Restoration is not required**. Developments shall not be required to provide mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological functions and will not have a significant adverse impact on other shoreline functions fostered by the policy of the Act.

F. **Alternative design and mitigation.** For any development proposal, applicants shall comply with relevant design and mitigation standards found in this SMP. Provided, applicants may submit a mitigation plan that demonstrates how an alternative design or mitigation approach meets the no net loss of ecological functions standard. At a minimum, mitigation plans must contain information about existing and anticipated post-project conditions with a discussion of how the alternative design or mitigation approach is consistent with the SMA and this SMP.

G. **Location of mitigation.** 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 (e.g., area defined by the Watershed Planning Act and named as Water Resource Inventory Area 47 (Chelan)) that addresses limiting factors or identified critical needs for shoreline resource conservation based on the Shoreline Restoration Plan, or WRIA or comprehensive resource management plans applicable to the area of impact may be authorized if it would have a greater positive impact on ecological function. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

H. **Protection of critical areas and buffers.** The waters of Lake Chelan and the Chelan River, and their associated shoreline setbacks, are regulated by the body of this SMP. Any other critical areas and their buffers found within shoreline jurisdiction, such as wetlands, frequently flooded areas, geologically hazardous areas, fish and wildlife habitat conservation areas other than Lake Chelan and the Chelan River, and critical aquifer recharge areas, shall be regulated, protected and enhanced by Appendix B, Critical Areas Regulations. Lake Chelan, the Chelan River, and their associated shoreline setbacks shall be protected and/or enhanced pursuant to Section 4.4, Vegetation Conservation and Shoreline Setbacks, and all other applicable provisions of this SMP. Critical areas and their buffers located outside of shoreline jurisdiction are not regulated by this SMP, and instead are regulated under the City's critical areas regulations found in CMC 14.10.

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4.3 Public Access

4.3.1 Overview

Public access refers to the ability of the general public "to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations" (WAC 173-26-221(4)(a)). Public access can be physical access such as via a trail or park and/or visual such as a view corridor from a road.

Public access is a preferred use per the Shoreline Management Act (RCW 90.58.020). The Shoreline Master Program (SMP) Guidelines require that public access be provided with most new development, except that more flexibility is allowed where there is a coordinated public access planning process (WAC 173-26-221(4)(c)). When public access is addressed in a SMP, it implements the "public trust doctrine" which is a common law principle holding that "the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses." While the doctrine "protect(s) public use of navigable water bodies below the ordinary high water mark," the doctrine "does not allow the public to trespass over privately owned uplands to access the tidelands." Generally, public or private landowners are limited in terms of liability when there are unintentional injuries to any public access users based on state law at RCW 4.24.210.

4.3.2 Regulations

A. **City Shoreline Public Access Plan.** The City's shoreline public access plan provides for a connected network of parks and open space connected by trails. The City's public access planning process provided in Appendix C provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A). The City shall review shoreline developments for consistency with the Shoreline Public Access Plan in Appendix C.

B. **Supporting Plans.** The City shall promote and implement shoreline public access consistent with the following plans that are the basis for the Shoreline Public Access Plan:

1. City of Chelan Comprehensive Land Use Plan
2. Don Morse Park Shoreline Study & Master Plan
3. Lake Chelan Valley Trail Plan
4. Lakeside Trail Feasibility Study
5. Lord Acres Subarea Plan
6. Northshore Pathway Feasibility Study
7. Park & Recreation Comprehensive Plan 2008-2014

C. **Public and recreation shoreline uses and activities.** Shoreline public access shall be required for the following public and recreation shoreline uses and activities when consistent with findings in Section E for any private development, and unless an exception in Section F applies:

1. Shoreline recreation pursuant to Section 5.13;
2. New structural public flood hazard reduction measures, such as dikes and levees;
3. Shoreline development by public entities, including the City, other local governments, port districts, state agencies, and public utility districts; and
4. New marinas when water-enjoyment uses are associated with the marina.
5. Where commercial or industrial use is proposed on land in public ownership.

D. **New Development.**

1. Applicability: The City shall apply its adopted policies to developments proposed in shoreline jurisdiction. The City shall apply this SMP and, where appropriate, its municipal code to ensure that there are sufficient parks and recreation to meet the demands of new development including its authority in SEPA, subdivision regulations, and parks and community waterfront parks regulations.

2. Intent: In applying plans, policies, and regulations regarding shoreline public access, the City's primary intent is to encourage shoreline uses and activities to provide their own shoreline public access; the secondary intent is that if providing shoreline public access is not possible under the circumstances that a contribution be made to the implementation of the City of Chelan Shoreline Public Access Plan, rather than require individual shoreline uses and activities independently provide for off-site mitigation.

3. Specific Requirements: The following uses and activities shall provide public access, when consistent with findings in Section E, unless an exception in Section F applies:

   a. Shoreline public access shall be required for subdivisions, master planned resorts or planned unit developments creating ten or more lots or multifamily developments of ten or more units. See section J.2 regarding community waterfront access.

   b. Commercial and industrial uses shall incorporate shoreline public access. The amount of needed public access shall be based on the development's impacts to shoreline resources and values (providing access or restricting access to the shoreline).

   c. Shoreline public access shall be required for uses or activities that interfere with lands or waters dedicated specifically for public use and subject to the public trust doctrine, or that interfere with an existing public access.

   d. In conjunction with the approval of any development project, the City shall require on-site or nearby off-site development of recreation facilities such as trails or appropriate and usable park land per Appendix C.

E. **Information and Considerations.** When applying public access provisions to private development applications, the City shall consider its adopted plans, regulations, level of service standards, SEPA review, and applicant information.

F. **Exceptions:** Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the City at least one of the criteria 1 through 6 are met and that alternatives have been considered per Subsection G.

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

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

3. Significant environmental impacts will result from the public access that cannot be mitigated;

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

5. The Shoreline Public Access Plan in Appendix C has been reviewed and public access is neither required nor needed;

6. The cost of providing the public access, easement or alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development; however, this

shall not excuse standard improvements required of new development based on the City Municipal Code, such as street frontage improvements.

G. Alternatives Analysis. Except in the case of F.5, when an exception from public access requirements is sought, an applicant shall demonstrate that all feasible alternatives have been exhausted, including, but not limited to:

1. where physical access is not feasible, providing for visual access instead;
2. regulating access by such means as limiting hours of use to daylight hours;
3. designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
4. provision of an off-site public access or a fee-in-lieu pursuant to Subsection G that allows public access at a site physically separated from, but capable of serving the proposal.

H. **Sites Separated from the Shoreline:** Where a development in shoreline jurisdiction can safely and feasibly accommodate public access connections and creates demand for access, the City may require public access connections from upland properties in shoreline jurisdiction to the shoreline when the subject site is separated from the shoreline waterbody by public or private improvements such as highways, railroads, existing structures, or similar significant intervening improvements. Where infeasible, the City may require alternative measures per Subsection G.

I. **Off-site Public Access or Fee-in-Lieu.**

1. Off-site public access may be permitted by the City where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with City standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure. The alternative location should serve the same population as would be impacted by the subject development.
2. Instead of on-site or off-site public access improvements, the City may require or an applicant may propose a fee-in-lieu. A fee-in-lieu may be assessed through the SEPA process, where appropriate, such as where the off-site improvement is best accomplished by the City at a later date or better implements the City's Shoreline Public Access Plan in Appendix C. The cost of providing the off-site public access shall be proportionate to the total long-term cost of the proposed development, and equivalent to the cost of providing the required public access on the subject site. The public access improvement to which the City would apply the fee-in-lieu should serve the population that would be impacted by the subject development. The fee-in-lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance.

J. **Standards.** The development of parks and trails in terms of uses, projects, and design standards shall be consistent with the above listed plans in Subsection B and the following:

1. Trails: Unless otherwise modified by the Shoreline Administrator due to feasibility, safety, environmental, or compatibility concerns, trails shall have a minimum improved surface width of 5 feet with a 1-foot clear area on each side of the paved surface, or widths as required in the adopted parks, trails, or recreation plans in Section B. Trails shall be designed to avoid riparian vegetation to the greatest extent feasible consistent with Section 4.4.2. Private trail development is addressed in Section 4.4.3.G.4.
2. Community Waterfront Parks: Where the City's Shoreline Public Access Plan in Appendix C does not identify planned park and recreation improvements and where a development

would cause increased demand for shoreline public access, the City may require or permit a community waterfront park as follows:

a. Definition: "Community waterfront park" is an area adjacent to Lake Chelan that is used for a subdivision or homeowners' association for recreational purpose and lake access.

b. Size: Required lineal feet of shoreline: Twenty contiguous lineal feet of shoreline for each residential unit, including multi-family, that is allowed access to the community waterfront area up to a maximum of 300 lineal feet, cumulatively.

c. Design: Physical spacing and visual screening will be required between parks and community waterfront and adjacent, noncompatible uses. Fences shall be placed on the dividing property line. Plantings shall be placed on property owned and maintained by the developer. Design of fencing and plantings shall be consistent with the City's municipal code and any conditions of approval.

K. **Compatibility with Private Property. Public access facilities shall be compatible with adjacent private properties** through the use of techniques defining the separation between public and private space, including by not limited to: natural elements such as logs, vegetation, and elevation separations**.**

L. **Connectivity. Physical** public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way or access easements, consistent with design and safety standards. Trail improvements following public rights-of-way per Appendix C shall be considered part of street frontage improvements in accordance with City of Chelan Public Works Development Standards.

M. **Roads, Streets, and Alleys.** The City may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.

N. **Public Easements.** For the subject site and areas within 300 feet of the subject site, shoreline applications shall identify public easements and proposed public access along dedicated easements. The Shoreline Administrator may approve a re-arrangement of the existing public easement locations to achieve improved shoreline public access and site plans that more effectively meet the Act and SMP goals and policies.

O. **Environmental Protection.** Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required.

P. **Conditions of Approval.** The City may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix C, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or compatibility with adjacent properties. Conditions may include but are not limited to the following:

1. Use materials appropriate to the character and environmental condition;
2. Include barrier free designs to meet Americans with Disabilities Act;
3. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities;
4. Provide landscaping;
5. Provide signage with the appropriate State, County or City logo and hours of access;
6. Establish operation and maintenance responsibilities;
7. Identify dedication and recording requirements;
8. Determine timing of public access installation in relation to the construction of the proposal; and
9. Determine ongoing availability to the public or community for which it is designed.

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4.4 Vegetation Conservation and Shoreline Setbacks

4.4.1 Overview

Vegetation management includes activities to prevent or minimize the loss of and increase the extent and viability of vegetation along or near the shoreline that contribute to the ecological functions of shoreline areas. Vegetation management activities may include the prevention or restriction of plant clearing and grading, vegetation rehabilitation, and the control of invasive weeds and nonnative species. The intent of vegetation management is to protect and enhance the ecological functions performed by vegetation along streams, rivers, lakes, and wetlands. Vegetation management may also be undertaken to increase the stability of river banks, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, or to enhance shoreline uses.

Vegetation management involves both passive and active measures. The intent of both systems is to minimize habitat loss and the impact of invasive plants, erosion, sedimentation and flooding. "Passive" vegetation management entails the protection and enhancement of existing native plant communities along the shorelines. "Active" vegetation management involves aquatic weed control and restoration of shoreline plant communities. Restoration using soil bioengineering further prevents the effects of erosion. The following provisions apply to all shoreline uses, activities and developments, including those normally exempted from permit requirements.

4.4.2 General Regulations

A. **Conserve vegetation**. Shoreline developments shall be sited to minimize removal of existing significant trees and native vegetation in shoreline jurisdiction, and shall address conservation and maintenance of vegetation through compliance with this Section and, when other critical areas and their buffers are present, through the critical area standards in Appendix B.

B. **Existing uses may continue.** Vegetation conservation standards shall not apply retroactively to existing, legally established uses and developments. Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline setbacks established in this SMP. In the absence of a development proposal, existing, lawfully established landscaping and gardens within shoreline jurisdiction may be maintained in their existing condition including, but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this SMP, provided this does not apply to areas previously established as native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants.

C. **Adverse impacts on vegetation.** Adverse impacts to shoreline vegetation are considered to occur when vegetation is removed that would reduce the performance of any of the functions listed in SMP Section 1.6.1.A.

1. For example, the following actions would be considered an adverse impact:

    a. Removal or alteration of native plant communities in shoreline jurisdiction, except when the alteration is part of an approved restoration plan;

    b. Removal of native or non-native trees that overhang the river or lake shoreline waterbody;

    c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion; or

    d. Removal of vegetation, followed by supplemental grading and alteration of existing drainage patterns.

2. For example, the following vegetation alteration actions would not be considered an adverse impact when they occur outside of a shoreline setback, as defined in 4.4.3:

   a. Removal of existing lawn, landscaping or other non-native vegetation associated with existing residential, commercial, industrial or other regulated uses provided that any impervious surfaces that may replace removed vegetation are infiltrated, treated, and/or detained as necessary to control potential adverse impacts to water quality or quantity;

   b. Removal of native shrub or groundcover vegetation on lots upland of an improved road, railroad or other development that prevents vegetation on the subject property from providing functions identified in SMP Section 4.4.2.A, provided that the development is sited to minimize native vegetation removal and that new impervious surfaces that may replace removed vegetation are infiltrated, treated, and/or detained as necessary to control potential adverse impacts to water quality or quantity; or

   c. Removal of invasive or noxious plant species, if replaced with species that provide similar ecological functions, such as soil retention and water quality improvement, and are not invasive or noxious.

D. **Mitigation required.** The following standards apply specifically to projects that may adversely impact ecological functions provided by vegetation. See also the requirements of Section 4.2 of this SMP, which more generally address mitigation requirements for impacts to all ecological functions, including other functions provided by shoreline vegetation.

1. Where adverse impacts to shoreline ecological functions provided by vegetation are proposed, and if mitigation sequencing has been applied as outlined in Section 4.2.2.A and results in a need for compensations for impacts, new developments or site alterations shall be required to develop and implement a mitigation plan.

2. Mitigation plans may be prepared by the applicant using guidance provided in Appendix E, Guidance for Development of Vegetation Mitigation Plans, or by a qualified professional and shall be consistent with the relevant mitigation plan requirements in Appendix B, including a five-year monitoring plan, or other monitoring timeframe specified by local, state or federal permitting agencies, and scaled drawings of existing and proposed conditions.

3. Mitigation plans shall describe actions that will ensure no net loss of ecological functions to the maximum extent practicable at the site scale, and shall describe the functions impacted per the list of potential functions provided in SMP Section 4.4.1.A above, and how the mitigation plan addresses those specific functions. For example, if vegetation removal results in loss of overhanging vegetation that provides shade, detritus and insects, the mitigation plan shall include supplemental overhanging vegetation where feasible, or provide mitigation that results in no net loss of that function. If the vegetation removal could destabilize a slope and increase erosion, the mitigation plan shall include re-vegetation in combination with erosion control measures to protect water quality and other measures that help stabilize slopes.

4. Removal of significant trees shall be compensated as outlined in Subsection D and removal of other native vegetation must be compensated minimally at a 1:1 ratio with supplemental native shrub and groundcover plantings in the setback. Mature tree and shrub removal shall be addressed in the mitigation plan and may require a greater replacement ratio to account for temporal loss.

5. Mitigation plans shall include a performance standard of 100 percent survival for the first year of growth post installation, with no less than 80 percent survival at the end of the third and fifth years.

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6. Mitigation measures specified in the mitigation plan shall be maintained over the life of the use and/or development and recorded on an appropriate document recorded with the County Auditor which can be passed to future owners.

7. All mitigation areas shall be permanently identified and protected by means of a conservation easement or similar legal instrument recorded with the County Auditor.

8. Monitoring reports may be prepared by the property owner or applicant at the end of years 1, 3 and 5, provided that the report fully addresses the performance standards and any other maintenance requirements prescribed by the mitigation plan, and provides as-built plans and comprehensive photo documentation. The City has the right to request that property owners and applicants hire a qualified professional to prepare the report if it is not adequate.

E. **Tree Retention**. To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained as follows:

1. Within shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views unless allowed under Subsection 4.4.2.G. Tree removal activities include direct or indirect actions, including, but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.

2. Within any shoreline setback, significant trees shall be retained to the maximum extent possible, except where the tree is dead, diseased, dying or hazardous as determined by a qualified professional (see Subsection 4.4.2.F below). The applicant shall be encouraged to retain viable trees in other areas on-site.

3. If removal of a significant tree is approved, a one-for-one replacement is required. The required minimum size of the replacement tree(s) shall be five (5) feet tall for a conifer and one and three-quarters inches (1 ¾) caliper for deciduous or broad-leaf evergreen tree.

4. For required replacement trees, a planting plan showing location, size and species of the new trees is required. Replacement trees are preferred to be located in the following order, with highest priority at the top of the list:

   a. In the shoreline setback.

   b. In a wildlife corridor perpendicular to the ordinary high water mark.

   c. Any other on-site location in shoreline jurisdiction.

5. All other tree removal in shoreline jurisdiction proposed as part of an approved use or development shall be minimized through site design, and mitigated if the tree removal has an adverse impact as outlined in SMP Subsection 4.4.2.C. When required, tree replacement shall occur at a one for one ratio, with native trees replaced with a similar native tree. Non-native trees may be replaced with a native tree or another non-native tree, provided that no invasive or noxious trees are allowed.

F. **Tree Pruning and Removal for Safety.**

1. Selective pruning of trees for safety is allowed if consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas.

2. Where trees pose a significant safety hazard, they may be removed if the hazard cannot be removed by topping or other technique that maintains some habitat function. Determination of safety hazard shall be made by an arborist or other party as required by the Director. Stumps should be retained in the ground to provide soil stabilization unless another soil stabilization technique is utilized immediately after stump removal.

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G. **View Corridors**. The development or maintenance of view corridors can provide opportunities for visual access to waterbodies associated with waterfront lots. One view corridor, limited to 25 percent of the width of the lot frontage, or 25 feet, whichever distance is less, may be permitted per lot, when consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and this Section. A mitigation plan as required by Subsection 4.4.2.D must be submitted for review and approval in association with the permit required for the shoreline proposal. View corridors are also addressed in SMP Subsection 5.1.2.E.

1. In addition to the submittal of a complete mitigation plan, an applicant must submit the following materials:

   a. A graphic and/or site photos for the entire shoreline frontage which demonstrates that the existing or proposed development does not or will not have a view corridor of the waterbody, taking into account site topography and the location of existing shoreline vegetation on the parcel.

   b. Demonstration that where the applicant already has an accessible shoreline physical access corridor per Subsection 4.4.3.G.4, the view corridor will include the existing shoreline physical access corridor to minimize alteration of the shoreline setback.

2. Applications for view corridors must also be consistent with the following standards:

   a. Native vegetation removal shall be prohibited, unless the entire shoreline setback between the primary structure or use and the shoreline waterbody consists of native vegetation and only when local topography prevents pruning or topping from providing the use or development with a view. Under those circumstances, native vegetation removal may be allowed only as needed to create or maintain the view corridor and provided that the view corridor is located to minimize removal of native trees and shrubs, in that order.

   b. Pruning of native trees shall be conducted by or under the supervision of a qualified professional such that the tree's long-term health shall not be compromised. Native shrubs shall not be pruned to a height less than 4 feet. Tree topping is discouraged. Pruning of vegetation waterward of the OHWM is prohibited.

   c. Non-native vegetation within a view corridor may be removed when the mitigation plan can demonstrate a net gain in site functions, and where any impacts are mitigated.

   d. Whenever possible, view corridors shall be located in areas dominated by non-native vegetation and invasive species.

   e. A view corridor may be issued once for a property. No additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from regrowth. Limitations and guidelines for this maintenance shall be established in the mitigation plan.

G. **Clearing and grading**. Clearing and grading in shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development and shall also be in conformance with the provisions of Section 4.2, Ecological Protection and Critical Areas. All earth-altering activities shall utilize best management practices to minimize and control erosion. Clearing and grading proposed without a proposed shoreline development is not allowed.

H. **Unauthorized vegetation removal**. Vegetation removal within shoreline jurisdiction that is not allowed under this Section, may have adverse impacts on ecological functions (see Subsections 4.4.2.B and C), and is conducted without the appropriate review and approvals is subject to enforcement provisions in Section 7.15. A restoration plan prepared by a qualified professional shall be submitted and approved consistent with the provisions of Section 4.2, Ecological Protection and

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Critical Areas. The restoration plan shall utilize only native vegetation, and shall be designed to address the specific functions adversely impacted by the unauthorized vegetation removal. At a minimum, unauthorized vegetation removal shall be compensated consistent with ratios specified in this Section, with additional vegetation provided as needed to address temporal loss.

I. **Non-native vegetation.** With the exception of hand removal or spot-spraying of invasive or noxious weeds, the determination of whether non-native vegetation removal may be allowed in a shoreline setback must be evaluated in conformance with Section 4.2, Ecological Protection and Critical Areas. Such removal of noxious weeds and/or invasive species shall be incorporated in mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants. Non-native vegetation removal outside of shoreline setbacks does not require mitigation, except as noted under Subsections B and E, but must incorporate necessary erosion control measures.

4.4.3 Shoreline Setback Regulations

A. **Establishment of Setbacks**. Table 4.4-1 establishes setbacks to be measured landward in a horizontal direction perpendicular to the OHWM of the shoreline waterbody.

Table 4.4-1. Shoreline Setbacks by Environment Designation for the City of Chelan.

Environment Designation[1]	Standard Setback	Reduced Setback – with Performance Standards
Shoreline Park/Public		
Lake Chelan	See regulations in Section 4.4.3.A.2.iv (Vegetation Management)	
Chelan River	100’	50’
Shoreline Residential – Single Family – Lake Chelan[2]	Tier 1: 50’ Tier 2: 25’	Tier 1: Not applicable – see Variance Tier 2: 20’
Shoreline Residential – Multi-Family – Lake Chelan	35’	25’
Shoreline Residential – Single Family and Multi-Family – Chelan River	100’	50’
High Intensity	20’	10’

[1] When environment designations are parallel, the setback of the waterward environment extends only to the upland edge of that environment. The setback for the landward environment would apply to uses and modifications in that upland environment. See 1-3 below for criteria guiding setback reductions.

[2] A setback tier has been assigned to all waterfront parcels located in the Shoreline Residential – SF environment designation as shown on the map in Appendix D based on their existing conditions.

1. Standard Setback. The standard setback shall apply to all new development (including accessory or appurtenant development), changes in use, and modifications of existing development consistent with the thresholds established in the non-conforming provisions. The standard setback may be reduced or altered only as outlined in Subsections 4.4.3.B through F below, which address administrative shoreline setback width reductions, conditions for new development, public parks and recreation lands and facilities, existing development, setback reduction standards and allowances for setback width averaging, setback tiers, modification of height and setback standards, mitigation plans, and developments or uses allowed in setbacks. Where administrative provisions in Subsections 4.4.3.B through F below do not apply, a Variance may requested consistent with Chapter 7.

2. Public parks and recreation lands and facilities.

a. In recognition of 1) the existing condition of current and planned City shoreline parks and recreation facilities located in the Shoreline Park/Public environment designation, or 2) parks and recreation facilities in current or future public easements or dedicated rights-of-way for public access and recreation purposes in other environment designations, or 3) community waterfront recreation providing contiguous shoreline greater than 200 feet in length and serving more than 20 homes located outside of the Shoreline Park/Public environment, the following standards shall guide new development and redevelopment of water-oriented public access and recreation facilities in lieu of shoreline setbacks. Applicants shall submit a management plan that addresses compliance with each of the following applicable standards and principles, and contains additional information listed in Subsection A.2.b. below. The City may review and condition the project to more fully implement the principles below.

Table 4.4-2. Design Standards for Public Parks and Recreation Lands and Facilities in Lieu of a Shoreline Setback.

Design Element	Design and Management Standards
i. Category of Use	The following use preferences apply in priority order: • Water-dependent uses located immediately upland of the OHWM • Water-related and/or water-enjoyment uses located upland of water-dependent uses. Water-related and water-enjoyment uses shall not displace existing or planned water-dependent uses. If water-dependent uses are not feasible, then water-related or water-enjoyment uses are allowed consistent with applicable performance standards. • Nonwater-oriented recreation uses located upland of water-oriented recreation uses. The preference is that nonwater-oriented uses occupy existing structures upland of water-oriented recreation uses rather than be established in new structures, Where new nonwater-oriented uses are proposed upland of water-oriented uses, but will not occupy existing structures, they shall avoid native and riparian vegetation consistent with subsection iv below. • Accessory, nonwater-oriented uses located upland of water-oriented uses. However, parking for those with disabilities, when no other location is feasible, may be located per "iii" below. New or expanded public water-oriented development shall follow mitigation sequencing to protect existing riparian areas and other critical areas, and shall comply with vegetation management requirements below. Existing primary nonwater-oriented uses may only expand if they are located upland of water-oriented uses and if the expansion does not displace water-oriented uses. In addition, vegetation management requirements below shall apply. Water-enjoyment recreational uses may be expanded. Existing water-oriented uses may not be converted to a nonwater-oriented use except when the existing water-oriented use is separated from the OHWM by another property.
ii. Impervious Surface and Stormwater Management	New and expanded pollution-generating impervious surfaces (e.g., surfaces used predominantly by vehicles, such as parking areas, roads) must provide water quality treatment before discharging stormwater through use of oil-water separators, bioswales, or other approved technique. This provision does not apply to boat launches. Treated runoff from pollution-generating impervious surfaces and runoff from non-pollution-generating impervious surfaces shall be infiltrated if feasible.

Design Element	Design and Management Standards
	New or expanded pollution-generating impervious surfaces within 50 feet of the OHWM or within already disturbed areas shall be limited to those necessary to provide vehicle access to boat launches, to improve existing informal parking areas, to expand existing parking, or to provide ADA parking as outlined below under iii. Parking. New or expanded trail systems shall avoid existing riparian areas and comply with vegetation management requirements below. Existing trail systems may only be expanded in response to increased demand, and shall be expanded landward of existing trail where feasible. Portions of trails providing direct shoreline access are allowed. Parallel trails are preferred at least 25 feet upland of the OHWM. Parallel portions of trails may be constructed closer to the aquatic area if the trail is located on previously disturbed rights-of-way, access and/or utility easements, and legally altered sites. Viewing platforms and crossings are allowed, provided they are also located to avoid significant vegetation removal.
iii. Parking	New parking accessory to shoreline parks shall be at least 70 feet upland of the OHWM, except where a minimum number of parking spaces are provided closer than 70 feet to accommodate those with disabilities or where parking is provided in existing impervious surfaces. Existing parking closer than 70 feet upland of the OHWM may only be expanded in response to increased demand. Expanded parking shall be expanded in the following order of preference, with 1) being the most preferred: 1) landward of existing parking and 2) laterally of the existing parking, if it is serving a previously existing authorized use and is located on existing impervious surface. Parking shall not be located closer than 50 feet upland of the OHWM unless the proposed expansion area is already an impervious surface or is necessary to accommodate those with disabilities.
iv. Vegetation Management	New and expanded uses in shoreline jurisdiction shall be located to avoid and minimize intrusion into riparian areas, as well as avoid tree and shrub removal. Significant tree removal within 50 feet of the OHWM shall be mitigated at a 2:1 ratio and as otherwise consistent with SMP Section 4.4.2.E. Other trees and shrubs within 50 feet of the OHWM shall also be replaced at a 2:1 ratio using the same preference for location established for significant trees. Landscape designs for new and modified recreation facilities in shoreline jurisdiction shall incorporate the following. • Select species that are suitable to the local climate, having minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers. Native species shall comprise 50 percent of the landscaped area, not counting lawn area. Redevelopment of lawn areas shall be no closer than 20 feet from the OHWM. Native grasses may be used within the first 20 feet landward of the OHWM. If lawn areas are not currently established within 50 feet of the OHWM, the existing riparian vegetation within 50 feet of the OHWM shall be maintained, unless a mitigation plan demonstrates improved ecological function. • Preserve existing soil and vegetation (especially trees) where possible. Amend disturbed soils with compost. Mulch existing and proposed landscapes regularly with wood chips, coarse bark, leaves or compost. • Group plants by water need, use more efficient irrigation methods like drip and soakers under mulch, and design and maintain irrigation systems to reduce waste. Place vegetation to maximize the following benefits: • development or supplementation of a native vegetated wildlife corridor, • development or supplementation of riparian vegetation adjacent to the water's edge,

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Design Element	Design and Management Standards
	• screening parking areas from views from the water or the park, and/or • discouragement of wildlife that may directly or indirectly interfere with park use or human health (e.g., geese). While a specified setback is not required for certain water-oriented recreational uses and developments in public park areas identified in Subsection 4.4.3.A.2, recreational improvement projects shall place an emphasis on shoreline restoration/enhancement within 50 feet of the OHWM. This emphasis shall not require the removal of existing lawn areas, but should place an emphasis on incorporation of riparian plantings if the public access area is underutilized or public access would not be impaired by the plantings.
v. Chemical Applications	A lawn and landscape management strategy for any allowed uses in shoreline jurisdiction shall be developed that incorporates the following: • A site-specific plan for use of integrated pest management technique, if applicable. • A detailed plan identifying anticipated use of fertilizers, herbicides and pesticides, to include method of application that ensures these materials will not enter the water. Phosphorus-containing fertilizer treatments shall not be applied to turf or landscaping within 50 feet of the OHWM. Natural applications and hand removal are preferred over synthetic applications.
vi. Pools	Pools and other upland recreational uses that utilize chemically treated water must either be connected to a sewer system or must collect the water for later discharge into a sewer system. Pools and other upland recreational uses that utilize chemically treated water shall be located a minimum of 75 feet upland of the OHWM.
vii. Lighting	Outdoor lighting fixtures and accent lighting must be shielded and aimed downward, and shall be installed at the minimum height necessary. The shield must mask the direct horizontal surface of the light source. The light must be aimed to ensure that the illumination is only pointing downward onto the ground surface, with no escaping direct light permitted to contribute to light pollution by shining upward into the sky. Outdoor lighting fixtures and accent lighting shall not directly illuminate the shoreline waterbody, unless it is a navigational light subject to state or federal regulations.

b. Application requirements:

i. Drawings of existing park facilities, including a narrative that identifies area (sq. feet or sq. meters) and description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas), upland vegetation and lawn areas.

ii. Drawings of proposed park facilities, including a narrative that identifies area (sq. feet or sq. meters) and description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas), upland vegetation and lawn areas.

iii. Any increases in impervious surfaces (trail size, parking facilities, recreational facilities, etc.) shall be accompanied by a needs analysis that addressed the requirement for increased public facilities, what size facilities are needed by existing and projected park users, and the nearest locations of similar facilities.

iv. Expansion of public/park facilities shall be accompanied by a mitigation plan that addresses the design elements and the design and management

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standards above, addresses mitigation sequencing, and demonstrates no net loss of shoreline ecological functions.

B. **Administrative Setback Width Reductions**

1. Existing Roads. The required standard setback may be administratively modified where a legally established road crosses a shoreline setback. The Shoreline Administrator may approve a modification of the minimum required setback width to the waterward edge of the improved road if a study submitted by the applicant and prepared by a qualified professional demonstrates that the part of the setback on the upland side of the road sought to be reduced:

   a. does not provide additional protection of the shoreline waterbody; and

   b. provides insignificant biological, geological or hydrological functions relating to the waterward portion of the setback adjacent to the shoreline waterbody.

   If the improved roadway corridor is wider than 20 feet, a study is not required.

2. Other Setback Reductions. The setback may be administratively reduced as indicated in Table 4.4-1 down to the "Reduced Setback" if the applicant provides the following to the satisfaction of the Shoreline Administrator:

   a. A mitigation plan pursuant to Subsection 4.4.2.D indicates that enhancing the setback (by removing invasive plants or impervious surfaces, planting native vegetation, etc.) will result in a reduced setback that functions at a higher level than the existing standard setback through demonstration of improved ecological function; and

   b. A site plan showing clearly the boundaries of the parcel, shoreline jurisdiction, the standard setback, the proposed reduced setback, and existing and proposed developments.

   c. A narrative description of the design alternatives considered as part of each mitigation sequencing step outlined in Subsection 4.2.2.B, and how the applicant's proposal incorporates mitigation sequencing to the maximum extent practicable.

   d. A mitigation plan as outlined in Subsection F.

   If the setback has been reduced under any other provisions of this chapter, has been varied or reduced by any prior actions administered by the City, or has used setback width averaging, the site is not eligible for any future setback width reductions under any other provisions of this Program, except as administered under Shoreline Variances.

C. **Expansion of Existing Development in the Shoreline Setback.**

1. Existing development located within the standard setback may expand vertically or landward of the development.

2. Expansions waterward are prohibited except when the reduced setback is consistent with Subsections 4.4.3.B or D below. All other waterward expansions are prohibited unless the applicant obtains a Shoreline Variance.

3. Expansions within the standard setback laterally toward the side lot lines may be allowed with installation of vegetation covering 50 percent of the remaining setback area, with 50 percent by area of those plantings to be native; recorded restrictions regarding synthetic fertilizer, pesticide and herbicide use within the setback area; and a combination of stormwater handling improvements, such as:

   a. Installation of gutters that empty into an approved stormwater handling system,

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b. Installation of 1-inch or greater diameter rock under all decks/un-guttered roof overhangs,

c. Installation of 1 inch or greater diameter rock on all dirt parking areas, or

d. Installation of angled discharge dip at the bottom of uphill driveways.

D. **Setback Width Averaging.** Averaging of standard setback widths may be approved by the Shoreline Administrator for single- or multi-family dwellings on existing legal lots of record in place at the time of adoption of this Program, based on a report submitted by the applicant and prepared by a qualified professional biologist. Setback width averaging shall only be allowed where the applicant demonstrates all of the following:

1. Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
2. The designated setback contains variations in sensitivity due to existing physical characteristics or the character of the setback varies in slope, soils, or vegetation;
3. The width averaging shall not adversely affect or impact the setback's functional value;
4. The total area contained within the setback after averaging is no less than that contained within the standard setback prior to averaging.
5. The minimum setback width at its narrowest point shall not be less than seventy-five (75) percent of the width established under the required standard setback found in Table 4.4-1;
6. The setback has not been reduced under any other provisions of this chapter. The setback has not been varied or reduced by any prior actions administered by the City. Sites which utilize setback width averaging are not eligible for any future setback width reductions under any other provisions of this Program, except as administered under Shoreline Variances.

E. **Modification of height or other setback standards**. The City may allow an increase in height above applicable SMP height standards or property setback standards if those actions will reduce or eliminate the need for the shoreline setback reduction. (See Subsection 5.1.2.E.3)

F. **Mitigation Plan.** Applicants seeking a reduced shoreline setback must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of the proposed reduction. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Chelan critical areas regulations (see Appendix B). Applicants may choose one or more of the setback reduction measures provided in Table 4.4-3 below, and reduce the required buffer by the number of feet specified. Reductions can be additive until the reduced setback (Table 4.4-1) is reached. If the applicant choses either options 4, 5 or 7, the applicant can prepare the mitigation plan as indicated in Subsection 4.4.2.D. If the plan is not satisfactory, the City may require that the plan be prepared by a qualified professional.

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Table 4.4-3. Shoreline Setback Reduction Options for Each Environment Designation

	Shoreline Setback Reduction Options	Maximum Reduction in the Setback Allowed by Conducting a Given Setback Reduction Measure by Environment Designation			
		Shoreline Residential – SF, Tier 2	Shoreline Residential – Multi-Family Lake Chelan	Chelan River - Shoreline Residential and Shoreline Park/Public	High Intensity
Water Related Conditions or Actions					
1	Existing hard structural shoreline stabilization may receive the reduction allowance if it is removed and replaced with non-structural or bioengineered soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 75 percent of the linear shoreline frontage of the subject property. If this option is selected, the applicant is not eligible for future hard structural shoreline stabilization. This option cannot be used in conjunction with Option 2 below.	5’	10’	25’	10’
2	Existing hard structural shoreline stabilization may receive the reduction allowance if it is removed and replaced with non-structural or bioengineered soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 25 percent of the linear shoreline frontage of the subject property. If this option is selected, the applicant is not eligible for future hard structural shoreline stabilization. This option cannot be used in conjunction with Option 1 above.	3’	5’	15’	5’
3	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project’s impacts.	Up to the maximum reduction			
Upland Related Conditions or Actions					
4	Develop and implement a native vegetation enhancement plan in the shoreline setback that achieves the following. • Native shrubs planned to provide at least 50% aerial coverage of the setback enhancement area within 5 years of installation; • Vegetation enhancement is maintained for the duration of the use or facility.	5’	5’	10’	5’

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		Maximum Reduction in the Setback Allowed by Conducting a Given Setback Reduction Measure by Environment Designation			
	Shoreline Setback Reduction Options	**Shoreline Residential – SF, Tier 2**	**Shoreline Residential – Multi-Family Lake Chelan**	**Chelan River - Shoreline Residential and Shoreline Park/Public**	**High Intensity**
	Note: Vegetation installed in the setback as required mitigation for a shoreline stabilization measure or over-water structure proposal may not be counted towards this mitigation option.				
6 5	Develop and implement a native vegetation enhancement plan that achieves the following. • Native shrubs planned to provide a wildlife corridor extending upland and perpendicular to the OHWM at least a minimum width of 10 feet and a minimum length of 75 feet or full depth of the lot, whichever is greater, and planned to have 80% aerial coverage within 5 years of installation. • Vegetation enhancement is maintained for the duration of the use or facility. Subdivisions that include both waterward and upland lots in shoreline jurisdiction should plan and plant the upland parcels such that a continuous wildlife corridor extends upland of the waterfront lot.	3’	3’	5’	3’
6	Installation of pervious material for at least 50 percent of all new or replaced pollution-generating surfaces, such as driveways, parking or private roads, that allows water to pass through at rates similar to or greater than pre-developed conditions.	3’	3’	5’	3’
7	Restoring or preserving native vegetation within at least 50 percent of the total lot area remaining outside of the reduced setback, the developed footprint, and outside of any other critical areas and their associated buffers. The mitigation plan shall address temporal loss. This reduction is not allowed if riparian vegetation removal would be needed inside the standard setback to accomplish the development.	3’	3’	5’	3’
8	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project’s impacts.	Up to the maximum reduction			

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1. The City shall accept previous actions that meet the provisions established in the setback reduction measure chart above as satisfying the requirements of this section, *provided* that the previous action was not otherwise a requirement of the City or other agencies either through specific regulation or as mitigation, and that all other provisions are completed, including, but not limited to, the agreement noted in F.4 below. The reduction allowance for previously completed reduction actions may only be applied once on the subject property, and the action must have taken place no more than three years prior to the applicant's submittal.

2. Measures identified in the setback reduction table may not be applied if they are required by federal, state, or local regulations or are offered as mitigation for other actions or impacts.

3. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.

4. Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development and changes in ownership, in a form acceptable to the City and recorded with the County Auditor.

5. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to a fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found under separate cover (in Resolution XXX) shall be considered first.

6. If setback reductions are approved and water-dependent uses are proposed in the future within the previously approved reduced setback area, the water-dependent use shall be located in the area not designated as the vegetated setback area when feasible. If infeasible, the impacted vegetated setback area must be mitigated at a 2:1 area ratio (2 sq. ft mitigation required for every 1 sq. ft of area disturbed).

G. **Developments or Uses Allowed in Shoreline Setbacks with Appropriate Shoreline Permit.**

1. Those portions of water-dependent or public access development that require improvements or uses adjacent to the water's edge, such as water-dependent portions of fuel stations for retail establishments providing boat gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat launch ramps for boat launches, swimming beaches, direct water access portions of shoreline trails (trails paralleling the shoreline do not qualify for this allowance unless located on or landward of an improved roadway), or re-development of existing park areas or other similar activities, are allowed in the setback. Vegetation mitigation shall be required when the alteration removes significant trees or other vegetation.

2. Balconies may be placed no closer than the upland edge of the reduced setback if no vegetation removal is required.

3. Native landscaping may be installed in the shoreline setback, provided existing native vegetation is not removed. Use of noxious or invasive species is strictly prohibited. Areas of previously developed lawn or other impervious surfaces may be replaced with non-native landscaping, except those areas required to be maintained as mitigation areas, which include those areas planted in order to obtain a shoreline setback reduction. Chemical treatment of landscaping in shoreline setbacks is discouraged, and any application of chemicals must be in strict conformance to the manufacturer's instructions.

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4. Shoreline residential access. A private access pathway a maximum of four (4) feet wide may be constructed through the shoreline setback to the OHWM. Impervious materials may be used if the applicant can demonstrate that the occupants of the residence require a paved surface in order to use the pathway. The pathway should take the most direct, perpendicular route to the water unless slope conditions require a less direct route for safety. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction.

5. Modifications Necessary for Agency Compliance or Court Compliance: Modifications to existing development that are necessary to comply with environmental requirements of any State or Federal agency or court, when otherwise consistent with the Shoreline Master Program, may be located in and expanded in the shoreline setback if the use or activity cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline setback provided that the reviewing official determines that:

   a. The facility cannot meet the dimensional standard and accomplish the state, federal or court ordered modification necessary to bring it into compliance;

   b. The facility's modifications are located, designed, and constructed to meet specified required modification standards necessary while complying with mitigation sequencing, and minimizing damage to ecological function and values of the shoreline; and

   c. The modification follows necessary provisions for non-conforming development and uses.

6. In the Shoreline Residential – Single-family environment, new minor structures that are normal residential amenities, such as play structures, picnic tables and benches, may be located waterward of the shoreline setback provided all of the following criteria are met:

   a. The maximum total footprint is not more than two hundred (200) square feet;

   b. The structure is located outside of wetlands, non-shoreline streams, and their associated critical area buffers;

   c. Trees or any native vegetation are not removed or adversely impacted by the structure; and

   d. The structure does not require a permanent foundation.

   See Chapter 8, Nonconforming Uses and Development Standards of this Master Program which considers pre-existing legal residential structures or developments as conforming.

7. Essential public facilities. Consistent with the use allowances for each environment designation, other essential public facilities as defined by RCW 36.70A.200 may be located in the shoreline setback if the use or activity cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline setback. Essential public facilities must also demonstrate that alternative sites are not available. These uses and modifications must be designed and located to minimize intrusion into the setback and should also be consistent with Section 4.2, Ecological Protection and Critical Areas and Section 4.3, Public Access.

8. Site investigative work necessary for land use application submittals such as surveys, soil logs, drainage tests and other related activities, may occur within shoreline jurisdiction. In every case, shoreline ecological function impacts should be avoided and/or minimized and disturbed areas shall be immediately restored.

9. Siting of roads. Where other options are available and feasible, new roads or road expansions shall not be built within shoreline setbacks. Crossings, where necessary, shall cross shoreline setbacks as near perpendicular as possible, unless an alternate path would

minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands or geologically hazardous areas. If no alternative exists to placing a roadway in a shoreline setback, a mitigation plan prepared by a qualified professional must be submitted, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas.

10. Utilities. Where no other practical alternative exists to the excavation for and placement of wells, tunnels, utilities, or on-site septic systems in a shoreline setback, these uses may be permitted if also allowed under Section 5.18, Utilities. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas.

11. Trails and associated facilities may be permitted in shoreline setbacks, but should conform to design guidelines found in Public Access sections of this SMP. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas.

12. Fences may be allowed in shoreline setbacks, consistent with the following standards:

    a. Fences aligned roughly perpendicular to the shoreline within 25 feet upland of the OHWM shall be no more than 4 feet high when separating two residential lots and no more than 6 feet high when separating a residential lot from public lands, including rights-of-way, or community parks.

    b. Fences aligned roughly parallel to the shoreline shall be set back at least 25 feet from the OWHM and shall be no more than 4 feet high.

    c. Fences along a property line aligned roughly perpendicular to the shoreline may extend no farther waterward than 5 feet upland of the OHWM.

    d. The opaque portions (e.g., boards or slats) of a fence must not cover more than 60 percent of the fence; at least 40 percent of the fence must be open. Chain link fences are not permitted within 25 feet of the OHWM.

4.5 Water Quality, Stormwater and Nonpoint Pollution

4.5.1 Overview

Protection of the state's associated waters and shoreline water quality requires broadly applicable land use regulations. A variety of uses and modifications potentially impact water quality. Water quality is affected in numerous ways by development and human occupation of shoreline areas. Increases in impervious surfaces can cause higher levels of stormwater discharge. That added discharge can increase erosion, and introduce suspended solids, heavy metals, household wastes and excess nutrients to Chelan's shorelines. Increased nitrogen and phosphorous levels depress levels of dissolved oxygen below the requirements of aquatic species. Poorly managed development cumulatively degrades water quality, thereby threatening public health, wildlife and water-dependent economic interests.

4.5.2 Regulations

A. **Do not degrade waters.** Shoreline use and development shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws.

B. **Requirements for new development.** New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse effects on shoreline ecological functions through the use of best management practices (BMPs) and/or through compliance with the current Stormwater Management Manual for Eastern Washington in effect at the time if applicable to the project. When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would

provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan. Stormwater runoff must be retained or infiltrated on-site, and may not be directly discharged to the waterbody without treatment.

C. **Lake Chelan Water Quality Plan.** All developments shall implement applicable provisions of the Lake Chelan Water Quality Plan to the extent consistent with the City's Comprehensive Plan and the current Stormwater Management Manual for Eastern Washington.

D. **Maintain storm drainage facilities.** Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and/or improvement plans.

E. **Sewage management**. Municipal sewer services are available to all of the designated SMP area, with the South Shore area within the UGA being serviced by the Lake Chelan Sewer District and the North Shore area within the UGA as well as the incorporated area being serviced by the City of Chelan. To avoid water quality degradation and remain in compliance with the Lake Chelan Water Quality Plan as adopted by reference in the City of Chelan Comprehensive Plan, sewer service is subject to the requirements outlined below.

1. Any existing septic system or other on-site system that fails or malfunctions will be required to connect to one of the existing municipal sewer service systems.

2. Any new development, business, single-family or multi-family unit will be required to connect to one of the existing municipal sewer service systems.

F. **Materials requirements.** All materials that may come in contact with water shall be constructed of materials, such as untreated or approved treated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state or federal agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote or pentachlorophenol is prohibited in shoreline waterbodies and other waters.

G. **Low Impact Development**. Use of Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, site preparation, construction, and ongoing management. Existing public stormwater management systems and facilities shall be retrofitted and improved to incorporate LID techniques whenever feasible.

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5 SHORELINE MODIFICATIONS AND USES

Chapter 5 presents specific regulations that apply to particular developments, uses, or activities in any environment designation.

Each section includes policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

The Use Matrix and Development Standards sections found in Chapter 3 Chapters 4 through 9, and Appendices A, B, and D are considered part of the regulations.

Shoreline application requirements are found in Section 7.4 of this SMP. Chapter 5 may contain specific submittal requirements for a particular use or modification beyond those stated in Section 7.4. Chapter 5 also contains performance standards for shoreline modifications and uses. Further, the Shoreline Administrator may condition a proposal in order to comply with the Act or this SMP consistent with the provisions in Section 7.5.3, 7.7.3, 7.8.3, and 7.9.

5.1 General Upland Shoreline Modification and Use Regulations

5.1.1 Overview

This section provides standards addressing preferred layouts of shoreline development and appropriate signage serving the intended use and recognizing shoreline locations.

5.1.2 Regulations

A. **Design features for compatibility**. Shoreline use and development activities shall be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible, including:

1. Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.
2. Outdoor storage shall be screened from public view through techniques such as landscaping, fencing and/or other equivalent measures.

B. **Preference for water-oriented facility location.** Shoreline developments shall locate the water-oriented portions of their developments along the shoreline and place all other facilities landward or outside shoreline jurisdiction.

C. **Minimize changes to topography.** To the extent feasible, design of structures, and motorized and nonmotorized vehicular improvements, shall conform to natural contours and minimize disturbance to soils, native vegetation, and natural features while meeting applicable government standards.

D. **Soil disturbance.** All disturbed areas shall be restored and protected from erosion using vegetation and other means.

E. **Height, setbacks and public view corridors.**

1. Heights Greater than 35 Feet: Per WAC 173-27-180, applicants for new or expanded structures exceeding 35 feet in height shall provide a depiction of the impacts to views from substantial numbers of residences and public areas. To mitigate impacts, site design shall provide for view corridors between buildings through the use of building separation, setbacks, upper story setbacks, pitched roofs, and other mitigation. In order to determine

appropriate view corridor location, applicants and the City shall review shoreline public access plans (Appendix C), location of Federal- or State-designated scenic highways, government-prepared view studies, SEPA documents, or applicant-prepared studies. The maximum width of a view corridor shall be 25% of the lot width of the lot frontage; where the view corridor requires vegetation removal, the view corridor may be limited to 25% or 25 feet, whichever is less.

2. View Analysis Standards: In the case of heights proposed above 35 feet, the following view analysis standards and procedures apply:

   a. The applicant shall prepare a view analysis conducted consistent with Section 7.4. The analysis shall address such considerations as cumulative view obstruction within a1,000-foot radius with implementation of the proposed development combined with those of other developments that exceed 35-feet in height. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained. For phased developments, the view analysis shall be prepared in the first phase and include all proposed buildings.

   b. Building heights above 35 feet require authorization via a Shoreline Conditional Use Permit pursuant to Section 7.7 of this Shoreline Master Program, except as provided in subsection 3.

3. Modification of height or other setback standards to achieve shoreline setback. The City may allow an increase in height above applicable SMP height standards or property setback standards if those actions will reduce or eliminate the need for the shoreline setback reduction. These modifications of standards may be approved without a Shoreline Conditional Use Permit or a Shoreline Variance if the modification is consistent with underlying zoning regulations and is not anticipated to have adverse impacts on adjacent properties.

F. **Lighting.** Interior and exterior lighting shall be designed and operated to avoid illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas; and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, and vegetative screening. Lighting shall be directed away from shoreline vegetation conservation areas, shoreline aquatic areas, and other critical areas, unless necessary for public health and safety.

G. **Sign regulations.**

1. Sign Size, Location, and Lighting Standards: Signs are allowed subject to the following:

   a. Signs shall comply with lighting standards of subsection 5.1.2.F. above.

   b. Signs required by law shall not be subject to limitations with respect to the number, location, and/or size, provided that they are the minimum necessary to achieve the intended purpose. Signs required by law include, but are not limited to, official or legal notices issued and posted by any public agency or court, or traffic directional or warning signs.

   c. Flashing signs or other advertising structures having lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations are prohibited in shoreline jurisdiction. Pennants, banners and other devices of seasonal, holiday, or special event character may be utilized on a temporary basis consistent with the City's zoning code and sign standards.

d. Freestanding signs authorized by this SMP are subject to the shoreline setbacks and critical area buffers and vegetation conservation standards in Section 4.5 and Appendix B. Building mounted signs are subject to shoreline setbacks and other setbacks applicable to buildings. Height of wall signs shall be not exceed the development standards of this SMP.

2. Views: Signs shall not significantly obstruct visual access to the water or scenic vistas nor impair driver vision. Signs shall be subject to the review of Section 5.1.2.E.

3. Natural Features: Signs shall not be posted or painted on natural features such as trees, rocks, and hillsides, etc., within shoreline jurisdiction.

4. Moved Signs: Signs that are moved, replaced, or substantially altered shall conform with SMP requirements and City regulations. For the purposes of this section, "substantial alterations" includes modifying structural elements of the sign.

5. Development shall comply with the City of Chelan Dark Sky Ordinance, CMC 17.62.

H. **No Net Loss of Ecological Function.** Upland uses, development, and modifications shall be located and designed to assure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.

5.2 General Aquatic Shoreline Modification and Use Regulations

5.2.1 Overview

General aquatic shoreline modification and use regulations apply to all modifications and uses taking place waterward of the OHWM, whether or not a shoreline permit or written statement of exemption is required.

5.2.2 Regulations

The following regulations shall apply to in-water work, including, but not limited to, installation of new structures, repair or maintenance of existing structures, replacement projects, restoration projects, and aquatic vegetation removal:

A. **Siting and design requirements.** In-water structures and activities shall be sited and designed to avoid the need for future shoreline stabilization activities and dredging, giving due consideration to watershed functions and processes, with special emphasis on protecting and restoring priority habitat and species. All modifications and uses located in the Aquatic environment shall be the minimum size necessary.

B. **Setbacks.** Water-dependent in-water structures, activities and uses are not subject to the shoreline setbacks established in this SMP.

C. **Required permits.** Projects involving in-water work must obtain all applicable state and federal permits or approvals, including, but not limited to, those from the U.S. Army Corps of Engineers, Ecology, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, and/or Chelan County Public Utility District.

D. **Timing restrictions.** Projects involving in-water work shall comply with timing restrictions as set forth by state and federal project approvals.

E. **Structure removal.** Removal of existing structures shall be accomplished so the structure and associated material does not re-enter the waterbody.

F. **Disposal of waste material.** Waste material, such as construction debris, silt, excess dirt or overburden resulting from in-water structure installation, shall be deposited outside of shoreline jurisdiction in an approved upland disposal site. Proposals to temporarily store waste material or re-use waste materials within shoreline jurisdiction may be approved provided that use of best

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management practices is adequate to prevent erosion or water quality degradation and that an on-site location outside of shoreline jurisdiction is not available.

G. **Hazardous materials.** Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the waterbody during in-water activities. Necessary refueling of motorized equipment, other than watercraft, shall be conducted outside of shoreline setbacks and a minimum of 50 feet from the OHWM if feasible. Appropriate spill clean-up materials must be on-site at all times, and any spills must be contained and cleaned immediately after discovery.

H. **Over- and In-water Materials.** See SMP Subsection 4.5.2.F.

I. **Prevent siltation of adjacent areas.** In-water work shall be conducted in a manner that causes little or no siltation to adjacent areas. A sediment control curtain shall be deployed in those instances where siltation is expected. The curtain shall be maintained in a functional manner that contains suspended sediments during project installation.

J. **Below-OHWM excavations.** Any trenches, depressions, or holes created below the OHWM shall be backfilled prior to inundation by high water or wave action.

K. **Concrete management.** Fresh concrete or concrete by-products shall not be allowed to enter the waterbody at any time during in-water installation. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from entering the waterbody.

L. **Protection of bank and vegetation**. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to perform the in-water work. All disturbed areas shall be restored and protected from erosion using vegetation or other means.

M. **Trash and unauthorized fill removal required.** All trash and unauthorized fill, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, and paper, found below the OHWM at the time of project implementation shall be removed if the project includes use of equipment suited for that purpose. Where the trash or fill is visibly providing some habitat function, consultation with Washington Department of Fish and Wildlife and/or the U.S. Army Corps of Engineers should occur before removal. Disposal should occur in an approved upland disposal location, outside of shoreline jurisdiction if feasible, but at a minimum landward of the OHWM. See Sections 5.8, Dredging and Dredge Material Disposal and 5.9, Fill and Excavation for potentially applicable policies and regulations regarding dredging, fill and disposal.

N. **Notification when fish harmed.** If at any time, as a result of in-water work, fish are observed to be in distress or killed, immediate notification shall be made to appropriate state or federal agency(ies), including the Washington Department of Fish and Wildlife, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.

O. **Notification of water quality problems.** If at any time, as a result of in-water work, water quality problems develop, immediate notification shall be made to the appropriate state or federal agency(ies), including Ecology, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.

P. **Retain natural features.** Natural in-water features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion, higher flood stages, or a hazard to navigation or human safety.

Q. **Floatation materials.** Floatation material (floats, buoys) must be encapsulated within a commercially manufactured shell, typically polyethylene or another material specifically approved for use in aquatic environments, that prevents breakup or loss of the floatation material into the water, and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated floatation material must be replaced. Tires may not be modified for use as floatation devices.

R. **Tire use.** Tires shall not be allowed as part of above- or below-water structures or where tires could potentially come in contact with the water (e.g., floatation, fenders). Existing tires used for floatation should be replaced with inert or encapsulated materials such as plastic or encased foam during maintenance or repair of the structure.

S. **Anchors.** Floats, rafts, mooring buoys, and navigational aids, such as channel markers or buoys, must use be anchored using techniques that will prevent dragging or scouring. Where practicable, embedment style anchors are preferred. Where not possible, pre-cured concrete surface-style anchors may be used, sized appropriately for the object to be anchored. Floats and rafts may also be anchored with piles as provided in SMP Sections 5.5 and 5.14.

T. **Mitigation.** All aquatic shoreline modifications and uses are subject to the mitigation sequencing requirements in Section 4.2, Ecological Protection and Critical Areas, with appropriate mitigation required for any unavoidable impacts to ecological functions. If other critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of Appendix B, Critical Areas Regulations.

U. **State-owned aquatic lands.** Proposals on state-owned aquatic lands shall be consistent with the Washington Department of Natural Resources Aquatic Land Management standards (WAC 332-30, RCW 79.105).

V. **No Net Loss of Ecological Function.** Aquatic uses, development, and modifications shall not be permitted if they cannot be located and designed to assure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.

5.3 Agriculture

5.3.1 Overview

The Lord Acres area of Chelan as well as the Chelan UGA contain agricultural uses.

Existing agricultural activities, as of the date of Shoreline Master Program (SMP) adoption, are not limited or required to modify agricultural activities occurring on agricultural lands. For the purposes of this section, the terms agricultural activities, agricultural products, agricultural equipment and facilities and agricultural land shall have the specific meanings as provided in WAC 173-26-020.

5.3.2 Regulations

A. **Existing Agriculture.** The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP.

B. **Applicability.** SMP provisions shall apply in the following cases:

1. new agricultural activities on land not meeting the definition of agricultural land;
2. expansion of agricultural activities on non-agricultural lands or conversion of non-agricultural lands to agricultural activities;
3. conversion of agricultural lands to other uses;
4. other development on agricultural land that does not meet the definition of agricultural activities; and
5. agricultural development and uses not specifically exempted by the Act.

C. **Development Standards.**

1. A Substantial Development Permit shall be required for all agricultural development not specifically exempt by the provisions of RCW 90.58.030(3)(e)(iv) and for activities listed in Section B.

2. Feedlots are prohibited.

3. Agricultural-Commercial Uses. Agricultural-commercial uses are allowed where specified in environment designations in Chapter 3 and when consistent with Commercial use standards in Section 5.7.

4. Non-agricultural activities on agricultural lands. New non-agricultural activities proposed on agricultural lands shall be consistent with other applicable shoreline use standards in Chapter 5, for example Commercial or Industrial, and with other General Policies and Regulations.

5. New agricultural uses such as feedlots of any size, all processing plants, other activities of a commercial nature, upland finfish facilities and other activities which require 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 and shall comply with the applicable development standards found in regulations in Chapters 4 and 5.

6. New Agricultural uses on non-agricultural lands are allowed where specified in Table 3-1 and when consistent with other applicable standards in Chapters 4 and 5.

5.4 Aquaculture

At present, there are no aquaculture uses within the City's shoreline jurisdiction. Due to lake water quality concerns; the urban condition of the City's lake shoreline including the commercial waterfront, residential, and recreation uses; and incised Chelan River, aquaculture is not a compatible use within City of Chelan shorelines. Accordingly, aquaculture is a prohibited use in shoreline jurisdiction.

5.5 Boating Facilities and Private Moorage Structures

5.5.1 Overview

Boating facilities and private moorage structures are important uses in Lake Chelan for private and public recreation and economic benefits. Section 5.5.2 provides general regulations that govern both categories of boating-related structures, with specific regulations for each category found in Sections 5.5.3 and 5.5.4.

Public, community or private boating facilities, including marinas, community docks, public docks, fishing docks, and boat launch facilities, shall be subject to the policies and regulations of Sections 5.5.3. Buoys associated with these facilities are also subject to these policies and regulations, as well as the general location and design standards found in Section 5.5.4.D.

Section 5.5.4 provides policies and regulations for the location and design of private docks, watercraft lifts, swim floats, buoys, and moorage piles serving four or fewer residential dwellings. Dock is a general term for the structure or group of structures that provides boat moorage or other uses. A dock may be made up of piers (which are structures on fixed piles) and floats (which float on the water's surface and are typically attached to piles so that they may rise and fall with changes in the water's elevation). Swim floats are addressed in Section 5.5.4.F. Private boat launches serving four or fewer residential dwellings are prohibited in the City of Chelan and its UGA.

All new or expanded boating facilities and private moorage facilities are prohibited in the Chelan River. Any existing facilities may continue to operate and be repaired and maintained.

All boating facilities and private moorage structures that extend onto State-owned aquatic lands must also comply with Washington Department of Natural Resources[2] standards and regulations.

5.5.2 General Regulations

A. Location Standards.

1. Boating facilities and private moorage structures shall be sited to avoid adversely impacting shoreline ecological functions or processes.

2. Boating facilities and private moorage structures shall be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating.

3. Boating facilities and private moorage structures shall not be permitted within the following shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project results in a net enhancement of shoreline ecological functions, the proposal is otherwise consistent with this SMP, and the project obtains a Shoreline Conditional Use Permit:

   a. Native aquatic vegetation or wetlands with emergent vegetation (marsh type areas), or

   b. Spawning and holding areas for priority resident or native fish, per applicant consultation with WDFW (see Section F.2 for submittal requirements).

4. New boating facilities and private moorage structures shall not be permitted in areas where dredging will be required to create or maintain the new facility, where a flood hazard will be created, or where impacts to shoreline ecological functions and processes cannot be mitigated. To the extent feasible, expansions of existing boating facilities and private moorage facilities should be designed to minimize the need for new or maintenance dredging.

5. New or expanded boating facilities and private moorage structures shall be designed such that any moored boats will be located in water depths which prevent prop scour at ordinary high water levels, unless the applicant can demonstrate that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads.

6. Boating facilities and private moorage structures shall be located and designed in a manner that eliminates the need for shoreline stabilization. When the need for stabilization is unavoidable, as indicated by a study prepared consistent with SMP Section 5.16, only the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms shall be permitted when in compliance with Section 5.16.

7. Launch ramps shall be located where 1) there is adequate water mixing and flushing; 2) they will not adversely affect flood channel capacity or otherwise create a flood hazard; 3) water depths are adequate to eliminate or minimize the need for dredging or filling; and 4) wetlands or native fish spawning habitat is not present.

8. Docks, boatlifts, swim floats, buoys, watercraft lifts, and moorage piles shall only be approved as an accessory to an existing principle permitted and established use, or may be permitted concurrently with a principle use. Joint-use and community docks, however, may be constructed after final plat approval.

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[2] The Washington Department of Natural Resources is currently developing new standards for uses and modifications on State-owned aquatic lands.

B. **General design standards.**

1. All over- and in-water structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures or materials, including treated wood, pilings, derelict structures, vessels, buoys, and equipment, shall be repaired promptly by the owner or removed after obtaining any necessary permits.

2. Lighting associated with overwater structures shall be beamed, hooded or directed to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.

3. Temporary moorages shall be allowed for vessels used in the construction of shoreline facilities. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition within one year at no cost to the environment or the public.

4. No skirting is allowed on any structure, unless it serves a public purpose and is approved by state and federal agencies.

5. If a dock is provided with a safety railing, such railing shall meet International Building Code requirements and shall be an open framework, following appropriate safety standards, that does not unreasonably interfere with shoreline views of adjoining properties.

6. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish of all structures shall be generally non-reflective.

7. Private moorage for float planes may be permitted accessory to existing or concurrently proposed moorage where construction and operation would not adversely affect shoreline functions or processes, including wildlife use, or interfere with navigation.

C. **Replacement of Existing Facilities**.[3] Proposals involving replacement of the entire existing dock or 75 percent or more of the dock support piles or 75 percent or more of an existing boat launch are considered a new facility and must meet the dimensional, materials and mitigation standards for new facilities as described in Sections 5.5.3 or 5.5.4, except the Shoreline Administrator may approve an alternative design if it meets all of the following criteria:

1. All appropriate Federal agencies have already approved the proposal; and

2. The total square footage of the replacement structure is no larger than the existing structure.

D. **Additions to Dock.** Proposals involving the modification and/or enlargement of existing docks must comply with the following measures:

1. The applicant must demonstrate to the satisfaction of the City that there is a need for the enlargement of an existing dock. Proposals that demonstrate an enlargement is necessary due to safety concerns; increased or changed use or demand for public, commercial or community facilities; or inadequate depth of water will be considered.

2. Enlarged portions of docks must comply with the dimensional, design, materials and mitigation standards for new docks as described in Sections 5.5.3 and 5.5.4. Dock additions

[3] Nonconforming private moorage facilities are not governed by nonconforming structure provisions located in Chapter 8; instead, they are governed by regulations found in this section that relate to modification of existing nonconforming structures.

that result in the completed structure exceeding the area limits for reasons not specifically allowed above may only be approved through a Shoreline Variance.

E. **Repair of Existing Facilities**.

1. Repair proposals which replace 75 percent or greater of the existing dock-support piles or boat launch area over a five-year period, with the five-year period commencing at the time of the first repair proposal, are considered replacement facilities and must comply with requirements in Section 5.5.2.C.

2. All proposed replacement piles shall be the minimum size allowed by site-specific engineering or design considerations.

3. Other repairs to existing legally established facilities where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If the cumulative repair proposed over a five-year period, with the five-year period commencing at the time of the first repair proposal, exceeds thresholds established for reconstructed or repaired facilities listed above in SMP Section 5.5.2.C, the current repair proposal shall be reviewed under those replacement provisions.

F. **Mitigation**

1. Mitigation proposals that may be necessary after application of mitigation sequencing shall provide mitigation at a one to one (1:1) ratio by area of effective overwater cover or substrate coverage to mitigation action using any of the potential measures listed under F.3. "Effective overwater cover or substrate coverage" shall be calculated by subtracting any open spaces in the deck or grating from the total footprint, and then multiplying the result by 0.25 in recognition that most of the structures in the City waterward of the OHWM are landward of the water line approximately nine months of the year. Applicants should consult with other permit agencies, such as Washington Department of Fish and Wildlife and/or U.S. Army Corps of Engineers, for additional specific mitigation requirements. Alterations to the land shall be mitigated as necessary consistent with Section 4.4.2 of this SMP.

2. Applicants wishing to propose an alternate mitigation strategy may submit a mitigation plan prepared by a qualified professional that provides one unit of mitigation for each unit of lost function unless justified as outlined in Subsection 4.2.2.F. Potential adverse impacts may include substrate disturbance and alteration, vegetation disturbance or alteration, alterations in priority or native species behaviors, increases in shoreline hardening, or reduction in presence or benefit of terrestrial vegetation adjacent to the water, among others. The mitigation provided shall be consistent with Section 4.2, Ecological Protection and Critical Areas. The proposed mitigation plan shall include a discussion of how the proposed mitigation adequately compensates for any lost functions.

3. For new development and modification or reconstruction of legally existing structures, appropriate mitigation may include one or more of the following measures, or other measures when consistent with objective of compensating for adverse impacts to ecological function:

   a. Removal of any additional legal existing over-water and/or in-water structures that are not the subject of the application or are not otherwise required to be removed because they are not legal.

   b. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of trees and/or shrubs native to Chelan County and typically found in undisturbed areas adjacent to Lake Chelan. When shoreline plantings are the only mitigation option for a given proposal, the additional effective overwater cover or substrate coverage shall be compensated for at a 1:1 planting area ratio (unless modified as described in Subsections 4.2.2.C, 4.2.2.F, 5.2.2.F.3) with

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required trees planted on 15-foot centers and/or shrubs planted on 6-foot centers. Native groundcover can be supplemental to the planted shoreline area, but does not count toward the total square footage requirement. Alterations to the land shall be mitigated as necessary consistent with Section 4.4.2 of this SMP. Applicants may prepare the vegetation mitigation plan using guidance provided in Appendix E, Guidance for Development of Vegetation Mitigation Plans.

c. Removal or ecological improvement of hardened shoreline, including existing launch ramps or hard structural shoreline stabilization. Improvements may consist of softening the face and toe of the stabilization with soil, gravel and/or cobbles and incorporating vegetation or large woody debris.

d. Removal of man-made debris waterward of the OHWM, such as car bodies, oil drums, concrete or asphalt debris, remnant docks, or other material detrimental to ecological functions and ecosystem-wide processes.

e. Placement of large woody debris above 1,099 or below 1,055 feet above sea level, except that public entities may place large woody debris, excluding root wads, between 1,055 and 1,099 if issues of navigation and public safety have been addressed. Large woody debris shall only consist of species native to the area immediately adjacent to Lake Chelan.

f. Participation in an approved mitigation banking or in-lieu-fee program.

G. **Other Uses and Standards.**

1. Long-term boat storage located landward of the OHWM is regulated as a nonwater-oriented commercial use under Section 5.7, Commercial Development of this SMP, unless it is equipped with a boat launch facility. If the storage use is equipped with a boat launch facility (either launch ramp, crane, hoist or similar device) and the boats are not stored on trailers, it may be regulated as a water-related commercial use. The dry boat storage portion shall be located outside shoreline jurisdiction, unless it is part of a mixed-use project. In such cases, the boat storage portion shall be located landward of the shoreline setbacks. If there are site constraints that prevent the boats from being moved inland, a Shoreline Variance will be required. In all cases, boat storage shall comply with applicable height restrictions.

2. Covered docks or other covered structures are not permitted waterward of the OHWM, except for canopies on boatlifts associated with private residential docks (see Subsection 5.5.4.E).

3. New over-water residences, including floating homes, are not a preferred use and shall be prohibited.

5.5.3 Boating Facilities Regulations

A. **Facility Design.**

1. Boating facilities shall not be located within 200 feet of beaches commonly used for public swimming, valuable public fishing areas, aquaculture facilities, or commercial navigation areas unless no alternative location exists and appropriate measures are installed or best management practices are implemented to minimize impacts to such areas and protect the public health, safety and welfare. For example, clearly delineating swimming, fishing or boating areas through upland signage, wake limit buoys, and/or floating swim area marker ropes.

2. Boating facilities shall be located only where adequate utility services that are necessary to meet applicable health, safety and welfare requirements, such as water, power and/or

wastewater collection and treatment, are available or where they can be provided concurrent with the development.

3. Community Docks

   a. For all subdivisions or other divisions of land occurring after [the effective date of this SMP] that result in more than four residential units, community docks shall be permitted and may be allowed where they are found to be consistent with the provisions of this SMP unless further limited by other land use approval documents. A probable site for the community dock with access provided from the other lots in the subdivision to the dock shall be noted on the subdivision's conditional approval.

   b. No single-use docks may be authorized for any lot within a subdivision or other division of land unless the applicant can demonstrate that all other reasonable community or joint-use options have been investigated and found infeasible.

   c. Community docks must be located on a waterfront parcel or be shared among waterfront parcels having at least 80 linear feet of continuous shoreline frontage. A site for shared moorage at a community dock should be owned in undivided interest by property owners or managed by a homeowner's association as a common easement within the residential community that is served by the dock.

   d. See Section 5.5.4 of this SMP for regulations addressing single-use and joint-use docks serving four or fewer residential dwelling units.

4. Design Standards.

Table 5.5-1. Design Standards for Boating Facilities.

Boating Facility Design Standards	
General	All private and public boating facilities shall be no larger than the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater coverage, the size and number of in-water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized. Specific sizing of all private and public boating facility components shall be based on the results of the analyses conducted under Subsection F, Submittal Requirements, with the following limitations for specific boating facilities:
Community Docks and Marinas	
Width	• No part shall be wider than 8 feet. • The Shoreline Administrator may approve components up to 10 feet wide if justified in documentation submitted consistent with Subsection F, Submittal Requirements.
Length	• No longer than 250 feet measured perpendicularly from the OHWM. • Up to 50 feet of additional length may be approved without a Shoreline Variance, provided the total length does not exceed one-third of the width of the waterbody, if the additional length is needed to reach 12 feet of moorage depth as measured from the OHWM. The extra length will not be allowed if the extension would interfere with navigation or other public uses of the water.
Spacing	• Community Docks and Marinas shall be spaced a minimum of 10 feet from the side property lines, provided that the Shoreline Administrator may reduce this spacing measure to zero feet if an applicant demonstrates to the Administrator's satisfaction that the community dock or marina would not adversely affect adjacent developments, navigation, or other in water activities due to

Boating Facility Design Standards	
	features of the proposed design, cooperative planning between adjacent property owners, natural features, or level of anticipated use.
Number of Slips	• Community docks shall be designed to accommodate no more than 0.75 boats per waterfront residential unit, or residential unit that shares a legal interest in a community waterfront parcel, served by the pier. • One additional boat moorage location for guests may be included in the design for every ten waterfront residential units served, with a minimum of one guest location for developments under ten waterfront units and rounding to the nearest whole number for other fractions of ten waterfront units (e.g., if there are 13 units, the additional 3 units comprise 0.3 of the number of units required to get an additional guest slip. The final number of guest slips would remain at one. Units numbering from 15 through 24 would be allowed two guest slips).

5. Launch ramps 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, with consideration for site-specific conditions and the particular needs of that use outlined in the submittal requirements in Subsection E. At a minimum, they shall minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.

B. **Site Design and Operation**.

1. New marinas shall provide physical and/or visual public access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal. Features for access could include, but are not limited to, walk-on access, fishing platforms, and underwater diving and viewing platforms.
2. Accessory uses at boating facilities shall be limited to water-oriented uses or uses that support physical or visual shoreline access the public. Accessory development may include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.
3. New and modified marinas shall provide a pump-out facility.

C. **Parking and Vehicle Access.** Public boat launch facilities shall include parking spaces for boat trailers commensurate with projected demand. All boating facilities shall provide parking facilities commensurate with projected demand and consistent with Section 5.17 of this SMP and local zoning standards.

D. **Waste Disposal.**

1. Discharge of solid waste or sewage into a waterbody is prohibited. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users. Marinas shall provide adequate restroom and sewage disposal facilities (pump out, holding, and/or treatment facilities) in compliance with applicable health regulations.
2. Commercial disposal or discarding of fish-cleaning wastes, scrap fish, viscera, or unused bait into water or in other than designated garbage receptacles is prohibited. Private recreational fish waste disposal is allowed.

3. Marina operators shall post all regulations pertaining to handling, disposal and reporting of waste, sewage, fuel, oil or toxic materials where all users may easily read them.

4. Fail-safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan for oil and other products, shall be required of new marinas and expansion or reconfiguration of existing marinas. Compliance with Federal or State law may fulfill this requirement. Handling of fuels, chemicals or other toxic materials must be in compliance with all applicable Federal and State water quality laws as well as health, safety and engineering requirements. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

5. Boating facilities providing fuel or storing other toxic and hazardous waste on site must provide secondary containment and prepare a spill prevention, containment, and control plan.

E. **Submittal Requirements.**

1. Applicants shall provide an assessment of demand for new or expanded boating facilities, including, but not limited to, the following:

   a. The total amount of moorage proposed (except for boat launch facility proposals);

   b. For new or expanded facilities proposing permanent or temporary moorage, the existing supply of temporary or permanent moorage spaces within the service range of the proposed facility, including vacancies or waiting lists at existing facilities. The service range is a site-specific determination made by the applicant considering the proposed facility location and proximity to other locations within either boating or driving distance;

   c. For new or expanded boat launch ramps, identification of the nearest existing boat launch facility, the expected or current level of use of the new or expanded boat launch ramp, and any other relevant factors related to the need for safe or efficient access to public waters, if that information supports justification for specific design elements;

   d. The expected service population and boat ownership characteristics of the population, if that information supports justification for specific design elements related to facility length or necessary water depth; and/or

   e. Existing approved facilities, or pending applications, within the service range of the proposed new facility.

2. Applicants for new or expanded boating facilities located in any of the areas listed under Subsection 5.5.2.A.3 shall provide habitat surveys and/or critical area studies consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Critical Areas Regulations.

3. Applicants for new or expanded boating facilities shall provide an assessment of existing water-dependent uses in the vicinity, including, but not limited to, navigation, fishing, hunting, pleasure boating, swimming, beach walking, picnicking and shoreline viewing, and document potential impacts and mitigating measures. The City will assist the applicant in identification of area water-dependent uses. Potential impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts shall be imposed.

4. New boat launch facilities shall be approved only if they provide public access to public waters that are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity. Prior to providing boat launch facilities at a new location, documentation shall be provided demonstrating that expansion of existing launch facilities would not be adequate to meet demand.

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5.5.4 Private Moorage Structure Regulations

A. **Land division and joint-use requirements.** If moorage is to be provided or planned as part of a new residential development of two or more adjacent waterfront dwelling units or lots or as part of a subdivision or other divisions of land occurring after [the effective date of this SMP] that results in less than five residential units, joint-use dock[4] facilities shall be required, when feasible, rather than allow individual docks for each residence. See Section 5.5.3 for regulations addressing community docks serving more than four residential dwelling units. The following conditions apply:

1. New residential developments, including division of land, shall contain a restriction on the face of the plat prohibiting individual docks and identifying locations for joint-use or community dock facilities. However, a single-use dock may be authorized if the applicant can demonstrate that all other reasonable community or joint-use options have been investigated and found infeasible.

2. A site for shared moorage at a joint-use dock should be owned in undivided interest by property owners or managed by a homeowner's association as a common easement within the residential development. In the City of Chelan and its UGA, joint-use docks must be located on a waterfront parcel or be shared among waterfront parcels having at least 80 linear feet of continuous shoreline frontage.

3. If moorage joint-use dock is provided, the applicant shall file at the time of building permit submittal for the dock a legally enforceable joint use agreement or other legal instrument that, at a minimum, addresses the following:

   a. Provisions for maintenance and operation;

   b. Easements or tracts for joint-use access; and

   c. Provisions for joint use for all benefiting parties.

B. **Dock dimensional and materials standards**. The following dimensional standards shall apply to all new docks serving four or fewer residential dwellings. Deviations from the dimensional standards must be approved through a Shoreline Variance.

Table 5.5-2. Dimensional and Materials Standards for Docks.

Dimension/ Specification	Standard
Width	• Piers and floats, including terminal ells, shall not exceed 8 feet in width. Ramps shall not exceed 4 feet in width. • Pier finger extensions shall not exceed 3 feet in width. • Float finger extensions shall not exceed 4 feet in width.
Length	The length of the dock shall not exceed 55 feet or the length necessary in order for the waterward terminal 20 feet of the dock to be located over water 12 feet deep when measured at ordinary high water, whichever is greater. Docks shall not exceed 100 feet without first obtaining a Shoreline Variance.
Area	• 320 square feet for single use docks. This number may be increased by 8 square feet for each additional foot of length beyond 55 feet necessary to reach 12 feet of water depth for

[4] When a joint-use dock serves more than four residential units, it is regulated as a community dock under Boating Facilities Regulations, SMP Section 5.5.3

Dimension/ Specification	Standard
	the terminal 20 feet of dock length measured at ordinary high water. The maximum area approved without a Shoreline variance is 680 square feet. • 450 square feet for joint use docks. This number may be increased by 8 square feet for each additional foot of length beyond 55 feet necessary to reach 12 feet of water depth measured for the terminal 20 feet of dock length at ordinary high water. The maximum area approved without a Shoreline variance is 810 square feet.
Pilings	• Piling shall be structurally sound and cured prior to placement in the water. • Pilings shall not be treated with pentachlorophenol, creosote, copper naphthalene, chromate copper arsenate, or comparably toxic compounds. • Pilings shall not extend beyond the end of the dock.
Spacing	• Docks and watercraft lifts shall be spaced a minimum of 10 feet from the side property lines. Joint-use structures may abut or overlap property lines provided the adjacent property owners have mutually agreed to the structure location, and the agreement is recorded through contract or covenant is recorded with the County Auditor's Office. • For those new docks located adjacent to larger existing overwater structures, such as marinas or community docks, the City may require a greater separation between moorage structures to reduce potential navigation and use conflicts. • No new structure may be installed within 100 feet of the outlet of any river or stream.
Decking/Materials	• Decking shall be installed so that a minimum ½ inch space is left between deck planks. Grating or other deck materials that provide at least as much light transmission below the deck are allowed. • Flotation materials shall be permanently encapsulated as described in Subsection 5.2.2.Q.

* Applicants should also consult with the Corps to review waterbody-specific standards and application review processes.

C. **Mooring piles**. Mooring piles are located adjacent to docks to provide a supplementary point to which a boat could be tied for additional security and stability. They are preferred over dock finger extensions or other decked over-water structures that often serve the same purpose, and are not independently locations for moorage. Mooring piles may be allowed as an accessory to docks, provided:

1. All piles shall be located not farther than 20 feet to the side of a dock, and must be at least 10 feet from side property lines.
2. In no case may a pile be placed farther waterward than the end of the dock.
3. The height of the piles shall be between 2 and 6 feet above the OHWM.

D. **Mooring Buoys.**

1. A single-family residence or parcel without a dock may have up to three buoys. Each waterfront single-family residence or parcel may be allowed one moorage buoy in addition to a dock.
2. Mooring buoys shall be placed at a distance specified by State and Federal agencies with authority to avoid nearshore habitat and to minimize obstruction to navigation. However, buoys shall not extend farther waterward of the OHWM than 300 feet, and no closer than 50 feet, and shall be anchored at least 25 feet from side property lines or at the center of a parcel when the lot is less than 50 feet wide. Private buoys shall not be placed within 100

feet of a public facility or park, and shall not interfere with access to private or public property.

3. At a minimum, the buoy shall be placed so that the boat will not ground during Lake Chelan's ordinary high water level and is in water at least 4 feet deep at ordinary high water.

4. A radius of 100 feet from the proposed buoy shall be clear of existing buoys, docks, and other hazards. A smaller radius may be approved if the applicant demonstrates that a boat moored at the proposed buoy provides a safety margin of at least 20 feet from any other fixed hazard, including from boats moored at nearby buoys.

5. A mooring buoy shall secure no more than two boats.

6. Anchor, buoy, and moored vessel are not located over or within 25 feet of vegetated shallows (except where such vegetation is limited to State-designated noxious weeds).

7. Anchor, buoy, and moored vessel are not to be located over or within 300 feet of spawning habitat for listed fish species or fish species proposed for listing, or over or within 25 feet of spawning habitat for other priority or native fish species.

8. Anchors should be designed to prevent dragging or scouring. Where practicable, embedment style anchors are preferred. Where not possible, pre-cured concrete surface-style anchors may be used, sized appropriately for the object to be anchored. The anchor system, including the tethering mechanism to connect the vessel to the anchor, should be appropriate for the size and weight of the vessel. Other design features shall meet Washington Department of Fish and Wildlife, U.S. Army Corps of Engineers and/or Department of Natural Resources standards.

E. **Watercraft lifts and watercraft lift canopies**. Watercraft lifts and canopies may be permitted as an accessory to a residential dock. They may only be approved provided that:

1. To the maximum extent practicable, all lifts shall be oriented in a north-south direction to minimize shading impacts.

2. All lifts are to be placed as far waterward as feasible and safe, within the limits of the dimensional standards for docks. Watercraft lifts must be located at least 10 feet from side property lines.

3. A maximum of three lifts are allowed per single-family residential unit (e.g., nine lifts if dock shared by three property owners). Two of these lifts may be ground-based; all other lifts must be floating or suspended.

4. The lifts must comply with all other regulations as stipulated by State and Federal agencies.

5. Watercraft lift canopies must be made of translucent material. The lowest edge of the canopy must be at least 8 feet above the OHWM. Only one canopy is allowed per owner.

6. The lifts and canopies must comply with all other regulations as stipulated by State and Federal agencies.

F. **Swim floats**

1. Private swim floats should be no longer than 8 feet and no wider than 8 feet.

2. Where private swim floats are allowed, they must utilize the least impacting anchor method available and suited to the site-specific location. Anchors and other design features shall meet Washington Department of Fish and Wildlife and/or Department of Natural Resources standards.

3. Swim floats shall be placed at a distance specified by State and Federal agencies to avoid nearshore habitat and to minimize obstruction to navigation, and must be located at least

10 feet from side property lines, unless it is designated as a joint-use structure between two or more adjoining waterfront properties.

4. Only one swim float may be approved per waterfront property. Swim floats supplementary to an existing dock may be approved on Lake Chelan only when necessary for safety or to accommodate the expected level of swim use.

5.6 Breakwaters, Jetties, Groins, Weirs and Barbs

5.6.1 Overview

Breakwaters, jetties, groins , weirs and barbs are generally intended to protect harbors, moorages, navigation activity, or stream banks or bed from wave and wind action or stream flow by creating slow- or stillwater areas along shore. A secondary purpose is to protect shorelines from wave- or flow-caused erosion. In addition to this section, development of breakwaters, jetties, groins, weirs, and barbs is also subject to provisions in Section 6.2 (In-water structures).

5.6.2 Regulations

A. **Allowed circumstances.** New, expanded or replacement structures shall only be permitted if they support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

B. **Limitations on groins.** Groins are prohibited except as a component of a professionally designed community or public beach management program that encompasses an entire reach for which alternatives are infeasible, or where installed to protect or restore shoreline ecological functions or processes.

C. **Use less-impacting alternatives.** Jetties and breakwaters are prohibited except as an integral component of a professionally designed marina. Where permitted, floating, portable or submerged breakwater structures, or smaller discontinuous structures, are preferred where physical conditions make such alternatives with less impact feasible.

D. **Professional design.** Proposed designs for new or expanded structures shall be designed and certified by a qualified professional, including an engineer, hydrologist, or geomorphologist.

5.7 Commercial Development

5.7.1 Overview

The City's shoreline jurisdiction includes existing commercial uses, and areas designated for future commercial uses. The commercial development regulations within the shoreline jurisdiction help address the preferences for water-oriented commercial uses, and conditions and siting criteria for commercial development within shoreline jurisdiction.

5.7.2 Regulations

A. **Water-oriented uses allowed.** Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP. Water-dependent commercial uses shall be given preference over water-related and water-enjoyment uses. The applicant shall demonstrate to the satisfaction of the City that proposed uses meet the definitions of water-dependent, water-related or water-enjoyment (water-oriented use).

B. **Residential uses as part of mixed use development.** Nonwater-oriented uses, including but not limited to residential uses, may be located with water-oriented commercial uses provided:

1. The mixed-use project includes one or more water-dependent uses; and

2. Water-dependent commercial uses as well as other water-oriented commercial uses have preferential locations along the shoreline; and

3. The underlying zoning district permits residential uses together with commercial uses; and

4. Public access is provided for significant number of persons in accordance with Section 4.3 and/or ecological restoration is provided as a public benefit; and

5. Residential uses meet requirements of Section 5.14 of this SMP.

C. **Nonwater-oriented commercial uses limited.** In areas designated for commercial use, nonwater-oriented commercial uses are allowed if the site is physically separated from the shoreline by another property or public right of way. On properties fronting the shoreline, new nonwater-oriented commercial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration and meets one of the following conditions:

1. The use is part of a mixed-use project that includes water-dependent uses; or

2. Navigability is severely limited at the proposed site, such as not available for commercial navigation.

D. **Overwater uses.** Nonwater-dependent commercial uses shall not be located over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

E. **Accessory uses to water-oriented commercial activities.** Accessory commercial development that does not require a shoreline location shall be located landward of the water-oriented portions of the development and comply with shoreline setbacks for nonwater-oriented uses. Accessory uses may be allowed in existing structures or where necessary in support of water-oriented uses. Accessory development includes, but is not limited to, parking, storage and service areas, and circulation.

F. **Public access.** See Section 4.3.

5.8 Dredging and Dredge Material Disposal

5.8.1 Overview

As regulated in this SMP, dredging is the excavation or displacement of the bottom or shoreline of a waterbody (waterward of the OWHM) for purposes of flood control, navigation, utility installation (excluding on-site utility features serving a primary use, which are “accessory utilities” and shall be considered a part of the primary use), the construction or modification of essential public facilities and regional transportation facilities, and/or restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose). This section is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement). These in-water substrate modifications should be conducted pursuant to regulations found in Section 5.2, General Aquatic Shoreline Modification and Use Regulations, Section 5.9, Fill and Excavation, and regulations found in sections of this Master Program governing the use or modification with which the excavation is associated, such as Section 5.5, Boating Facilities or Section 5.16, Shoreline Stabilization.

All dredging and dredge material disposal on state-owned aquatic lands must also comply with Washington Department of Natural Resources standards and regulations.

5.8.2 Regulations

A. **Siting and design.** New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

B. **Allowed dredging activities.** Dredging shall only be permitted for the following activities:

1. Development of new or expanded wet moorages, harbors, ports or water-dependent industrial uses only when there are no feasible alternatives or other alternatives may have a greater ecological impact and only where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.

2. Development of essential public facilities when there are no feasible alternatives.

3. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes. The City may approve five-year management plans addressing maintenance dredging, use of best management practices, and other measures to assure no-net-loss of shoreline ecological functions.

4. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.

5. Trenching to allow the installation of underground utilities (excluding "accessory utilities" associated with a primary use) if no practicable alternative exists, and:

    a. Impacts to priority or native fish and wildlife habitat are minimized to the maximum extent possible, which may require mitigation sequencing and implementation of a mitigation plan.

    b. Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.

6. Establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure safe and efficient accommodation of existing navigational uses.

7. Maintenance dredging of established navigation channels and basins, which shall be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

8. Flood hazard reduction, including dam maintenance.

C. **Prohibited dredging activities.** Dredging shall be prohibited for the primary purpose of obtaining fill material except when necessary for restoration of ecological functions. In the latter circumstance, the fill must be placed waterward of the OHWM. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

D. **Maintain ecological functions and processes**. The physical alignment and ecological functions and processes of shoreline waterbodies shall be maintained, except to improve hydraulic function, water quality, priority or native fish or wildlife habitat, or fish passage. When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant plan requirements in Appendix B, Critical Areas Regulations.

E. **Conditions may be applied.** Limitations on dredge or disposal operation may be imposed to reduce proximity impacts, protect the public safety and assure compatibility with the interests of other shoreline users. Conditions may include limits on periods and hours of operation, type of machinery, and may require provision of landscaped setback strips and/or fencing to address noise and visual impacts at land disposal or transfer sites.

F. **Circumstances when disposal is allowed.** Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:

1. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and

2. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

G. **Circumstances when open water dredge disposal is allowed.** Dredge material disposal in open waters may be approved only when authorized by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and Washington State Department of Fish and Wildlife Hydraulic Project Approval (HPA); and when one of the following conditions apply:

1. Land disposal is infeasible, less consistent with this SMP, or prohibited by law; or
2. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.

H. **Open water dredge disposal conditions.** Dredge materials approved for disposal in open waters shall comply with the following conditions:

1. Offshore habitat will be protected, restored, or enhanced;
2. Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;
3. Shifting and dispersal of dredge material will be minimal; and
4. Water quality will not be adversely affected.

I. **Submittal requirements.** The following information shall be required for all dredging applications:

1. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this SMP.
2. An analysis of the existing shoreline and potential adverse impacts, including the following:
   a. A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry and have data points at a minimum of 2-foot depth increments.
   b. A detailed description of the existing physical character, shoreline geomorphology, and biological resources provided by the area proposed to be dredged. This description should include information on the stability of bedlands adjacent to proposed dredging and spoils disposal areas.
   c. A detailed description of potential adverse impacts to ecological functions and processes.
   d. A mitigation plan to address any identified adverse impacts to ecological functions or processes.
3. A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed, including:
   a. Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc.).
   b. Chemical analysis of material to be dredged (volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.).
   c. Biological analysis of material to be dredged.
4. A description of the method of materials removal, including facilities for settlement and movement.
5. Dredging procedure, including the estimated length of time it will take to complete dredging, method of dredging, and amount of materials removed.

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6. Frequency and quantity of project maintenance dredging.
7. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including, but not limited to:
    a. Dredge material disposal area;
    b. Physical characteristics including location, topography, existing drainage patterns, surface and ground water;
    c. Size and capacity of disposal site;
    d. Means of transportation to the disposal site;
    e. Proposed dewatering and stabilization of dredged material;
    f. Methods of controlling erosion and sedimentation; and
    g. Future use of the site and conformance with land use policies and regulations.
8. Plan for disposal of maintenance spoils for at least a 50-year period, if applicable.
9. Hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.

5.9 Fill and Excavation

5.9.1 Overview

Fill regulations in this section apply to fills anywhere in shoreline jurisdiction, in both aquatic and upland environments. "Fill" is 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.

Excavation regulations in this section apply to excavation anywhere in shoreline jurisdiction. "Excavation" is the disturbance or displacement of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material. In addition to upland excavation, this section is intended to cover excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement). See Section 5.8, Dredging and Dredge Material Disposal for dredging for purposes of flood control, navigation, primary utility installation, the construction of water-dependent portions of essential public facilities, and/or restoration whose primary project element is removal of material waterward of the OHWM.

All fill and excavation on state-owned aquatic lands must also comply with Washington Department of Natural Resources standards and regulations.

5.9.2 Regulations

A. **Protect ecological function.** Fill and excavation shall be minimized to the maximum extent practicable and necessary to accommodate approved shoreline uses and development activities that are consistent with this SMP. When fill or excavation causes adverse impacts to ecological functions, a mitigation plan must be prepared and implemented consistent with Section 4.2 of this SMP.

B. **Permissible fill and excavation in sensitive areas.** Fill and excavation within wetlands or waterward of the OHWM shall only be permitted in limited instances for the following purposes and when other required state or federal permits have been obtained, with due consideration given to specific site conditions, and only along with approved shoreline use and development activities that are consistent with this SMP, such as:

1. Water-dependent uses, public access, and cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
2. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers (see Section 5.8.2 of this SMP);
3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
4. Ecological restoration or enhancement, including, but not limited to, beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with an approved restoration plan; or
5. Protection of cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes and comply with applicable provisions of Section 4.1.2 of this SMP.

All fills and excavation waterward of the OHWM not associated with ecological restoration, flood control or approved shoreline stabilization shall require a Shoreline Conditional Use Permit.

C. **Permissible upland excavations and fills.** All other upland fills and excavations are permitted provided they are conducted outside required setbacks and as part of an approved shoreline use or modification or are necessary to provide protection to cultural or historic resources, are the minimum necessary to implement the approved use or modification, are planned to fit the topography so that minimum alterations of natural conditions will be necessary, do not adversely affect hydrologic conditions or increase the risk of slope failure, and are consistent with applicable provisions of Appendix B, particularly regulations governing floodways and 100-year floodplains.

D. **Shoreline stabilization.** Fills or excavation shall not be located where shoreline stabilization will be necessary to protect materials placed or removed, except when part of an approved plan for protection of cultural resources.

E. **Physical and visual consistency.** Fills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.

F. **Maximum slopes.** Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every two feet horizontal (1:2) unless a specific engineering analysis has been provided.

G. **Erosion control.** A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the Stormwater Management Manual for Eastern Washington, or the most recent adopted stormwater manual, shall be provided for all proposed fill and excavation activities, and approved by the Shoreline Administrator prior to commencement of activity. Disturbed areas shall be immediately protected from erosion using weed-free straw, mulches, hydroseed, or similar methods and revegetated, as applicable.

5.10 Forest Practices

The City of Chelan and its UGA do not contain forested vegetation in shoreline jurisdiction. Accordingly, forest practices are prohibited in shoreline jurisdiction.

5.11 Industry

5.11.1 Overview

The City's shoreline jurisdiction contains areas used or planned for industrial uses (e.g. along the Chelan River). The industry regulations provide guidance for appropriate siting and conditions applied to industrial uses within shoreline jurisdiction.

5.11.2 Regulations

A. **Water-dependent or water-related uses allowed.** Industrial facilities and structures that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate to the satisfaction of the City that proposed uses are water-dependent and/or water-related.

B. **Nonwater-oriented industrial uses limited.** In areas designated for industrial use, new nonwater-oriented industrial uses are allowed only if the site is physically separated from the shoreline by another property or public right-of-way or railroad prior to adoption of this SMP [insert effective date]. On properties fronting the shoreline, new nonwater-oriented industrial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration, and meets one of the following conditions:

1. The use is part of a mixed-use project that includes water-dependent uses; or
2. Navigability is severely limited at the proposed site such as not available for commercial navigation.

C. **Accessory uses to water-dependent or water-related industrial activities.** Accessory industrial development that is not water-dependent and does not require a shoreline location shall be located upland of the water-dependent or water-related portions of the development and comply with shoreline setbacks found in Section 4.5.2. Accessory development includes, but is not limited to, parking, warehousing, open-air storage, waste storage and treatment, and transportation corridors.

D. **Environmental protection.** Industrial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features.

E. **Public access.** See SMP Section 4.3.

F. **Clean up and Restoration**. Industrial development and redevelopment are encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. Federal and state requirements for hazardous materials clean up or management shall be addressed.

5.12 Mining

At present, there are no mining uses within the City's shoreline jurisdiction or that of its associated UGA and it is not anticipated in the future. Accordingly, mining is a prohibited use.

5.13 Recreational Development

5.13.1 Overview

Recreational development provides opportunities for play, sport, relaxation, amusement or contemplation. The City's shoreline jurisdiction includes existing areas designated for active or more intensive uses such as parks, campgrounds, and ball fields as well as passive recreational activities such as hiking, photography, sightseeing and fishing. This section applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, group, association or individual.

5.13.2 Regulations

A. **Design.** Recreational uses and facilities, both commercial and public, shall be designed to be primarily related to access, enjoyment and use of the water and shorelines of the state.

B. **Use consistency.** Proposed recreation uses shall be designed, located and operated consistent with the purpose and intensity of the shoreline environment designation and environmental conditions.

C. **Accessory uses.** Accessory uses and support facilities such as maintenance facilities and parking lots shall be consolidated and located in upland areas outside shoreline setbacks, wetlands, and wetland buffers to the extent feasible, except for access to water-dependent facilities such as boat launches.

D. **Public access.** See SMP Section 4.3. Where recreation facilities for public access include overwater structures, such as public view or fishing platforms, those overwater structures should comply with relevant requirements of SMP Section 5.5, Boating Facilities and Private Moorage Structures.

E. **Fertilizer and chemical management.** For recreation developments such as golf courses and playfields that use fertilizers, pesticides, or other chemicals, the applicant shall submit plans demonstrating the best management practices and methods to be used to prevent these chemical applications and resultant leachate from entering adjacent waterbodies. Management that utilizes organic treatments, integrated pest management, or non-synthetic chemicals are preferred over management that utilizes synthetic chemicals where feasible and practical.

F. **Compatibility with adjacent private properties.** Recreational facilities shall make adequate provisions, such as screening, vegetated strips, fences, and signs, to prevent overflow onto adjacent private properties.

G. **Adequate utilities and services.** Proposals for recreational development shall include facilities for water supply, wastewater, and garbage disposal in conformance with City standards.

H. **Environmental protection.** Recreational development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

I. **Management Plans.** In order to simplify the future review of exempt and non-exempt activities that are or will be ongoing in association with new or redeveloped public parks and recreation proposals, the City shall develop and review five-year recreation management plans addressing public recreation facility operations and maintenance, use of best management practices, and other measures to assure no net loss of shoreline ecological function. Management plans are optional for existing public parks and recreation facilities or expansions of existing parks and recreation facilities. The City may require applicants for special event or temporary activities that have the potential to interfere with shoreline use or adversely alter shoreline ecological conditions to prepare a management plan.

1. New recreation proposals or redevelopment of park areas, or special events/temporary activities when required by the City, shall prepare a plan that shall minimally contain the following categories when applicable:

    a. Description of in-stream or in-lake habitat protection measures, and commitment to implement mitigation for any new or expanded development that has adverse impacts;

    b. Description of riparian and wetland protection measures, and commitment to implement mitigation for any new or expanded development that has adverse impacts;

    c. Description of site-appropriate water use management activities, including use of less water-dependent landscaping, maximizing the efficiency of the application system, and reducing the area irrigated;

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d. Description of stormwater management practices to treat stormwater runoff to reduce both water quantity and water quality impacts, including maximizing use of infiltration, bio-filtration, and detention;

e. Description of erosion and sediment control practices that prevent off-site movement of sediment for new construction, stored soils, and potential surface erosion areas; and

f. Description of chemical and nutrient use and containment practices that demonstrate minimization of overall inputs of these contaminants, restrict the type of inputs, and develop an acceptable method of application through a comprehensive management program, such as Integrated Pest Management (IPM).

2. Each category specified in I.1 above shall be comprised of one to several standards. Each standard should describe the management objective or desired outcome for habitat conditions, specific performance requirements for each standard, and corrective actions that would be implemented if the performance requirement(s) is not met.

J. Recreation Performance Standards in Lieu of Setbacks: Public parks and recreation facilities or those facilities proposed on public easements or dedicated rights of way shall follow the performance standards of Section 4.5.2.D.5 in lieu of shoreline setbacks.

5.14 Residential Development

5.14.1 Overview

Existing and planned single-family and multifamily residential uses are found in portions of the City's shoreline jurisdiction. The following provisions address standards to ensure compatible land use patterns, avoidance of environmentally sensitive areas, and provision of services and utilities.

5.14.2 Regulations

A. **Subdivisions and plats.** Subdivisions and plats shall:

1. Comply with all applicable subdivision, critical area, and zoning regulations.

2. Include facilities for water supply, wastewater, stormwater, solid waste, access, utilities and other support facilities in conformance with City standards and which do not result in harmful effects on the shoreline or waters. See Section 4.5.2.E for specific wastewater requirements.

3. Be designed to prevent the need for new hard or soft shoreline stabilization or flood hazard reduction measures per Section 6.1. A note limiting shoreline stabilization shall be placed on the face of the plat at the time of subdivision.

4. Be designed, configured and developed in a manner that assures that no net loss of ecological functions results from division of land at full build-out of all lots and throughout all phases of development.

5. Be required to cluster residential units and structures where necessary and when allowed by the City to avoid critical areas and to preserve natural features and minimize physical impacts.

6. Identify locations for public or community access when consistent with Section 4.3, community or joint use docks, marinas, or conservation and utility easements, where proposed.

7. Lots shall be configured in a way so as not to require a Shoreline Variance in the future for residential development. Lot configurations shall plan for building sites behind the required

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shoreline setback. At the time of building or construction permit, shoreline setbacks and administrative reductions or variances may be requested.

B. **Environmental protection.** Residential development including accessory uses and appurtenant structures shall:

1. Meet all applicable critical area, vegetation conservation, and water quality standards of Chapter 4 and Appendix B of this SMP.

2. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. To accomplish this, the City shall apply geologically hazardous area buffers established in Appendix B and shoreline setbacks found in Section 4.4.2 of this SMP. The City may require greater geologically hazardous area buffers to protect health and safety based on a geotechnical analysis or other information in the application record.

3. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

C. **Public access.** See SMP Section 4.3.

D. **Over-water residences.** Existing, legal cabanas are considered permitted uses; rebuilding and alteration of existing, legal cabanas are subject to Chapter 8 of this SMP. New over-water residences and floating homes shall be prohibited.

E. **Liveaboards.** When a liveaboard is allowed in waters regulated by the City, that use must be conducted consistent with best management practices and in accordance with federal, state, and local laws governing proper disposal of sewage, oil and hazardous substances, gray water, and solid wastes. Liveaboards shall be accommodated only in marinas equipped with the necessary facilities. Liveaboards must be located and operated such that navigation and lawful public access on those waters is not obstructed or made hazardous. Liveaboards moored on State-owned aquatic lands must comply with all other provisions in WAC 332-30-171.

F. **Accessory uses.** Residential accessory uses or appurtenances shall not be located in required shoreline setbacks unless specifically authorized in Vegetation Conservation standards and Appendix B. Residential accessory uses shall be prohibited over the water unless clearly water-dependent.

G. **Underground Utilities.** See Section 5.18.

5.15 Shoreline Habitat and Natural Systems Enhancement Projects

5.15.1 Overview

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Examples of shoreline habitat and natural systems enhancement projects include floodplain restoration projects, fish passage barrier removal or improvement, and projects to increase shoreline habitat complexity, among others. Stabilization of eroding banks may be considered under this section provided that the purpose of the project is clearly restoration of the natural character and ecological functions of the shoreline, and the project uses bioengineering approaches, including limited use of rock as a stabilization only at the toe of the bank as necessary, and with primary emphasis on using native vegetation to control erosive forces.

5.15.2 Regulations

A. **Approved plan.** Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.

B. **Protect adjacent resources.** All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

C. **Maintenance and monitoring.** Long-term maintenance and monitoring (minimum of three years, but preferably longer) shall be arranged by the project applicant and included in restoration or enhancement proposals.

D. **Adverse effects.** Shoreline restoration and enhancement may be allowed if the project applicant demonstrates that no significant change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.

E. **Use of best information and BMPs.** Shoreline restoration and enhancement projects shall be designed using the best available scientific and technical information, and implemented using best management practices.

F. **Public use of waters and lands.** Shoreline restoration and enhancement shall not interfere with lands or waters dedicated specifically for public use, as determined by the Shoreline Administrator, without appropriate mitigation. For projects on state-owned aquatic lands, project proponents must coordinate with the Washington Department of Natural Resources to ensure the project will be appropriately located prior to the solicitation of permits from regulatory agencies.

G. **Permitted.** Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.

H. **Relief for OHWM shifts.** Applicants seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

5.16 Shoreline Stabilization

5.16.1 Overview

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

Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks. The impacts of hardening any one property may be minimal, but cumulatively the impact of this shoreline modification is significant.

Shoreline hardening typically results in adverse impacts to shoreline ecological functions such as:

- Beach starvation. Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach.
- Loss of vegetation degradation. Riparian vegetation that is eliminated, thus degrading the value of the shoreline for many ecological functions, including upland and aquatic habitat and shoreline stability.
- Sediment impoundment. As a result of shoreline hardening, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost. This leads to lowering and reduction of beach area, and the coarsening of beach sediment.

- Exacerbation of erosion. The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, leading to scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure of the structure.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include: vegetation enhancement, upland drainage control, biotechnical measures, beach enhancement, anchor trees, gravel placement, rock revetments, gabions, concrete groins, retaining walls and bluff walls, and bulkheads.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

5.16.2 Regulations

A. **General**. The purpose of this section is to provide standards and guidelines for the location and design of hard structural and soft structural shoreline stabilization measures that have the potential to adversely impact the shoreline natural environment.

1. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.
2. Land subdivisions shall be designed to assure that future development of the created lots will not require shoreline stabilization for reasonable development to occur.
3. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
4. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.
5. In all cases, the feasibility of soft structural shoreline stabilization shall be evaluated prior to hard structural stabilization.
6. Shoreline stabilization shall be designed so that net loss of ecological functions does not occur.

B. **New or enlarged structural shoreline stabilization.** New structural shoreline stabilization measures, including both hard and soft structural shoreline stabilization measures, shall include measures installed to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. These actions include structural and nonstructural methods. Existing structural shoreline stabilization measures that are enlarged, including additions to or increases in height, width, length, or depth, shall be considered new structures. New or enlarged structural stabilization measures shall not be allowed, except as follows:

1. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by 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 hard or soft structural shoreline stabilization. OR
2. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
    a. The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.

b. Nonstructural measures, such as placing the proposed development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion impacts.

c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis. The damage must be caused by natural processes, such as currents or waves. OR

3. In support of water-dependent development when all of the conditions below apply:

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

b. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.

c. The need to protect primary structures, including residences, from damage due to erosion is demonstrated through a geotechnical analysis. OR

4. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.

5. To protect cultural or historic resources when nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient to avoid continued degradation, disturbance or erosion of a site. Cultural resource protection projects shall be coordinated with any affected Indian tribes and comply with applicable provisions of Section 4.1.2 of this SMP.

C. **Repair of existing shoreline stabilization measures**. This section allows repair and maintenance of existing shoreline stabilization measures, subject to all of the following provisions. [Note: repair of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but they are not exempt from the policies and regulations of this Section or the SMP.]

1. Maintenance and repair shall include modifications or improvements to an existing shoreline stabilization measure that are designed to ensure the continued function of the stabilization measure by preventing failure of any part of the stabilization measure.

2. Modifications or improvements that include additions to or increases in size of existing shoreline stabilization measures shall be considered new structures, and are not maintenance and/or repair.

3. Replacement of greater than 50 percent or 35 feet, whichever is smaller, of linear length of existing shoreline stabilization on a waterfront parcel is not considered a repair or maintenance for purposes of these regulations, and must be designed and reviewed as a replacement subject to the provisions contained in Subsection 5.16.2.D. For shoreline stabilization projects, “replacement” occurs when the existing structure, including its footing or bottom course of rock, is removed prior to placement of new shoreline stabilization materials. Repairs and maintenance that involve only removal of material above the footing or bottom course of rock are not considered replacements. Replacement of existing shoreline stabilization may still qualify for an exemption from a Shoreline Substantial Development Permit as listed in Section 7.6.3 of this SMP. Further limitations on non-conforming shoreline stabilization are located in the City’s Nonconforming Uses and Development Standards section of this SMP.

4. Areas of temporary disturbance within the shoreline setback shall be expeditiously restored to their pre-project condition or better.

5. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, and is not maintenance or repair.

D. **Replacement.**[5] The following standards apply to replacement of existing hard and soft structural shoreline stabilization measures [Note: replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but they are not exempt from the policies and regulations of this Section or the SMP]:

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

2. Replacement shall be treated as a new shoreline stabilization measure subject to the restrictions of Subsection 5.16.2.B. above, as well as the submittal requirements of Subsection 5.16.2.H., except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

3. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary residence was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut (attached to and waterward of) the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

4. Fill associated with hard and soft shoreline stabilization measures may be allowed waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat.

E. **General design standards**. When a hard or soft structural shoreline stabilization measure is demonstrated to be necessary, the following design standards shall be incorporated into the stabilization design:

1. Soft structural shoreline stabilization measures shall be used to the maximum extent practicable for new, enlarged, or replacement shoreline stabilization measures, limiting hard structural shoreline stabilization measures to the portion or portions of the site where necessary to protect or support existing shoreline structures or trees, or where necessary to connect to existing shoreline stabilization measures on adjacent properties. Hard structural shoreline stabilization transition areas between the applicant's otherwise soft shoreline measure and the adjacent hardened shoreline, when needed on the subject property to prevent destabilization of adjacent hardened shorelines, should be minimized and extend into the subject property from the property line no more than 10 feet.

2. For enlarged or replacement soft and hard structural shoreline stabilization measures, the following location and design standards are preferred in descending order:

[5] Nonconforming shoreline stabilization measures are not governed by nonconforming structure provisions located in Chapter 6; instead, they are governed by regulations found in SMP Section 5.16.2.D and other provisions of Section 5.16.2 that relate to modification of existing nonconforming structures.

a. Conduct excavation and fill activities associated with the soft or hard structural shoreline stabilization landward of the existing OHWM to the maximum extent practicable.

b. Where a, above, is not practicable because of overriding safety or environmental concerns, conduct necessary excavation and fill activities waterward of the existing OHWM as needed to implement a soft structural shoreline stabilization technique or to mitigate the impacts of hard structural shoreline stabilization. Fill material waterward of the OHWM may be sand, gravel, cobble or boulders provided the placement of boulders does not effectively present a continuous wall or face to oncoming waves (also known as rip rap).

3. All approved new, enlarged, repair, or replacement shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities, consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Critical Areas Regulations. Impact minimization techniques may include compliance with appropriate timing restrictions, use of best management practices to prevent water quality impacts related to upland or in-water work, and stabilization of exposed soils following construction.

4. All new, enlarged, or replacement hard structural shoreline stabilization measures shall minimize any long-term adverse impacts to ecological functions by incorporating the following measures into the design:

a. Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including height, depth, and mass.

b. Shifting the hard structural shoreline stabilization landward and/or sloping the hard structural shoreline stabilization landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.

5. Approved new and enlarged shoreline stabilization measures shall mitigate any adverse impacts to ecological functions by incorporating the following measures at a minimum into the design if appropriate for local conditions:

a. Restoration of appropriate substrate conditions waterward of the OHWM, to include substrate composition and gradient. The material should be sized and placed to remain stable during a two-year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes, including storm events.

b. Plant native riparian vegetation, as necessary, along at least 75 percent of the shoreline linear frontage affected by the new or enlarged stabilization, located along the water's edge. The vegetated portion of the shoreline setback shall average 10 feet in depth from the OHWM, but may be a minimum of 5 feet wide to allow for variation in landscape bed shape and plant placement. Restoration of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least 3 trees per 100 linear feet of shoreline must be included in the plan. The vegetation plan shall be prepared consistent with Appendix E, Guidance for Development of Vegetation Mitigation Plans. An alternative planting plan or mitigation measure in lieu of meeting these requirements may be allowed if approved by other State and Federal agencies.

c. Additional mitigation measures may be required by the City, or State or Federal agencies, depending on the level of impact.

6. The shoreline stabilization measure shall be designed to not significantly interfere with normal surface and/or subsurface drainage into the adjacent waterbody.

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7. The shoreline stabilization measure shall be designed so as not to constitute a hazard to navigation.

8. Stairs or other water access measures may be incorporated into the shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but shall not extend waterward of the shoreline stabilization measure and the OHWM.

9. The shoreline stabilization measure shall be designed to ensure that it does not restrict appropriate public access to the shoreline. When a structural shoreline stabilization measure is required at a public access site, provisions for safe access to the water shall be incorporated into the shoreline stabilization structure design (e.g., steps integrated into the bulkhead, coved area with shallow entry). Access measures should not extend farther waterward than the face of the shoreline stabilization measure and the OHWM.

10. Shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

11. When repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location, any setbacks from the OHWM or lot area for the purposes of calculating lot coverage shall be measured from the pre-modification location. The pre-modification OHWM shall be recorded in a form approved by the City and recorded at the Chelan County Auditor's Office.

12. If repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location and result in expansion of the shoreline jurisdiction on any property other than the subject property, the plan shall not be approved until the applicant submits a copy of a statement signed by the property owners of all affected properties, in a form approved by the City and recorded at the Chelan County Auditor's Office, consenting to the shoreline jurisdiction creation and/or increase on such property.

F. **Specific hard structural shoreline stabilization design standards**. In those limited instances when hard structural shoreline stabilization measures, such as bulkheads, are demonstrated to be necessary as outlined in Subsection H.1, the following standards shall be incorporated into the design:

1. In those limited cases when hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is not located on adjacent properties, the construction of hard structural shoreline stabilization shall tie in with the existing contours of the adjoining properties, as feasible, such that the proposed stabilization would not cause erosion of the adjoining properties.

2. When hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is located on adjacent properties, the proposed stabilization may tie in flush with existing stabilization measures on adjoining properties, provided that the new stabilization does not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and does not extend onto the adjacent property. In such circumstances, the remaining portion of the stabilization shall be placed landward of the existing OHWM such that no net intrusion into the waterbody occurs nor does net creation of uplands occur. The length of hard structural shoreline stabilization transition area to adjacent properties should be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet.

3. Fill behind hard structural shoreline stabilization shall be limited to 1 cubic yard per running foot of stabilization. Any filling in excess of this amount shall be considered a regulated activity subject to the regulations in this chapter pertaining to fill activities and the

requirement for obtaining a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit.

G. **Specific soft structural shoreline stabilization design standards**. In addition to applicable general design standards and hard structural shoreline stabilization standards above, the following standards shall be incorporated into the design:

1. The soft shoreline stabilization design shall provide sufficient protection of adjacent properties by tying in with the existing contours of the adjoining properties to prevent erosion at the property line, provided the stabilization measure does not extend onto the adjacent property. Soft shoreline stabilization projects that include necessary use of hard structural shoreline stabilization measures, as indicated by the appropriate study prepared per Subsection H, only near the property lines to tie in with adjacent properties shall be permitted as soft shoreline stabilization measures. The length of hard structural shoreline stabilization transition area to adjacent properties shall be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet (see diagram below). The hard structural shoreline stabilization transition area shall not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and shall not extend onto the adjacent property.

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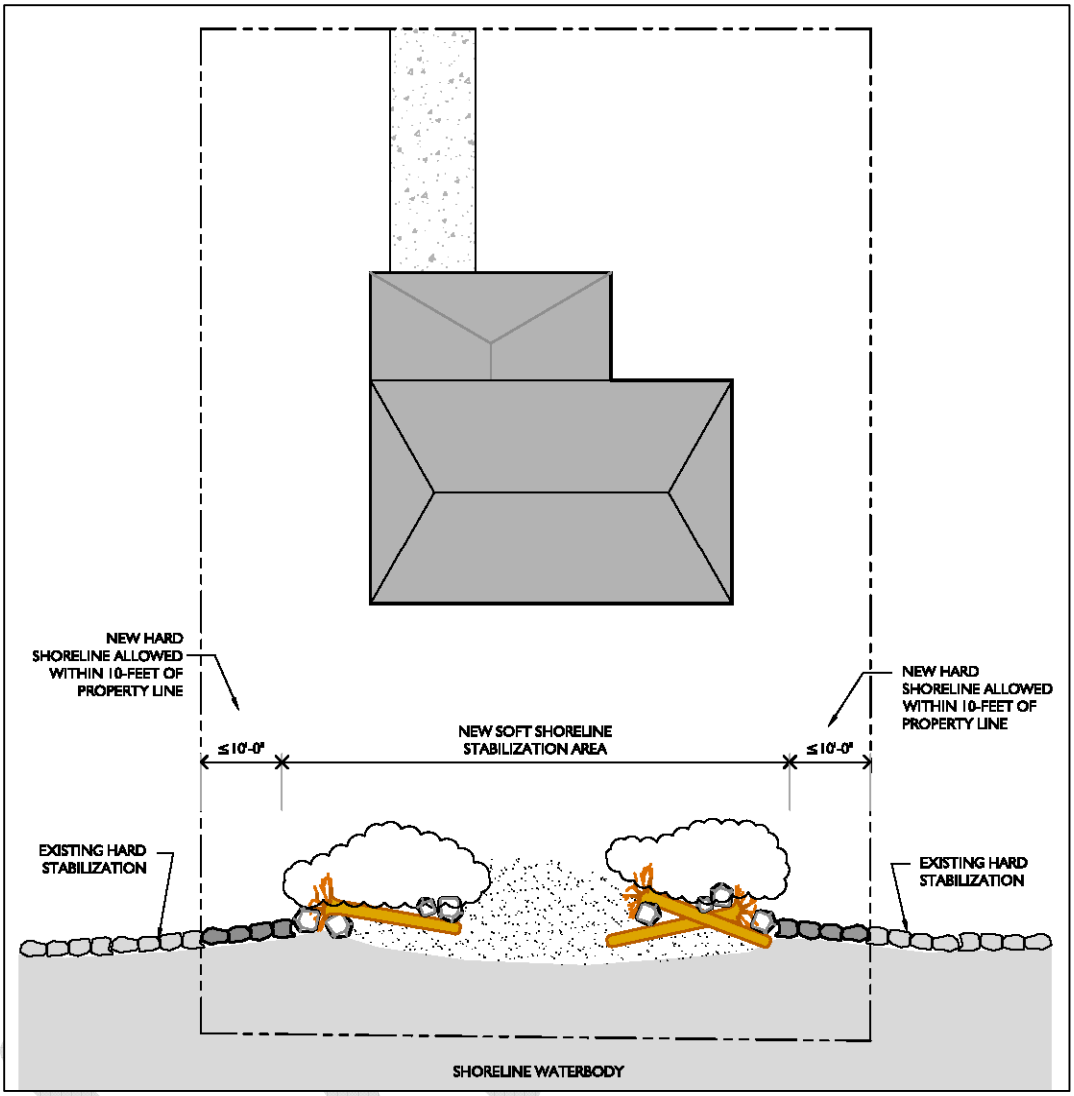

2. The soft shoreline stabilization design shall size and arrange any gravels, cobbles, logs, and boulders so that the project remains stable during a two-year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes, including storm events, and dissipates wave and current energy, without presenting extended linear faces to oncoming waves or currents.

H. **Submittal requirements**. In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

1. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical analysis prepared by a qualified professional with an engineering license. The analysis shall include the following:

   a. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation. New hard structural shoreline stabilization measures shall not be authorized, except when an analysis confirms that that there is a significant possibility that an existing structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization

measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that analysis may still be used to justify more immediate authorization to protect against erosion using soft measures.

b. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM.

c. An assessment of alternative measures to shoreline stabilization, including:

i. Placing the structure farther from the OHWM.

ii. Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.

d. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.

e. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

2. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:

a. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

b. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization.

c. An assessment of alternative measures to shoreline stabilization, including:

i. Relocating the development farther from the OHWM.

ii. Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.

d. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft structural shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.

e. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

3. A demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using bio-engineered soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

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4. For all structural shoreline stabilization measures, including bio-engineered soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:

   a. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.

   b. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials shall be selected to accomplish the following objectives:

      i. Protect the primary structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from currents and wind- or boat-driven waves; and

      ii. Allow safe passage and migration of priority or native fish and wildlife.

   c. For projects that include native vegetation, a detailed three-year vegetation maintenance and monitoring program to include the following:

      i. Goals and objectives of the shoreline stabilization plan;

      ii. Success criteria by which the implemented plan will be assessed;

      iii. A three-year maintenance and monitoring plan, consisting of at least one site visit per year by a qualified professional (or the applicant or property owner as outlined in Subsection 4.4.2.D.8), with annual progress reports submitted to the Shoreline Administrator and all other agencies with authority;

      iv. A performance standard of 100 percent survival for the first year of growth post installation, with no less than 80 percent survival at the end of the third year; and

      v. A contingency plan and a bond in an amount and form acceptable to the City in case of failure.

5.17 Transportation and Parking

5.17.1 Overview

This program recognizes the continuation of existing transportation facilities and provides direction on how future transportation facilities associated with development within the shoreline jurisdiction should be sited and constructed.

5.17.2 Regulations

A. **Roads limited in shoreline jurisdiction.** Where other options are available and feasible, new roads or road expansions shall not be built within shoreline jurisdiction. If subdivisions are being proposed, new road placement shall be evaluated at the time of the plat application, or site development planning.

B. **Criteria if roads or railroads are unavoidable.** When railroads, roads or road expansions are unavoidable in the shoreline jurisdiction, proposed transportation facilities shall be planned, located, and designed to achieve the following:

   1. Minimize possible adverse effects on unique or fragile shoreline features;

2. Maintain no net loss of shoreline ecological functions and implement mitigation standards of Section 4.2, Ecological Protection and Critical Areas and Section 4.5, Vegetation Conservation and Shoreline Setbacks;

3. Avoid adverse impacts on existing or planned water-dependent uses; and

4. Set back from the OHWM to the maximum feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses unless infeasible, standards for ADA accessibility and functionality cannot be met, or the cost is disproportionate to the cost of the proposal. For the purposes of this Section, disproportionate means the shoreline setback requirement would add more than 20% to the total project cost.[6]

C. **Visual access.** Public roads, within shoreline jurisdiction, shall, where possible, provide and maintain visual access to scenic vistas. Visual access may include, but is not limited to, turn-outs, rest areas, and picnic areas.

D. **Shoreline crossings.** Shoreline crossings and culverts shall be designed to minimize impact to riparian and aquatic habitat and shall allow for priority or native fish passage. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands.

E. **Shoreline crossings for private property.** Crossings that are to be used solely for access to private property shall be designed, located, and constructed to provide access to more than one lot or parcel of property, where feasible, to minimize the number of crossings.

F. **Construction standards.** Construction standards of the appropriate governmental agency, together with SMP standards, shall be conditions for granting shoreline permits. Seasonal work windows may be required based on federal or state requirements, or if the proposal involves crossing shorelines or altering the waterbody.

G. **Trails.** See public access standards in Section 4.3.

H. **Parking facilities.** Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use and when minimizing environmental and visual impacts. For the purposes of this section, authorized means a use or activity included in the use matrix and associated definitions in Section 3.2.1.F and Chapter 9. New or expanded parking areas shall:

1. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists; for example where a property does not extend outside jurisdiction;

2. Be planted or landscaped to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas. The Shoreline Administrator may condition proposals to incorporate the following performance standards:

   a. Select species that are suitable to the local climate, having minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers; and

   b. Incorporate native species.

3. Observe critical area and shoreline setbacks. Parking shall be located outside critical area and shoreline setbacks unless one of the following is met:

   a. ADA parking requirement are not met and placing the limited number of needed ADA parking spaces within the shoreline setback facilitates better and safer public access to the shoreline.

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[6] The 20% figure is based on WSDOT's practices in determining whether sidewalks will be provided with state roads. (pers. com. Paula Reeves, WSDOT, email to WAAPA list serve, April 24, 2009).

b. Parking is located on parcel a landward of allowed uses and the applicant's lot/site has topographical constraints where no other location outside the setback yet within the proposed development is feasible (e.g., the use or activity is located on a parcel entirely or substantially encumbered by the required setback).

In the above cases, parking shall be located as far upland from the OHWM as feasible, recognizing the limited supply of shoreline areas and parking allowed in setback shall follow mitigation sequencing; and

4. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.

I. **Modifications of Existing Roads and Parking Areas:** Existing roads and parking areas that are of a non-paved surface (e.g. gravel) may be paved provided such facilities comply with all applicable water quality, stormwater, landscaping, and other applicable requirements of this SMP. Roadways or paved parking areas shall be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.

J. **Private Driveways:** A driveway for an individual single family home is considered a residential appurtenance and is considered part of the primary use, and subject to Residential standards of this SMP. Private driveways or private roads serving more than one home are subject to the standards of Section 5.17, Transportation and Parking.

K. **Maintenance Standards for New or Expanded Road or Parking Facility:** When a new or expanded roadway or new or expanded parking facility is proposed, the City may condition the proposal to provide a maintenance plan that promotes best management practices to achieve no-net-loss of shoreline ecological function. For example, maintenance standards may include restrictions on the use of herbicides, hazardous substances, sealants or other liquid oily substances, or de-icing practices adjacent to shoreline setbacks or critical areas and their buffers. See also Section 5.19.

5.18 Utilities

5.18.1 Overview

Utilities provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, stormwater, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use. Consult standards of the primary use of the property, e.g. Residential, Commercial, Industrial, or Recreational, for any additional standards relevant to the placement of accessory activities such as utilities. Water intake and water and/or fish conveyances between a waterbody and an aquaculture facility are not considered a "utility" under this section of the SMP; consult standards for Aquaculture.

5.18.2 Regulations

A. **Design considerations.** Utility systems are permitted provided such systems:

1. Are designed and constructed to meet all adopted engineering standards of the City;
2. Avoid paralleling the shoreline or following a down-valley course near the channel, except where located in an existing road or easement footprint; and
3. Do not alter processes affecting the rate of shoreline erosion; the Shoreline Administrator may require a monitoring plan and adaptive management measures prepared by a qualified professional as appropriate.

B. **Preference – existing footprints.** Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems.

C. **Undergrounding.** All new permanent utility systems shall be underground except where environmental or geological conditions makes undergrounding prohibitive; provided that facilities which are temporary or infeasible to underground are exempt from undergrounding, including but not limited to electric transmission lines in excess of 15kV, utilities attached to undersides of bridges, and public stormwater facilities, outfalls, and associated structures.

D. **Minimum clearing.** Where utility systems must be located in shoreline jurisdiction areas, clearing necessary for installation or maintenance shall be kept to the minimum width necessary to prevent interference by trees and other vegetation with proposed transmission facilities. Impacts associated with removal of vegetation or clearing shall be mitigated on the property.

E. **Restoration of disturbed areas.** Upon completion of utility system installation, or any maintenance project, the disturbed area shall be regraded to compatibility with the natural terrain and replanted to prevent erosion and provide appropriate vegetative cover, including meeting standards of Section 4.5, Vegetation Conservation and Shoreline Setbacks and Appendix B, Critical Areas Regulations.

F. **Underwater utilities.** If an underwater location is necessary, the following performance standards apply:

1. The design, installation and operation shall minimize impacts to the waterway or the resident aquatic ecosystems.
2. Seasonal work windows may be made a condition of approval.
3. Standards of Section 5.8, Dredging and Dredge Material Disposal; Section 4.2, Ecological Protection and Critical Areas; Section 4.5, Vegetation Conservation and Shoreline Setbacks (for any aquatic vegetation impacts); and Section 5.2, General Aquatic Shoreline Modification and Use Regulations must be met.
4. All federal or state permits must be obtained.
5. A maintenance schedule and emergency repair protocol shall be prepared and recorded.

G. **Nonwater-oriented processing and production facilities.** Nonwater-oriented utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater-oriented, shall not be allowed in shoreline jurisdiction unless it can be demonstrated that no other feasible option is available. Where no other practical alternative exists to the excavation for and placement of wells, tunnels, utilities, or on-site septic systems in a shoreline setback and critical area buffer, while permitted a mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B.

H. **Outfall design principles.** New and reconfigured outfalls shall be located to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. The diffuser or discharge point(s) for new or expanded outfalls must be located offshore and at a setback distance beyond the near shore/littoral area, to avoid impacts to those areas. The Shoreline Administrator may require a mixing zone analysis for the outfall from a qualified party to determine the diffuser or discharge point. The outfall pipe shall be subsurface within the near shore.

5.19 Redevelopment, Repair, and Maintenance

5.19.1 Overview

This section addresses how regulations apply to redevelopment, repair, or maintenance activities, clarifies how SMP standards proportionally apply to redevelopment activities, and provides a process for multi-year management plans for maintenance and repair.

5.19.2 Regulations

A. SMP provisions shall not apply retroactively to existing uses and developments.

B. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline setbacks and critical area buffers established in this SMP. Normal maintenance and repair, as specified in Section 7.6.3, Exemptions, do not require shoreline permits.

C. Consistent with the Applicability provisions of Section 1.3, SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:

1. The Shoreline Administrator shall determine the extent of compliance with SMP provisions.

2. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply. If vegetation is removed beyond normal maintenance pursuant to 7.6.3.B, vegetation conservation and shoreline setback standards may apply.

D. Maintenance or repair activities which exceed the specifications of 7.6.3.B in Exemptions or which are required for new development or re-development may be authorized with the appropriate permit in the Use and Modification Matrix and through the establishment of multi-year maintenance or repair plans, as follows:

1. Five-year recreation management plans consistent with Section 5.13.2.

2. Five-year dredging maintenance plans consistent with Section 5.8.2.

3. Other multi-year plan for other maintenance or repair activities that are used to establish best management practices or protocols to ensure no-net-loss of shoreline ecological function such as roadway, utility, or other facility maintenance. Other maintenance or repair management plans shall be prepared to address the following:

a. Description of proposed maintenance activities and best management practices;

b. Type, methods, and frequency of maintenance or repair activities;

c. Description of in-stream habitat protection measures and any applicable permits received for that work;

d. Description of riparian and wetland protection measures and any applicable permits received for that work;

e. Description of stormwater management practices to reduce both water quantity and water quality impacts and any applicable permits received for that work;

f. Description of erosion and sediment control practices that prevent off-site movement;

g. Description of re-vegetation or restoration activities following maintenance or repair; and

h. Description of chemical and nutrient use and containment practices such as Integrated Pest Management (IPM).

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6. CHELAN RIVER STANDARDS

6.1 Flood Hazard Reduction

6.1.1 Overview

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

Although some flood hazard reduction measures may serve a dual function as shoreline stabilization, their primary purpose is to control the location of flood waters directly. Alternatively, the primary purpose of shoreline stabilization measures is to prevent erosion of land from currents and waves originating in the shoreline waterbody (rather than upland sources of erosion), which is a more indirect control of the location of flood and non-flood water. Shoreline stabilization is addressed in Section 5.16.

As documented in the Final Inventory and Shoreline Analysis Report (2012), the City and its UGA do not contain mapped channel migration zones or floodways in shoreline jurisdiction.

The City implements flood hazard reduction in partnership with other agencies through the following means:

- **Plans and Policies:** Growth Management Act comprehensive plans, Multi-Jurisdiction Natural Hazard Mitigation Plan, and watershed plans have been developed by Chelan County, the Cities, and other agencies and address flood hazard reduction policies, programs, restoration actions, and other capital improvements.
- **Regulations:** critical area, floodplain and stormwater regulations.

6.1.2 Regulations

A. **Avoid increase in flood hazards.** Development in floodplains within shoreline jurisdiction shall, consistent with applicable flood hazard plans and regulations, avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with all City regulations including critical areas regulations (SMP Appendix B), stormwater regulations (Section 4.5 of this SMP), in-water structure regulations (Section 6.2 of this SMP), as well as guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, and the City's comprehensive flood hazard management plan and/or Multi-Jurisdiction Natural Hazard Mitigation Plan.

B. **Structural flood hazard reduction measures.** New structural flood hazard reduction measures in shoreline jurisdiction shall be allowed only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with SMP Section 4.5, Vegetation Conservation and Shoreline Setbacks. Structural flood hazard reduction measures shall be consistent with the City's comprehensive flood hazard management plan and/or Multi-Jurisdiction Natural Hazard Mitigation Plan.

C. **Placement of structural flood hazard reduction measures.** New structural flood hazard reduction measures in shoreline jurisdiction shall be placed landward of associated wetlands and designated

shoreline setbacks, except for actions that increase ecological functions, such as wetland restoration; provided 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.

D. **Public access.** See Section 4.3.2.

E. **Gravel removal.** The removal of gravel for flood management purposes shall be consistent with Section 5.8, Dredging and Dredge Material Disposal, and be allowed only after a biological and geo-morphological 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.

6.2 In-Water Structures

6.2.1 Overview

In-water structures include those placed by humans within streams, rivers and lakes for hydroelectric generation, irrigation, water supply, flood control, transportation, utilities, fish habitat enhancement, recreation, or other purpose. Structures placed waterward of the OHWM have the potential to cause water impoundment or the diversion, obstruction, or modification of water, and are therefore regulated by this section.

6.2.2 Regulations

A. **Prohibited projects.** Projects that damage priority or native fish and wildlife resources, degrade recreation and aesthetic resources, result in a net loss of ecological functions or result in high flood stages and velocities are prohibited.

B. **Soil stabilization.** Upland cut-and-fill slopes and back-filled areas resulting from installation of in-water structures shall be stabilized with bioengineering approaches, including, but not limited to brush matting and vegetated strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes. In order to ensure soil stabilization, revegetation must include native shrubs or trees and may not be limited to native grasses.

C. **Water quality.** In-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The City shall require reasonable conditions to achieve this objective.

D. **Prohibited structures.** No motor vehicles, appliances, other similar structures or parts thereof; nor structure demolition debris; nor any other solid waste shall be used as in-water structures.

E. **Natural features.** Natural in water features such as snags, uprooted trees, or stumps shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation or human safety.

F. **Protect functions, processes and cultural resources.** In-stream structures shall provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, priority or native fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

G. **Design.** In-water structures shall be designed by a qualified professional. In-water structures shall allow for natural groundwater movement and surface runoff, and shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided channels. In-

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water structures shall not be a safety hazard or obstruct water navigation as determined by the Shoreline Administrator.

H. **Permits.** Construction of in-water structures may not commence without having obtained all applicable Federal, State, and local permits and approvals.

I. **Public access.** Design of in-water structures by public entities, including the City, other local governments, state agencies, and public utility districts, shall include access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a minimum, in-water structures should not decrease public access or use potential of shorelines.

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7 SHORELINE PERMITS, PROCEDURES AND ADMINISTRATION

7.1 Roles and Responsibilities

The City shall administer this Shoreline Master Program according to the following roles and responsibilities.

7.1.1 Shoreline Master Program Administrator

The Shoreline Master Program Administrator in the City of Chelan is the Planning Director and shall have overall administrative responsibility of the SMP. The Shoreline Master Program Administrator or his/her designee is hereby vested with the authority to:

A. Administrate this SMP.

B. Conduct preapplication conferences pursuant to CMC 19.18.020 Preapplication conference.

C. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP per Section 7.6.3.

D. Authorize, approve or deny Shoreline Substantial Development Permits except for those for which the Hearing Examiner is the designated decision maker. The Shoreline Administrator shall have the authority to authorize, approve or deny Shoreline Substantial Development Permits for the following permits:

1. Docks, boatlifts, stairs, paths, and buoys associated with single-family residences
2. Public agency development, uses or modifications including but not limited to parks and recreation, roads, and utilities
3. Micro parks
4. Fee-in-lieu determinations
5. Parking proposals in existing rights-of-way
6. Five-year recreation management plans consistent with Section 5.13.2.
7. Five-year dredging maintenance plans consistent with Section 5.8.2.
8. Other multi-year plans for other maintenance or repair activities that are used to establish best management practices or protocols to ensure no-net-loss of shoreline ecological function such as roadway, utility, or other facility maintenance consistent with Section 5.19.2.
9. Uses, development, or modifications considered exempt from the SEPA process.

The Shoreline Administrator has the authority to assign a Shoreline Substantial Development Permit normally assigned per D.1 to D.9 to the Shoreline Administrator to the Hearing Examiner instead as deemed appropriate to the nature of the application.

E. Make field inspections as needed, and prepare or require reports on shoreline permit applications.

F. Make written recommendations to the Hearing Examiner, Planning Commission, or City Council as appropriate.

G. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.

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H. Collect fees for all necessary permits as provided in City ordinances or resolutions. The determination of which fees are required shall be made by the City.

I. Make administrative decisions and interpretations of the policies and regulations of this SMP and the Act in accordance with Chelan Municipal Code Section 19.01.080.

7.1.2 SEPA Official

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21C. The responsible SEPA official is designated in accordance with the City's SEPA implementation ordinance.

7.1.3 Hearing Examiner

Where a hearing examiner system has been adopted by the City, the Hearing Examiner shall have the authority to:

A. Decide on Shoreline Substantial Development Permits not otherwise assigned to the Shoreline Administrator in Subsection 7.1.1, time extensions to shoreline permits, revisions, as well as decide on appeals from administrative decisions issued by the Administrator of this SMP.

B. Grant or deny conditional uses under this SMP not issued administratively.

C. Grant or deny variances from this SMP.

7.1.4 Planning Commission

The Planning Commission is vested with the responsibility to review the Master Program as part of regular SMP updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program, and make recommendations for amendments thereof to the City Council.

7.1.5 City Councils

The City Council is vested with authority to:

A. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.

B. Adopt all amendments to this SMP, after consideration of the recommendation of the planning commission, where established. Amendments shall become effective immediately upon approval by Ecology.

7.2 Interpretation

The City shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act in accordance with Chelan Municipal Code Section 19.01.080. The City shall consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of Chapter 90.58 RCW and 173-26 WAC.

7.3 Statutory Noticing Requirements

Noticing requirements for permits issued under the SMP in the City of Chelan shall be in accordance with Chelan Municipal Code Chapters 19.02 and 19.03.At a minimum, the City shall provide notice in accordance with WAC 173-27-110, and may provide for additional noticing requirements. Per WAC 173-27-120 the City shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extensions and bulkheads.

The following subsections provide a summary of noticing days. The City shall consult the most current version of WAC 173-27-110 and 120 to confirm the days. In case of conflict state statutes or rules shall control:

A. Issuance of notice of application. Notice of application shall be provided within fourteen days after the determination of completeness of the application.

B. Statement of public comment period. The notice of application shall state the public comment period which shall be not less than thirty days following the date of notice of application, unless otherwise specified for limited utility extensions or single family bulkheads in Subsection D.

C. Notice of application prior to hearing. If an open record predecision hearing, as defined in RCW 36.70B.020, is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

D. Limited utility extension or single-family bulkhead. An application for a Substantial Development Permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to all of the requirements of this chapter except that the following time periods and procedures shall be used:

1. The public comment period shall be twenty days. The notice provided shall state the manner in which the public may obtain a copy of the City's decision on the application no later than two days following its issuance;

2. The City shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in subsection (2)(a) of this section; and

3. If there is an appeal of the decision to grant or deny the permit to the City Council, the appeal shall be finally determined by the City Council within thirty days.

7.4 Application Requirements

A. Chapter 19.02 of the Chelan Municipal Code provides the minimum application requirements and codifies the form upon which the application must be submitted. A complete application for a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the information listed in WAC 173-27-180. In addition, the applicant, including those applying for exemption status, shall provide the following materials:

1. An assessment of the existing ecological functions and/or processes provided by topographic, physical and vegetation characteristics of the site and any impacts to those functions and/or processes, to accompany development proposals, provided that proposals for single-family residences, as long as they meet the exemption criteria, shall be exempt from this requirement if proposal is located outside required setbacks. If the project could adversely alter ecological functions and/or processes, a mitigation plan must be provided that describes how proposed mitigation compensates for the lost function or process.

2. Site plan or division of land depicting to scale the location of buildable areas, existing and proposed impervious surfaces (building(s), accessory structures, driveways), and allowed landscaping and yards (including proposed water access trails, view corridors, wildfire defensible space, if applicable), general location of utilities, well and septic system, if applicable and location of storage and staging of materials and equipment during construction. Plans shall show area calculations of each feature.

3. Where a view analysis is required per WAC 173-27-180, or this SMP, due to location of nearby residential or public properties or designated scenic highways, it shall address the following:

   a. The analysis shall include vacant existing parcels of record as well as existing structures. Vacant parcels of record shall be assumed to be developed with structures complying with the applicable regulations of the City and the maximum height limitation allowed under the SMP.

b. The view corridor analysis shall include residential buildings or public properties located outside of the shoreline jurisdiction if it can be clearly demonstrated that the subject property has significant water views.

B. The Shoreline Master Program Administrator may vary or waive these additional application requirements of Section 7.4 according to administrative application requirements on a case by case basis, but all applications for a substantial development, conditional use, or variance permit shall contain the information found in WAC 173-26-180. The Shoreline Master Program Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other City requirements, and the provisions of this SMP.

7.5 Shoreline Substantial Development Permits

7.5.1 Permit Required

A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Section 7.6.

7.5.2 Permit Review Criteria

In order for the permit to be approved, the decision maker must find that the proposal is affirmatively consistent with the following criteria:

A. How is the proposal consistent with the policies and procedures of the Act (RCW 90.58)?

B. How is the proposal consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures?

C. How is the proposal consistent with this SMP?

7.5.3 Conditions of Approval

The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

7.6 Exemptions from Shoreline Substantial Development Permits

7.6.1 Compliance with Applicable Regulations Required

An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the Act or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the Act.

7.6.2 Interpretation of Exemptions

A. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.

B. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

C. The burden of proof that a development or use is exempt from the permit process is on the applicant. The City may require the applicant to provide additional documentation to support their exemption request.

D. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project. Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same shoreline permit. Applicants shall not piecemeal proposals to avoid shoreline permits.

E. The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

F. Except for the exemption based on fair market value in 7.6.3.A, activities consistent with the exemptions listed in 7.6.3 are exempt regardless of the value of the project.

7.6.3 Exemptions

The City shall exempt from the Shoreline Substantial Development Permit requirement the shoreline developments listed below, or as thereafter amended in WAC 173-27-040; RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515. Written Letters of Exemption or other written documenation are required for exempt activities and shall be issued consistent with Section 7.6.4.

A. Any development of which the total cost or fair market value, whichever is higher, does not exceed six-thousand four hundred sixteen dollars ($6,416) or dollar value as amended by the State of Washington Office of Financial Management provided 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 repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

C. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM 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 OHWM. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural

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elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife.

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 which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, WAC 173-27-040, or this Shoreline Master Program, obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this Shoreline Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

E. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, that 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. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

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

G. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the City, including applicable requirements imposed pursuant to Chapter 90.58 RCW , WAC 173-27 and this SMP. See Chapter 9 for definitions of single-family residence and residential appurtenances. Construction authorized under this exemption shall be located landward of the OHWM.

H. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if in fresh waters the fair market value of the dock does not exceed ten thousand dollars ($10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars ($2,500) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this Shoreline Master Program.

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

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

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

L. Any project with a certification from the governor pursuant to Chapter 80.50 RCW, Energy Facilities - Site Locations;

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

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

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

3. 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;

4. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the City to ensure that the site is restored to preexisting conditions; and

5. The activity is not subject to the permit requirements of RCW 90.58.550, Oil or natural gas exploration in marine waters;

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

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

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

a. A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings; or

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

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

2. “Watershed restoration plan" means a plan developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe acting within and pursuant to its authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed

for which agency and public review has been conducted pursuant to Chapter 43.21C RCW, the State Environmental Policy Act;

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

1. The project has been approved in writing by the State of Washington department of Fish and wildlife;

2. The project has received Hydraulic Project Approval by the State of Washington Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and

3. The City has determined that the project is substantially consistent with its Shoreline Master Program. The City shall make such determination in a timely manner and provide it by letter to the project proponent. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this Shoreline Master Program, as follows.

a. In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under P.3.a.i and ii of this subsection:

i. A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

- Elimination of human-made fish passage barriers, including culvert repair and replacement; or
- 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
- Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The Washington Department of Fish and Wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the Washington Department of Fish and Wildlife determines that the scale of the project raises concerns regarding public health and safety; and

ii. A fish habitat enhancement project must be approved in one of the following ways:

- By the Washington Department of Fish and Wildlife pursuant to Chapters 77.95 or 77.100 RCW; or
- By the sponsor of a watershed restoration plan as provided in Chapter 89.08 RCW; or
- By the department as a Washington Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project; or

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- Through the review and approval process for the jobs for the environment program; or

- Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the Natural Resource Conservation Service; or

- Through a formal grant program established by the legislature or the Washington Department of Fish and Wildlife for fish habitat enhancement or restoration; and

- Through other formal review and approval processes established by the legislature.

b. Fish habitat enhancement projects meeting the criteria of P.3.a of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of P.3.a of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).

c. A Hydraulic Project Approval permit is required for projects that meet the criteria of P.3.a of this subsection and are being reviewed and approved under this section. An applicant shall use a Joint Aquatic Resource Permit Application form developed by the Governor's Office for Regulatory Innovation and Assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the Washington Department of Fish and Wildlife, the City and other appropriate local governments. The City shall accept the application as notice of the proposed project. The Washington Department of Fish and Wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the Washington Department of Fish and Wildlife shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The Washington Department of Fish and Wildlife shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the Washington Department of Fish and Wildlife shall notify the applicant and the City of its determination. The applicant may reapply for approval of the project under other review and approval processes.

d. Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the Hydraulic Appeals Board pursuant to the provisions of this chapter.

e. The City may not require permits or charge fees for fish habitat enhancement projects that meet the criteria of P.3.a of this subsection and that are reviewed and approved according to the provisions of this section.

7.6.4 Letters of Exemption

A. Letters of exemption shall be issued by the City when required by the provisions of WAC 173-27-050.

B. When projects are exempt consistent with this SMP, the Act, and WAC 173-27-040, but do not require a letter of exemption per WAC 173-27-050, the City will document its exemption process for record keeping.

C. The City may provide letters of exemptions or written documentation for programatic exempt activities such as those that occur in plans detailing operations and maintenance. Only those operations and maintenance manuals that do not contain expansion or new development activities that would require permitting may be allowed under this type of exemption letter.

7.6.5 Letters of Exemption – Application

Applicants for proposals that meet shoreline exemptions criteria shall contain shall contain, at a minimum, the information listed in WAC 173-27-180, unless waived by the Shoreline Administrator as unnecessary to determine applicability of SMP provisions to the permit exempt activity.

7.7 Shoreline Conditional Use Permits

7.7.1 Purpose and Review Process

This section provides procedures and criteria guiding the review of shoreline conditional use permits, which require careful review to ensure the use can be properly installed and operated in a manner that meets the goals of the Act and this Program in accordance with any needed performance standards. After a Shoreline Conditional Use application has been approved by the City, the City shall submit the permit to Ecology for Ecology's approval, approval with conditions or denial. Ecology shall review the file, in accordance with WAC 173-27-200.

7.7.2 Determinations of Conditional Use Permits

A. Uses specifically classified or set forth in this Shoreline Master Program as conditional uses shall be subject to review and condition by the City Hearing Examiner and by the Department of Ecology.

B. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

C. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

7.7.3 Review Criteria

A. Conditional use criteria. An applicant proposing a conditional use shall affirmatively demonstrate compliance with the following review criteria or as thereafter amended in WAC 173-27-160.

1. How is the proposed use consistent with the policies of RCW 90.58.020 and this SMP?
2. How will the proposed use avoid interference with the normal public use of public shorelines?
3. How will the proposed use of the site and design of the project be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP?
4. How will the proposed use cause no significant adverse effects to the shoreline environment in which it is to be located?
5. How will the public interest suffer no substantial detrimental effect?

B. **Additional criteria for exceeding maximum height**. Applicants proposing to exceed maximum height limits, not otherwise specifically allowed by a Substantial Development Permit, shall also affirmatively comply with the following criteria:

1. Does the building or structure impact a substantial number of residences? Are the residences involved on or in an area adjoining the project area? Does the building or structure exceed 35 feet in height? Is there an obstruction of view?

2. Has the applicant demonstrated through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences or from public properties on areas adjoining such shorelines?

3. Has the applicant located and oriented structures on the subject property in a manner that diminishes the potential view impact? For example, side yard setbacks may need to be increased. No side yard setbacks shall be reduced to accommodate the proposed structure.

4. Has the applicant demonstrated extraordinary circumstances?

5. To address "overriding considerations of the public", has the applicant prepared a cumulative impacts analysis that documents the public benefits served by issuance of a Conditional Use Permit?

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

1. The applicant shall submit a cumulative impact analysis prepared by a qualified professional for the type of application proposed: a) documenting other properties or uses on the same waterbody that are similarly situated and could request a similar Shoreline Conditional Use Permit; b) demonstrating consistency with the policies of RCW 90.58.020 (Legislative findings); and 3) demonstrating no substantial adverse effects to the shoreline environment and achievement of no-net-loss of ecological function. The City shall determine whether the additional potential for conditional use permits will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed use, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the conditional use and cumulative potential requests occur.

2. For requests to exceed maximum heights, the analysis shall address such considerations as cumulative view obstruction results of height adjustments (within a1,000-foot radius) of the proposed development combined with those of other developments that exceed the 35-foot height limitation, environmental benefits (enhancement or restoration), public access/open space benefits, and economic benefits. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained.[7]

7.7.4 Conditions of Approval

In authorizing a conditional use, special conditions may be attached to the permit by the City and/or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws, plans, and regulations.

[7] Based on Kennewick SMP.

7.8 Shoreline Variance Permits

7.8.1 Purpose and Review Process

The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Shoreline Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Shoreline Master Program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use reglations of the SMP are prohibited.

After a Shoreline Variance application has been approved by the City, the City shall submit the permit to Ecology for Ecology's approval, approval with conditions or denial. Ecology shall review the file in accordance with WAC 173-27-200.

7.8.2 Review Criteria

Shoreline Variances may be authorized, provided the applicant can demonstrate compliance with the following criteria or as thereafter amended in WAC 173-27-170.

A. **General provisions.** 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 the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

B. **Shoreline variances landward of the OHWM.** Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant demonstrates affirmatively all of the following:

1. How would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude or significantly interfere with reasonable use of the property?
2. How is the hardship described in B.1 above specifically related to the property, and is the hardship the result of unique conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions?
3. How is the design of the project compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will the project design not cause adverse impacts to the shoreline environment?
4. How will the variance not constitute a grant of special privilege not enjoyed by the other properties in the area?
5. How is the variance requested the minimum necessary to afford relief?
6. How will the public interest suffer no substantial detrimental effect?

C. **Shoreline variances waterward of OHWM.** Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant demonstrates affirmatively all of the following:

1. How would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude all reasonable use of the property?
2. How is the proposal consistent with the criteria established under subsection 7.8.2.B.2 through B.6 of this section?
3. How will the public rights of navigation and use of the shorelines not be adversely affected?

D. **Cumulative impacts.** In the granting of all Shoreline Variance Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. The applicant shall submit a cumulative impact analysis prepared by a qualified professional for the subject of the variance: a) documenting other properties or uses on the same waterbody that are similarly situated and could request a similar variance; b) demonstrating consistency with the policies of RCW 90.58.020; and c) demonstrating no substantial adverse effects to the shoreline environment and achievement of no-net-loss of shoreline ecological function. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of the Act and shall not cause substantial adverse effects to the shoreline environment. The City shall determine whether the additional potential for variances will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed variance request, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the variance and cumulative potential requests occur.

7.8.3 Conditions of Approval

In authorizing a variance, special conditions may be attached to the Variance permit by the City and/or Ecology to prevent undesirable effects of the proposed development or activity and/or to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws, plans, and regulations.

7.9 Permit Conditions

In granting, revising, or extending a shoreline permit, the City may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of the Act and this SMP, as well as the supplemental authority provided in RCW 43.21C, as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or re-evaluation to assure conformance with the Act and this SMP. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be rescinded.

7.10 Duration of Permits

Time duration requirements for Shoreline Substantial Development, Shoreline Variance, and Shoreline Conditional Use Permits shall be consistent with the following provisions.

A. **General provisions.** The time requirements of this section shall apply to all Shoreline Substantial Development Permits and to any development authorized pursuant to a Shoreline Conditional Use Permit or Shoreline Variance authorized by this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of this SMP and this chapter, the City may adopt different time limits from those set forth in Subsections 7.10.B and C of this section as a part of an action on a Shoreline Substantial Development Permit.

B. **Commencement.** Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance. Commencement means taking the action on the shoreline project for which the permit was granted shall begin. For example, beginning actual construction or entering into binding agreements or contractual obligations to undertake a program of actual construction. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed with a complete extension application submittal before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline

Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance and to Ecology.

C. **Termination.** Authorization to conduct development activities shall terminate five years after the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance, and to Ecology.

D. **Effective date.** The effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance shall be the date of receipt as provided in RCW 90.58.140(6). The permit time periods in subsections B and C of this section do not include the time during which a use or activity was not actually pursued due to pending administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. The applicant shall be responsible for informing the City of the pendency of other permit applications filed with agencies other than the City and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given by the applicant to the City prior to the date of the last action by the City to grant permits and approvals necessary to authorize the development to proceed, including administrative and legal actions of the City, and actions under other City development regulations, the date of the last action by the City shall be the effective date.

E. **Revisions.** Revisions to permits under Section 7.14 may be authorized after original permit authorization has expired, provided that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

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

7.11 Initiation of Development

A. **Amortization to begin construction.** Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) from the date of receipt of the decision, except as provided in RCW 90.58.140 (5)(a) and (b). The date of receipt for a Substantial Development Permit means that date the applicant receives written notice from Ecology that it has received the decision. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of receipt means the date a City or applicant receives the written decision of Ecology.

B. **Forms.** Permits for Substantial Development, Shoreline Conditional use, or Shoreline Variance may be in any form prescribed and used by the City including a combined permit application form. Such forms will be supplied by the City.

C. **Data sheet.** A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.

D. **Construction Prior to Expiration of Appeal Deadline.** Construction undertaken pursuant to a permit is at the applicant's own risk until the expiration of the appeals deadline

7.12 Review Process

The application shall be reviewed by the City in accordance with Chelan Municipal Code Chapter 19 and in accordance with the SMA, its guidelines this SMP.

7.13 Appeals

7.13.1 Appeals of Shoreline Administrator Determinations and Decisions

A. For administrative appeals, see Chelan Municipal Code Chapter 19.06. Administrative review decisions by the Administrator, based on a provision of this SMP, may be the subject of an appeal to the Hearing Examiner by any aggrieved person. Such appeals shall be an open record hearing before the Hearing Examiner.

B. Appeals of exemptions are allowed only for exemptions where a letter is required pursuant to Section 7.6.4, Letters of Exemption, of this SMP

C. Appeals must be submitted within fourteen (14) calendar days after the date of decision or written interpretation together with the applicable appeal fee. Appeals submitted by the applicant or aggrieved person shall contain:

1. The decision or interpretation being appealed, including the file number reference and the specific objections in the decision document;
2. The name and address of the appellant and his/her interest(s) in the application or proposed development;
3. The specific reasons why the appellant believes the decision or interpretation to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision or interpretation is erroneous;
4. The specific relief sought by the appellant; and
5. The appeal fee established by the City.

D. Per WAC 173-27-120 the City shall comply with special procedures for limited utility extensions and bulkheads. If there is an appeal of the decision to grant or deny the permit to the City Council, the appeal shall be finally determined by the City Council within thirty days.

7.13.2 Appeals to Shorelines Hearings Board

Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within thirty (30) days of receipt of the final decision by the City or by Ecology as provided for in RCW 90.58.140(6).

7.14 Amendments to Permits

7.14.1 Revision – When Required

A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this SMP, and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

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When an applicant seeks to revise a permit, the City shall request from the applicant detailed plans and text describing the proposed changes. Proposed changes must be within the scope and intent of the original permit, otherwise a new permit may be required, pursuant to Section 7.14.2.

7.14.2 Determination of Scope and Intent

If the City determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this SMP and the Act, the City may approve a revision.

"Within the scope and intent of the original permit" means all of the following:

A. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten percent (10%) from the provisions of the original permit, whichever is less;

B. Ground area coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit;

C. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a Shoreline Variance granted as the original permit or a part thereof;

D. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this SMP;

E. The use authorized pursuant to the original permit is not changed; and

F. No adverse environmental impact will be caused by the project revision.

7.14.3 Filing of Revision

A. The revision approval, including the revised site plans and text consistent with the provisions of Section 7.4 and 7.14 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with Ecology. In addition, the City shall notify parties of record of their action.

B. If the revision to the original permit involves a Shoreline Conditional Use Permit or Shoreline Variance, the City shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Ecology shall render and transmit to the City and the applicant its final decision within fifteen (15) days of the date of Ecology’s receipt of the submittal from the City. The City shall notify parties of record of Ecology’s final decision.

7.14.4 Effective Date of Revised Permit

The revised permit is effective immediately upon final decision by the City or, when appropriate under Subsection 7.14.3, upon final action by Ecology. Construction undertaken pursuant to a permit is at the applicant's own risk until the expiration of the appeals deadline.

7.14.5 Appeal of Revised Permit

A. **Filing.** Appeals of a revised permit shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one (21) days from the date of receipt of the City's action by Ecology or, when appropriate under Subsections7.7 and 7.8, the date Ecology’s final decision is transmitted to the City and the applicant.

B. **Basis of appeals.** Appeals shall be based only upon contentions of noncompliance with the provisions of Subsection 7.14.1. Appeals shall be based on the revised portion of the permit.

C. **Risk.** Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline.

D. **Scope of decision.** If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

7.15 Enforcement

A. The City shall apply 173-27 WAC Part II, Shoreline Management Act Enforcement, to enforce the provisions of this SMP whenever a person has violated any provision of the act or any master program or other regulation promulgated under the Act.

B. Specific violation requirements in this SMP, include, but are not limited to, Section 4.5.2.G, Unauthorized vegetation removal.

7.16 Amendments to Shoreline Master Program

7.16.1 General

A. This Shoreline Master Program carries out the policies of the Shoreline Management Act for the City. It shall be reviewed and amended as appropriate in accordance with the review periods required in the Act and in order to:

1. To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and
2. To assure consistency of the master program with the City's comprehensive plan and development regulations adopted under Chapter 36.70A RCW, if applicable, and other local requirements.

B. This SMP and all amendments thereto shall become effective immediately upon final approval and adoption by Ecology.

C. The SMP may be amended annually or more frequently as needed pursuant to the Growth Management Act, RCW 36.70A.130(2)(a)(iii).

7.16.2 Amendment Process and Criteria

A. Initiation. Future amendments to this Shoreline Management Plan may be initiated either by any person, resident, property owner, business owner, governmental or non-governmental agency, Shoreline Administrator, Planning Commission, or City Council or Board of County Commissioners as appropriate.

B. Application. Applications for shoreline master program amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made on forms specified by the City. Such applications shall contain information specified in the City's procedures for Comprehensive Plan and development regulation amendments pursuant to RCW 36.70A, the Growth Management Act, and information necessary to meet minimum public review procedures in Subsection C.

C. Public Review Process – Minimum Requirements. The City shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act, Growth Management Act, and implementing rules including, but not limited to, RCW 90.58.080, WAC 173-26-100, RCW 36.70A.106 and 130, and Part Six, Chapter 365-196 WAC.

D. Roles and Responsibilities. Proposals for amendment of the Shoreline Management Plan shall be heard by the Planning Commission, per the provisions of Section 7.1.4. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the Shoreline Administrator per Section 7.1.1, the Planning Commission shall submit its recommendation to the

City Council or Board of County Commissioners, who shall approve or deny the proposed amendment consistent with Section 7.1.5.

E. Finding. Prior to approval, the City shall make a finding that the amendment would accomplish #1 or #2, and must accomplish #3:

1. The proposed amendment would make this Program more consistent with the Act and/or any applicable Department of Ecology Guidelines;

2. The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area;

3. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the effective date of this SMP [insert date].

F. County and City Coordination. The County applies the cities' shoreline master programs in the UGAs. Where a City makes an amendment to its SMP, it shall provide the Ecology-approved amendment to the County in accordance with terms of any interlocal agreements or the County's Comprehensive Plan Amendment procedures to ensure the County makes the revisions consistent with the individual city's SMP.

G. After approval or disapproval of a Program amendment by the Department of Ecology as provided in RCW 90.58.090, Ecology shall publish a notice that the Program amendment has been approved or disapproved by Ecology pursuant to the notice publication requirements of RCW 36.70A.290.

7.17 Monitoring

The City will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss. Project monitoring is required for individual restoration and mitigation projects consistent with Section 4.2 (Ecological Protection and Critical Areas) and Appendix B (Critical Areas Regulations) of this SMP. In addition, the City shall conduct system-wide monitoring of shoreline conditions and development activity that occur in shoreline jurisdiction outside of critical areas and their buffers, to the degree practical. Activities to be tracked using the City's permit system include development, conservation, restoration and mitigation, such as:

A. New shoreline development

B. Shoreline Variances and the nature of the variance

C. Compliance issues

D. Net changes in impervious surface areas, including associated stormwater management

E. Net changes in fill or armoring

F. Net change in linear feet of levee and/or distance between OHWM and any levees

G. Net changes in vegetation (area, character)

Using this information and information about the outcomes of other actions and programs of the other City departments as well, a no net loss report shall be prepared every eight years as part of the City's SMP evaluation or Comprehensive Plan Amendment process. Should the no net loss report show degradation of the baseline condition documented in the Final Inventory and Shoreline Analysis Report (2012), changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

8. NONCONFORMING STRUCTURES AND USES

8.1 Overview

The nonconforming standards in Chapter 8 shall apply to nonconforming uses, structures, and lots, with the exception of Boating Facilities, which shall be governed by SMP Section 5.5; Boating Facilities and Private Moorage Facilities, which shall be governed by SMP Section 5.5; and Shoreline Stabilization, which shall be governed by SMP Section 5.16.

8.2 Regulations

8.2.1 Nonconforming Use

A. **Conformity Required.** The lawful use of any land, premises or building existing at the time of SMP adoption, although the use does not conform to the provisions thereof, may be continued; but if said nonconforming use ceases for a period of six months, or in the case of churches existing prior to June 2008 ceases for a period of eighteen months, any further use of such premises shall be in conformity with the provisions of this title.

B. **Changing to conforming use.** A nonconforming use shall not be changed to any other use unless changed to a conforming use.

C. **Changing to nonconforming use prohibited.** A nonconforming use if changed to a conforming use may not thereafter be changed back to a nonconforming use.

D. **Destruction – Rebuild or repair.** If a nonconforming use is destroyed by fire or other causes, to the extent that 50 percent of the total floor area exclusive of basement is unusable, it shall not be rebuilt, except in conformity to this title. If rebuilt on a nonconforming lot, the structure shall meet Section 8.2.3. The following uses are not subject to Paragraph D: Pre-existing legal residential uses are addressed in Section 8.2.4.

E. **Extension – Maintenance.** A nonconforming use of a structure shall not be extended. The extension of a nonconforming use to any other portion of the building which was arranged or designed for such nonconforming use shall not be deemed the extension of a nonconforming use. A structure containing a nonconforming use may be maintained in conformance with the standards of the city building code.

F. **Cabanas.** Provided that the footprint does not increase, cabanas may be repaired, maintained, and altered where consistent with the comprehensive plan or development or character of the area. Repair, maintenance, or alteration above 10 percent of the value of the structure shall require that the owner hook up to the public sewer system.

8.2.2 Nonconforming buildings.

In cases of nonconforming buildings which contain conforming uses, the Shoreline Administrator shall have the authority to allow an addition or extension to a nonconforming building when said addition or extension would be no less conforming as to setback distances than the existing structure, and provided that the nonconforming addition shall be no longer in lineal feet along the nonconforming setback than fifty percent of the lineal length of the existing nonconformity. The authority to grant permission for the addition or extension of a nonconforming building shall be authorized provided the addition or extension of this nonconforming building is not in conflict with the comprehensive plan or development or character of the area in which the nonconforming building is located. If rebuilt on a nonconforming lot, the structure shall meet Section 8.2.3.

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8.2.3 Nonconforming Lots

A structure and its customary accessory buildings may be erected on any legal lot created before the effective date of this SMP. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP provided, that such structure is allowed within the shoreline use environment and all uses of the nonconforming lot shall comply with all other provisions of the SMP and underlying zoning requirements including setbacks, dimensional standards and lot coverage requirements. Structures and customary accessory building on non-conforming lots shall be setback from the OHWM to the greatest extent feasible, maximizing riparian cover (Table 4.2-1) compliance. Development proposed inside required setbacks shall go through mitigation sequencing and shall require a mitigation plan.

8.2.4 Pre-existing Legal Uses – Conforming Residential Structures

Notwithstanding Sections 8.2.1 to 8.2.3, the following shall apply to preexisting legal residential structures constructed prior to the effective date of this SMP (XXXX, 2013):

A. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: Shoreline setbacks, critical area buffers, or yards; area; bulk; height; or density; and

   1. For purposes of this section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

B. The City shall allow redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions.

C. Existing, legal cabanas are considered permitted uses. Cabanas may be rebuilt if destroyed by fire or other causes to the original footprint of the structure and provided that such uses are connected to the public sewer system.

D. Nothing in this section 8.2.4: (a) Restricts the ability of this SMP to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or (b) affects the application of other federal, state, or local government requirements to residential structures.

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9 DEFINITIONS

The terms used throughout this Shoreline Master Program shall be defined and interpreted as indicated below. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular. Definitions established by WAC 173 have been incorporated herein and should these definitions in the WAC be amended, the most current WAC definition shall apply. Except where specifically defined in this chapter, the RCW or the WAC, all words used in this Shoreline Master Program shall carry their customary meanings.

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ACCESSORY. Any use or development incidental to and subordinate to a primary use of a shoreline use or development. See also APPURTENANCE, RESIDENTIAL.

ACT. The Washington State Shoreline Management Act, Chapter 90.58 RCW.

ADEQUATE. Sufficient to satisfy an adopted requirement. If the City does not have an adopted requirement, adequate means to meet a need or demand generated by the proposed shoreline development or use as determined by the authority responsible to determine compliance with the Shoreline Master Program per Chapter 7.

ADMINISTRATOR OR SHORELINE ADMINISTRATOR. Administrator or Shoreline Administrator means the director of the City's community development department or his/her designated representative, who is vested with the duty of administering Shoreline Master Program regulations within the City's area of authority.

ADVERSE IMPACT. An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or processes or other elements of the shoreline environment. See also SIGNIFICANT ECOLOGICAL IMPACT

AGRICULTURAL ACTIVITIES. See RCW 90.58.065.

AGRICULTURAL-COMMERCIAL. The following activities are considered agricultural-commercial activities:

A. "Agricultural tourism" refers to the act of visiting a working farm or any agricultural, horticultural or agribusiness operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation.

B. "Nursery" means land or structures, such as greenhouses, used to raise plants, flowers and shrubs for sale.

C. "Roadside stand" means a temporary use which is primarily engaged in the sale of fresh agricultural products, locally grown on- or off-site, but may include, incidental to fresh produce sale, the sale of limited prepackaged food products and non-food items. This use is to be seasonal in duration, open for the duration of the harvest season. For existing roadside stands see AGRICULTURAL ACTIVITIES and AGRICULTURAL EQUIPMENT and AGRICULTURAL FACILITIES.

D. "Value added operation" means any activity or process that allows farmers to retain ownership and that alters the original agricultural product or commodity for the purpose of gaining a marketing advantage. Value added operations may include bagging, packaging, bundling, pre-cutting, food and beverage service, etc.

E. "Winery" means a facility where fruit or other products are processed (i.e., crushed, blended, aged, and/or bottled) and may include as incidental and/or accessory to the principal use a tasting room, food and beverage service, places of public/private assembly, and/or retail sales area.

AGRICULTURAL EQUIPMENT AND AGRICULTURAL FACILITIES. Include, but are not limited to:

A. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

B. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

C. Farm residences and associated equipment, lands, and facilities; and

D. Roadside stands and on-farm markets for marketing fruit or vegetables.

AGRICULTURAL LAND. See RCW 90.58.065.

AGRICULTURAL PRODUCTS. See RCW 90.58.065.

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

AMENDMENT. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program or to a permit as appropriate.

APPLICABLE. The shoreline goal, objective, policy, or standard is relevant or appropriate, or the shoreline development meets the threshold upon which a requirement is based as determined by the authority responsible to determine compliance with the Shoreline Master Program per Chapter 7.

APPROVAL, SHORELINE MASTER PROGRAM. An official action by the City Council agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

APPROVAL, PERMIT. Approval of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, revision, or Shoreline Variance Permit or any combination thereof.

APPURTENANCE, RESIDENTIAL. Improvement necessarily connected to the use and enjoyment of a single-family residence when located landward of the OHWM, the perimeter of a wetland and outside their corresponding required buffers. Appurtenances may include, but are not limited to, a garage and/or shop; driveway; utilities; water craft storage (upland); swimming pools; hot tubs; sport courts; shoreline stabilization; retaining walls when necessary to protect the residence and associated structures from erosion; fences; yards; saunas; cabanas; antennas; decks; walkways; and 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 OHWM.

AQUATIC. Pertaining to those areas waterward of the OHWM.

AQUACULTURE. The culture or farming of fish, shellfish, or other aquatic plants and animals.

ARCHAEOLOGICAL OBJECT. An object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains and technological by-products.

ARCHAEOLOGICAL RESOURCES/SITE. A geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state's authority, that contains archaeological objects.

ARCHAEOLOGICAL. Having to do with the scientific study of material remains of past human life and activities.

ARCHAEOLOGIST, PROFESSIONAL. A person who meets qualification standards promulgated by DAHP and the National Park Service and published in 36 CFR Part 61 and which define minimum education and experience required to perform identification, evaluation, registration and treatment activities for archaeological sites. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved.

ASSOCIATED WETLANDS. Wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by

tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

AUTHORIZED USE. Any use allowed in shoreline jurisdiction either by appropriate shoreline permit or exemption.

AVERAGE GRADE LEVEL. The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which 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."

B

BARB. Used primarily in streams, barbs are low relief projections from a bank, angled upstream, to redirect flow away from the bank towards the center of the channel. As opposed to groins or jetties, barbs are not barrier types of structures; they function by re-directing flows that pass over the top of the structure.

BEACH. The zone of unconsolidated material that is moved by waves and wind currents, including areas both above and below the OHWM.

BEACH ENHANCEMENT/RESTORATION. Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable. See also ENHANCEMENT.

BEST MANAGEMENT PRACTICES. Conservation practices or systems of practices and management measures, often promulgated by state and federal agencies or the City, that:

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

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

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

BIOENGINEERING. The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

BIOFILTRATION. A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

BOATHOUSE. Any roofed and enclosed structure built over water for storage of watercraft or float planes. See also Covered Moorage.

BOATING FACILITIES. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

BOAT LAUNCH FACILITY. Any structure or apparatus used for transferring watercraft between uplands and the water. Boat launches are typically launch ramps, but may also include other mechanisms such as a hoist or crane often used at dry storage locations. See also LAUNCH RAMP.

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

BREAKWATER. An aquatic structure that is generally built parallel to shore, but may be built perpendicular to the shoreline, that may or may not be connected to land, and may be floating or stationary. The primary

purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion. See also JETTIES.

BUILDING. Any combination of materials constructed, placed or erected permanently on the ground or attached to something having a permanent location on the ground, for the purpose of shelter, support or enclosure of persons, animals or property, or when supporting any use, occupancy or function. Excluded from this definition are structures waterward of the OHWM, all forms of vehicles even though immobilized, residential fences, retaining walls less than three feet in height, rockeries and similar improvements of a minor nature. Docks and bulkheads are not buildings under this definition. For structures waterward of the OHWM, see Over-water Structures.

BULKHEAD. A solid wall erected generally parallel to and at or near the OHWM for the purpose of protecting adjacent uplands from waves or current action. A bulkhead is an example of hard structural shoreline stabilization.

BUOY, MOORING. An anchored float for the purpose of mooring vessels.

BUOY, NAVIGATION. An anchored float for the purpose of identifying navigational hazards or directing watercraft traffic.

C

CABANA. An over-water cabin, hut, or shelter used for residential purposes.

CHANNELIZATION. The straightening, relocation, deepening or lining of stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.

CITY. The City of Chelan.

CLEARING. The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

COMMERCIAL DEVELOPMENT. Those developments whose primary use is for retail, service or other commercial business activities. Included in this definition are developments including but not limited to hotels, motels, bed and breakfast establishments, or other commercial accommodations, shops, restaurants, banks, professional offices, grocery stores, laundromats, recreational vehicle parks, and indoor or outdoor commercial recreation facilities.

COMMERCIAL USES. Commercial uses are those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities. Examples include, but are not limited to, hotels, motels, or other commercial accommodations, grocery stores, restaurants, shops, commercial recreation facilities, and offices.

COMMUNITY ACCESS. The ability of all property owners or members of a residential development to reach and use the waters of the State, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or community corridor to the shore), and/or visual access facilitated by scenic roads and overlooks, viewing platforms, and other community sites or facilities. Community access is not intended for the general public.

COMMUNITY DOCK. A private water-dependent facility designed for moorage of pleasure craft as its primary use that serves a specified residential development of more than four single-family residences or multi-family units. Other water-enjoyment uses, such as fishing or viewing, may occur on community docks. Community docks are different from marinas.

CONDITIONAL USE, SHORELINE. A use, development, or substantial development which is classified as a Conditional Use or is not classified within this SMP. Those activities identified as conditional uses or not classified in this SMP must be treated according to the review criteria established in WAC 173-27-160.

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

CONSERVATION EASEMENT. A legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

CONTAMINANT. Any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels.

COUNTY. Chelan County, Washington.

COVERED MOORAGE. Boat moorage, with or without walls, that has a roof to protect the vessel. See also BOATHOUSE.

CRITICAL AQUIFER RECHARGE AREA. Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(2).

CRITICAL AREAS. The following areas as designated in critical area standards as established in Appendix B:

A. Critical aquifer recharge areas

B. Wetlands

C. Geologically hazardous areas

D. Frequently flooded areas

E. Fish and wildlife habitat conservation areas

CRITICAL HABITAT. Habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified in reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with authority for such designations.

D

DAHP. The State of Washington Department of Archaeology and Historic Preservation.

DEPARTMENT OF ECOLOGY or ECOLOGY. The Washington State Department of Ecology.

DEVELOPMENT. A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, minerals or vegetation; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. Development does not include the following activities:

A. Interior building improvements that do not change the use or occupancy;

B. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;

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

D. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.

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

DIKE. An artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

DOCK. All platform structures or anchored devices in, suspended over, or floating on waterbodies to provide moorage for pleasure craft (including watercraft and float planes) or landing for water-dependent recreation including, but not limited to, piers, floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps. Docks often consist of a nearshore pier with a ramp to an offshore float. See also PIER.

DREDGING. Excavation or displacement of the bottom or shoreline of a waterbody (waterward of the OHWM) for purposes of flood control, navigation, utility installation (excluding on-site utility features serving a primary use, which are "accessory utilities" and shall be considered a part of the primary use), the construction or modification of essential public facilities and regional transportation facilities, and/or restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose). Dredging, as regulated in this SMP under Section 5.8, is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., , bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

E

ECOLOGICAL FUNCTIONS (or SHORELINE FUNCTIONS). The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

ECOLOGY. See DEPARTMENT OF ECOLOGY.

ECOSYSTEM-WIDE PROCESSES. The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

ELL. Extensions of piers or docks perpendicular to the pier or float, and located at the terminal end of the pier or float, that provide additional watercraft moorage and/or allow watercraft to be oriented to wind and waves in a manner that increases safety and/or improves navigability. [contrast with FINGER]

EMBANKMENT. A wall or bank of earth or stone built to prevent a river flooding an area.

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

ENHANCEMENT. Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions. Enhancements are to be distinguished from resource creation or restoration projects. See also BEACH ENHANCEMENT/RESTORATION.

ENVIRONMENTAL IMPACT STATEMENT (EIS). An environmental impact statement is a document that must be prepared in accordance with the State Environmental Policy Act or National Environmental Policy Act when the lead agency determines a proposal is likely to have significant adverse environmental impacts. The EIS provides an impartial discussion of significant environmental impacts, reasonable alternatives, and mitigation measures that would avoid or minimize adverse impacts. A draft EIS is issued with a comment period to allow other agencies, tribes, and the public to comment on the environmental analysis and conclusions. The lead agency uses these comments to finalize the environmental analysis and issue a final EIS.

EROSION. The wearing away of land by the action of natural forces.

ESSENTIAL PUBLIC FACILITIES: Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities, as defined in RCW 81.112.020, state and local

correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 30 71.09.020.

EXCAVATION. The disturbance or displacement of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material. In addition to upland excavation, this definition covers excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement). See also DREDGING.

EXEMPTION. Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments are therefore exempt from the Shoreline Substantial Development Permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and this SMP. Conditional use and/or variance permits may also still be required even though the activity does not need a Shoreline Substantial Development Permit.

F

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

FEASIBLE. For the purpose of this master program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

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

B. The action provides a reasonable likelihood of achieving its intended purpose. Reasonable means acceptable and according to common sense or normal practice.

C. The action does not physically preclude achieving the project's primary intended use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. See INFEASIBLE

FILL. 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.

FINGER(S). Narrow extensions of piers or docks perpendicular to the pier or float, and landward of the terminal end of the pier or float, that provide additional watercraft moorage and/or allow watercraft to be oriented to wind and waves in a manner that increases safety and/or improves navigability. These structures typically provide supplementary locations for tying down a watercraft and are not high-traffic areas. [contrast with ELL]

FISH AND WILDLIFE HABITAT CONSERVATION AREAS. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

A. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

B. Habitats of local importance, including, but not limited to, areas designated as priority habitat by the State Department of Fish and Wildlife;

C. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish and wildlife habitat;

D. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface water and watercourses within the authority of the state of Washington;

E. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; state natural area preserves and natural resources conservation areas; and

F. Land essential for preserving connections between habitat blocks and open spaces.

FLOATING HOMES. Any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. "Floating homes" include house boats, house barges, or any floating structures that serve primarily as a residence and do not qualify as a vessel. A floating structure that is used as a residence and is capable of navigation, but is not designed primarily for navigation, nor normally is capable of self-propulsion and use as a means of transportation is a floating home, not a vessel. This definition excludes cabanas.

FLOATS. A detached, anchored platform that is free to rise and fall with water levels, used for boat mooring, swimming (including a SWIM FLOAT) or similar recreational activities that is not anchored to the shoreline or accessed directly from the shoreline.

FLOAT, SWIM. A floating platform designed and intended expressly for facilitating safe swimming. Swim floats are anchored in deeper waters, are not connected to uplands, and are not motorized. Water ski/wake board jumps are also considered swim floats.

FLOOD CONTROL WORKS. Methods or facilities designed to reduce flooding of adjacent lands, to control or divert stream flow, to retard bank erosion, or to create a reservoir.

A. Nonstructural measures include, but are not limited to, shoreline setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, storm water management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs.

B. Structural measures include, but are not limited to, dikes, levees, revetments, floodwalls, channel realignment, or embankments.

FLOODPLAIN. Synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act.

FLOODWAY. 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.

FOREST PRACTICES. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, final and intermediate; precommercial thinning and fire protection; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practices do not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

FREQUENTLY FLOODED AREA. Means an area subject to flooding, as defined by the Flood Insurance Rate Maps (FIRM), once every one hundred years, also known as the floodplain.

G

GEOLOGICALLY HAZARDOUS AREA. Areas that may not be suited to development consistent with public health, safety or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or

other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include erosion, landslide, seismic, volcanic hazards, and mine.

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

GEOTECHNICAL REPORT. See GEOTECHNICAL ANALYSIS.

GRADE. See average grade level.

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

GRASSY SWALE. A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

GRAY WATER**.** Sewage from bathtubs, showers, bathroom sinks, washing machines, dishwashers, and kitchen sinks. It includes sewage from any source in a residence or structure that has not come into contact with toilet wastes.

GROINS*.* A barrier type of structure extending from the backshore or stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. In lake environments, groins are typically used to trap sediment for the purpose of preserving a depositional feature, such as a beach. In a stream environment, groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also BARB and WEIR.

GROUNDWATER*.* All water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

GROWTH MANAGEMENT ACT. RCW 36.70A and 36.70B, as amended.

GUIDELINES. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

H

HABITAT. The place, including physical and biotic conditions, where a plant or animal usually occurs or could occur and is fundamentally linked to the actual or potential distribution and abundance of species. A species may use a habitat or a structural component of the habitat for all or part of its lifecycle, and may adapt to use various habitats. Habitat is scale-dependent and refers to a large geographic area, a species' home range, a local setting, or a site-specific feature. Habitat may perform a specific function for a species or multiple species, and may include those elements necessary for one or more species to feed, migrate, breed, or travel.

HARD STRUCTURAL SHORELINE STABILIZATION. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, groins, and similar structures.

HEIGHT. The vertical dimension measured from average grade to the highest point of a structure; provided that, antennas, chimneys, and similar appurtenances shall not be used in calculating height, unless such appurtenance obstructs the view of a substantial number of adjacent residences. Temporary construction equipment is excluded in this calculation. Average grade shall be defined consistent with the definition of

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average grade level, and shall be the grade existing as of effective date of this SMP or pursuant to any legal alterations consistent with the SMP and applicable federal, state, or local laws.

HISTORIC PRESERVATION PROFESSIONAL. Individuals who meet standards promulgated by the DAHP as well as the National Park Service and published in 36 CFR Part 61. These standards address minimum education and experience required to perform identification, evaluation, registration and treatment activities for historic properties. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved.

HISTORIC SITE. Sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places or any locally developed historic registry formally adopted by the City.

HYDROLOGICAL. Referring to the science related to the waters of the earth including surface and ground water movement, evaporation and precipitation. Hydrological functions in shoreline include, water movement, storage, flow variability, channel movement and reconfiguration, recruitment and transport of sediment and large wood, and nutrient and pollutant transport, removal and deposition.

I

IMPACT. See SIGNIFICANT ECOLOGICAL IMPACT.

IMPERVIOUS SURFACE. A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. For purposes of determining whether thresholds for application of core elements are exceeded, open, uncovered retention or detention facilities shall not be considered as impervious surfaces. Open, uncovered retention or detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

INDUSTRIAL DEVELOPMENT. Facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing construction, contractors' offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining including onsite processing of raw materials, and off site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use.

INDUSTRIAL USES. The production, processing, manufacturing, or fabrication of goods or materials, including warehousing and storage of materials or production.

INFEASIBLE. To determine that an action, such as a development project, mitigation, or preservation requirement, is infeasible, the following conditions are found:

A. The action cannot be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently not available or unlikely to achieve the intended results.

B. The action does not have a reasonable likelihood of achieving its intended purpose. Reasonable means acceptable and according to common sense or normal practice.

C. The action precludes achieving the project's primary intended use.

D. The action's relative public costs and public benefits, considered in the short- and long-term time frames, show the costs far outweigh the benefits.

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 City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. See FEASIBLE.

INFILTRATION. The passage or movement of water into the soil surface.

INSTITUTIONAL. Those public and/or private facilities including, but not limited to, police and fire stations, libraries, activity centers, schools, educational centers, water-oriented research facilities, and similar uses.

IN-WATER STRUCTURE. Structure placed by humans within a stream, river or lake waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-water structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation (e.g., docks, boatlifts), or other purpose. Note that the listed recreation-related in-water structures have a very limited capacity to affect water flows and are exclusively regulated under SMP Sections 5.5 (Boating Facilities) and 5.14 (Private Moorage Structures).

INVASIVE SPECIES. A species that is 1) non-native (or alien) to Chelan County and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes).

J

JETTIES. A barrier type of structure generally built singly or in pairs perpendicular to the shoreline at harbor entrances or river mouths to prevent sediment from depositing in the harbor or channel. They also protect channels and inlets from crosscurrents and storm waves. See also BREAKWATERS.

JOINT-USE DOCKS. Those constructed and utilized by two, three or four property owners, whether on adjacent lots as single-family residences or as multi-family units, or by a homeowner's association. Marinas, public docks and community docks that serve more than four single-family residences or multi-family units are regulated as Boating Facilities under Section 5.5 of this SMP. Residential joint-use docks are regulated as Private Moorage Structures under Section 5.14 of this SMP.

L

LAKE. A body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty acres or greater in total area. A lake is bounded by the OHWM or, where a stream enters a lake, the extension of the elevation of the lake's OHWM within the stream. Where the OHWM cannot be found, it shall be the line of mean high water.

LANDSLIDE. A general term covering a wide variety of mass movement landforms and processes involving the down slope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

LARGE WOODY DEBRIS. Logs, limbs, or root wads 4 inches or larger in diameter, delivered to waterbodies from adjacent riparian or upslope areas or from upstream areas. Large woody debris also includes logs, limbs, or root wads 4 inches or larger that are placed in a waterbody for the purpose of providing habitat and/or mitigation.

LAUNCH RAMP. An inclined slab, set of pads, rails, planks, or graded slope which extends waterward of the OHWM, and is used for transferring watercraft between uplands and the water with trailers or occasionally by hand. See also BOAT LAUNCH FACILITY.

LEGALLY ESTABLISHED. A use or structure in compliance with the laws and rules in effect at the time of creation of the use or structure.

LEVEE. A natural or artificial embankment on the bank of a stream or river for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

LIMITED UTILITY EXTENSION. For the purposes of Section 7.3.D, the extension of a utility service that:

A. Is categorically exempt under Chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

B. Will serve an existing use in compliance with WAC 173-27; and

C. Will not extend more than two thousand five hundred linear feet within the shorelines of the state.

LIVEABOARD. A floating vessel that serves as a residence, and is self-powered by sail or motor.

M

MAINTENANCE, NORMAL. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition. See REPAIR, NORMAL.

MARINA. A public or private water-dependent wet moorage facility for pleasure craft and/or commercial craft where goods, moorage or services related to boating may be sold commercially or provided for a fee, e.g. yacht club, etc. Dry storage and launching facilities, either launch ramp, crane or hoist, may also be provided. Marinas may be open to the general public or restricted on the basis of property ownership or membership. Community docks that do not provide nonwater-oriented uses or water-oriented commercial services, other than to the specific residential community served by the community dock, are not considered marinas.

MARSH. A low flat wetland area on which the vegetation consists mainly of herbaceous plants such as cattails, bulrushes, tules, sedges, skunk cabbage or other hydrophytic plants. Shallow water usually stands on a marsh at least during part of the year.

MAY. Refers to actions that are acceptable, provided they conform to the provisions of this master program and the Act.

MIGRATION. A cyclic movement in response to a resource or physiological need, spawned out of some biological necessity. Can be a reproduction, feeding, or wintering/summer need. May also vary depending on life stage, as at times a species' environs may not have the capacity to support adult and juveniles of the same species.

MITIGATION (or MITIGATION SEQUENCING). The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. The following sequence of steps is listed in prioritized order:

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

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

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

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

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

Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

MIXED USE. A combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design.

MIXED USE COMMERCIAL. Developments that include water-dependent commercial uses combined with water-related, water-enjoyment uses and/or nonwater-oriented commercial uses. Mixed-use developments can be a tool for water-dependent activities, civic revitalization, and public access to the shoreline.

MIXED USE RESIDENTIAL. Mixed use developments that include water-dependent and water-oriented commercial uses together with single-family or multi-family uses while promoting public access for significant numbers of the public and/or providing an ecological restoration resulting in a public benefit. This mix of uses is intended to reduce transportation trips, use land efficiently, and provide for waterfront commerce and housing options.

MODIFICATION. A change or alteration in existing materials, including structures, plans and uses.

MODIFICATION, SHORELINE. 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, dock, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals.

MOORAGE FACILITY. Any device or structure used to secure a boat or a vessel, including docks, piers, floats, piles, watercraft lifts or buoys.

MOORAGE PILE. A permanent vertical column generally located in open waters, often in close proximity to a dock or pier, to which the vessel is tied to prevent it from excessive movement generated by wind, or wind- or boat-driven waves.

MULTI-FAMILY DWELLING (OR RESIDENCE). A building containing two or more dwelling units, including, but not limited to, duplexes, apartments and condominiums.

MUST. A mandate; the action is required. See SHALL.

N

NATIVE. Vegetation indigenous to, or originating naturally in, Chelan County or north central Washington.

NAVIGABLE WATERS. Those waters capable of being used by watercraft for transportation, either recreational or commercial.

NECESSARY: A word describing an element that is essential, indispensable or needed to achieve a certain result or effect.

NO NET LOSS. A public policy goal and requirement to maintain the aggregate total of the County's shoreline ecological functions at its current level of environmental resource productivity. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Inventory and Analysis Report (2012). As a development and/or mitigation standard, no net loss requires that the impacts of a particular shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated, such that it has no resulting adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

NONCONFORMING USE OR DEVELOPMENT. A shoreline use or development which was lawfully constructed or established prior to the effective date of the Act (June 1, 1971; RCW 90.58.920) or this SMP (INSERT DATE), or amendments thereto, but which does not conform to present regulations or standards of the SMP.

NONPOINT POLLUTION. Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

NONWATER-ORIENTED USES. Those uses that are not water-dependent, water-related, or water-enjoyment.

NORMAL MAINTENANCE. See MAINTENANCE, NORMAL and REPAIR, NORMAL"

NORMAL PROTECTIVE BULKHEAD. Those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.

NORMAL REPAIR. See REPAIR, NORMAL and MAINTENANCE, NORMAL

NOXIOUS WEEDS. A special sub-class of invasive plant species listed as Class A or B by the Chelan County Noxious Weed Control Board.

O

OFF-SITE REPLACEMENT/MITIGATION. To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

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ORDINARY HIGH WATER MARK (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

OVERWATER STRUCTURES. Any structure located above the water surface waterward of the OHWM. Common examples include, but are not limited to, residential docks, marinas, and pedestrian or vehicular bridges over waterways.

P

PARKING. A place where vehicles are temporarily stored while an activity is being conducted. Local parking is located onsite intended to serve and support a primary use(s) of a property. Regional parking is a parking area intended to support a district with multiple uses.

PARTY OF RECORD. All persons, agencies, or organizations who have submitted written or verbal comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or notified the City of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail or email.

PERIODIC. Occurring at regular intervals.

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

PIER. Fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also DOCK.

PRIMARY USE. Uses or activities on a shoreline site that is identified as serving the main purpose of the site in terms of its land occupancy or use intensity, and any other uses within the site are supportive or accessory to it.

PRIORITY HABITAT. A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: Comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage. Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

PRIORITY SPECIES. Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below:

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

B. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

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

D. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

PROVISIONS. Policies, regulations, standards, guideline criteria or designations.

PUBLIC ACCESS. The public's ability to reach and use the State's public waters, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and visual access facilitated by means such as scenic roads and overlooks, viewing platform, and other public sites or facilities. See also Community Access.

PUBLIC FACILITIES. Facilities that include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

PUBLIC INTEREST. The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development.

Q

QUALIFIED PROFESSIONAL. A person with expertise and training appropriate for the relevant subject. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, hydrology, geomorphology or related field, and at least five years of related work experience. Specific qualified professionals must also meet the following criteria, or any other criteria included in Appendix B, Critical Areas Regulations:

A. A qualified professional providing a geotechnical analysis as required under Section 5.16 of this Master Program must be a licensed engineer in the State of Washington, with specific training in geology, hydrology and/or geomorphology.

B. A qualified professional providing a demonstration of need as required under Section 5.16 of this Master Program must have a M.S. or equivalent degree in geology, hydrology, or geomorphology.

C. A qualified professional for wetlands means a biologist who has a degree in biology, ecology, botany, or a closely related field, or has been certified as a Professional Wetland Scientist, and a minimum of five (5) years of professional experience in wetland identification and assessment in Eastern Washington.

D. A qualified professional for habitat conservation areas means a biologist who has a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five (5) years professional experience related to the subject species/habitat type.

E. A qualified professional for geologically hazardous areas must be an engineer or engineering geologist licensed in the state of Washington. An engineer must be licensed as a civil engineer pursuant to Chapter 18.43 RCW, to qualify. An engineering geologist must be a practicing geologist licensed as a professional geologist pursuant to Chapter 18.22, RCW.

F. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydro-geologist, geologist, or engineer.

G. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.

R

RAMP. Walkway that connects a pier or land to a float, often used in areas where water levels change due to seasonal variations. LAUNCH RAMP is defined above.

RCW. Revised Code of Washington.

REASONABLE. Reasonable means acceptable and according to common sense or normal practice.

RECREATION. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Most shore-based outdoor recreation such as: fishing, hunting, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

RECREATIONAL DEVELOPMENT. Commercial and public facilities designed and used to provide recreational opportunities to the public.

RECREATIONAL USES. Uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body. Examples include, but are not limited to, parks, camps, camping clubs, launch ramps, golf courses, viewpoints, viewpoint platforms, trails, public access facilities, public parks and athletic fields, hunting blinds, and other low-intensity use outdoor recreation areas. Recreational Uses that do not require a shoreline location, nor are related to the water, nor provide significant public access, are considered nonwater-oriented. For example, a recreation use solely offering indoor activities would be considered nonwater-oriented.

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

RESIDENTIAL DEVELOPMENT. Single-family residences, multifamily development, and the creation of new residential lots through land division.

RESIDENTIAL USES. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, apartment/condominium buildings, manufactured homes, modular homes, and other structures that serve to house people. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, home occupations, family day care homes, and adult care homes.

RESTORE (RESTORATION or ECOLOGICAL RESTORATION). Reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

REVETMENT. Facing of rock, concrete, etc., built to protect a steep slope, cliff, embankment, or shore structure against erosion by waves or currents.

RIPARIAN VEGETATION. Vegetation that tolerates and/or requires moist conditions and periodic free flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilizes stream banks, attenuates high water flows, provides wildlife habitat and travel corridors, and provides a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

RIPRAP. A layer, facing, or protective mound of dense, hard, angular rock used to prevent erosion, scour, or sloughing of a structure or embankment for revetments, armoring or hardening of shorelines, or other flood/erosion control works.

ROAD. Road shall mean and include contiguous streets, alleys, sidewalks, curbs and gutters, planting strips, roads, highways, thoroughfares, parkways, bridges, viaducts, public grounds and public improvements within the City's territory. Lands for public right of ways are reserved for use and maintenance of the road system.

Bridges are roads which cross over water. Sidewalks or paths independent of the rest of typical roadway cross-sections shall be considered trails.

RUNOFF. Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

S

SANITARY SEWER. A system designed to accept sewage to be deposited into and carried off by a system of lateral sewers, drains, and pipes to a common point, or points, for transfer to treatment or disposal.

SEDIMENT. The fine grained material deposited by water or wind.

SEPA (State Environmental Policy Act). SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, environmental impact statements (EISs) may be required to be prepared and public comments solicited. (RCW 43.21c and WAC 197-11 guide this process)

SETBACK. The distance between property line and the foundation wall or load-bearing member of the primary structure.

SETBACK, SIDE. The distance between side lot line and the foundation wall of the primary structure.

SEWAGE: Any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places.

SHALL. A mandate; the action must be done. See also must.

SHORELANDS OR SHORELAND AREAS. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

SHORELINE AREAS. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

Shoreline environment designations. The classifications of shorelines established by local shoreline master programs 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. The term describing all of the geographic areas covered by the SMA, related rules and this SMP. Also, such areas within a specified City's authority under the SMA. See SHORELINES, SHORELINES OF THE STATE, shorelines of state-wide significance and wetlands. See also Section 3.1 of this SMP.

SHORELINE MANAGEMENT ACT. Washington's Shoreline Management Act was passed by the State Legislature in 1971 and adopted by voters in 1972. The overarching goal of the Act is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." There are three basic policy areas to the Act: shoreline use, environmental protection and public access. The Act emphasizes accommodation of appropriate uses that require a shoreline location, protection of shoreline environmental resources and protection of the public's right to access and use the shorelines (RCW 90.58.020). Under the Shoreline Management Act (SMA), each city and county with "shorelines of the state" must prepare and adopt a Shoreline Master Program (SMP) that is based on state laws and rules but is tailored to the specific geographic, economic and environmental needs of the community.

SHORELINE MASTER PROGRAM, MASTER PROGRAM, OR SMP. A 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 articulated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under Chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under

Chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

SHORELINE PERMIT. A Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, revision, or Shoreline Variance Permit or any combination thereof.

SHORELINE PROPERTY. An individual property wholly or partially within shoreline jurisdiction.

SHORELINE STABILIZATION. Structural or non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches. They are generally located parallel to the shoreline at or near the OHWM.

SHORELINES HEARINGS BOARD (SHB). A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by the City on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

SHORELINES OF STATEWIDE SIGNIFICANCE. A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply. This includes lakes over 1,000 acres in area and all associated shorelands and rivers that have either a mean annual flow of 200 cubic feet per second or more, or; the portion downstream from the first 300 square miles of drainage areas.

SHORELINES OF THE STATE. The total of all “shorelines” and “shorelines of state-wide significance” within the state.

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

SHOULD. The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this SMP, against taking the action.

SIGN. A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

SIGNIFICANT ECOLOGICAL IMPACT. An effect or consequence of an action if any of the following apply:

A. The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.

B. Scientific evidence or objective analysis indicates the action could cause reduction or harm to those ecological functions or ecosystem-wide processes under foreseeable conditions.

C. Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

SIGNIFICANT TREE. An existing deciduous or coniferous tree six inches or more in diameter measured four feet six inches above the adjacent grade. This also includes unusual, historic, heritage or rare trees.

SIGNIFICANT VEGETATION REMOVAL. The removal or alteration of trees, shrubs, and/or groundcover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

SINGLE-FAMILY RESIDENCE (SFR). A single dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

SMA. The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

SMP. See SHORELINE MASTER PROGRAM.

SOFT STRUCTURAL SHORELINE STABILIZATION: Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of HARD STRUCTURAL SHORELINE STABILIZATION (see above definition).

STATE MASTER PROGRAM. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

STORM WATER. That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

STORMWATER FACILITY: A constructed component of a stormwater drainage system designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to: pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

STREAM. Any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans. A shoreline stream is a naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stockwatering channels.

STRUCTURE. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels.

SUBDIVISION. The division or redivision of land, including short subdivision, for the purpose of sale, lease or conveyance.

SUBSTANTIAL DEVELOPMENT, Shoreline. Any development which meets the criteria of RCW 90.58.030(3)(e). See also development and exemption.

SUBSTANTIALLY DEGRADE. See SIGNIFICANT ECOLOGICAL IMPACT

SURFACE WATER. All water that exists on the land surface, including streams, lakes or reservoirs, or other bodies of water within the boundaries of the state.

SWAMP. A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

T

TERRESTRIAL. Of or relating to land as distinct from air or water.

TOPPING. The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

TRAIL. Trails are clearly identified paved, semi-paved or unpaved but defined (e.g. gravel) pathways for pedestrians in a natural or urban setting used for recreational or circulation purposes. A trail by itself is not considered a road.

TRANSIENT BUSINESS. Any person, firm, corporation or association or any agent of any person, firm, corporation or association that sells goods, wares and services or merchandise from a fixed location on public or private property not within a permanent structure or building. A permanent structure or building is one

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which rests on a foundation and which substantially complies with the provisions of the Uniform Building Code addressing permanent structures, as opposed to temporary buildings. For the purposes of this definition, the following activities are not considered to be transient businesses: The sale of agricultural products or other produce sales or farmers' market; any sales activity sponsored by a nonprofit group or organization for the purpose of raising funds for said group or organization; any carnival, street fair or similar festival; any promotional activities of a specific retail business located within a permanent structure.

TRANSPORTATION FACILITIES. Roads and railways, including their related bridges and culverts, transportation structures, public transit and bus facilities, pedestrian transportation including foot bridges over rivers/streams and trails, fills, embankments, causeways, truck terminals and rail switchyards, sidings, spurs, air fields and other associated minor facilities. Not included are, highway rest areas, ship terminals, nor logging roads. Local transportation refers to facilities provide direct access to abutting land and to higher order roads. Regional transportation refers to facilities serving more than one city or community or major destinations.

U

UNAVOIDABLE. Adverse impacts that remain after all appropriate mitigation sequencing measures have been implemented.

UPLAND. Generally described as the dry land area above and landward of the OHWM.

UTILITIES. Lines and facilities related to the provision, distribution, collection, transmission or disposal of water, stormwater, sanitary sewage, oil, gas, power, and telephone cable, and includes facilities for the generation of electricity.

A. "Large facilities" serve more than one community (e.g. more than one neighborhood, town, city or other defined place) or major attractions. Examples include, but are not limited to, 230 kv power transmission lines, natural gas transmission lines, and regional water storage tanks and reservoirs, regional water transmission lines or regional sewer collectors and interceptors. Large facilities may also include facilities serving an entire community, such as subregional switching stations (one hundred fifteen (115) kv and smaller), and municipal sewer, water, and storm water facilities.

B. "Small facilities" serve adjacent properties and include, but are not limited to, power lines not specified under "large facilities," water, sanitary sewer, and storm water facilities, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way. On-site utility features serving primary use such as a water, sewer, or gas line to a residence are accessory utilities and shall be considered part of the primary use.

V

VARIANCE, SHORELINE. A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in this SMP and RCW 90.58.020; variance is not a means to vary a use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by the Administrator and the Department of Ecology.

VEGETATION CONSERVATION AREA. The area adjacent to a shoreline that separates and protects the waterbody from adverse impacts associated with adjacent land uses. It is designed and designated to remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife, to afford limited public or private access, and to accommodate certain other specified uses that benefit from a shoreline location. See Vegetation Conservation and Shoreline Setback section of this SMP.

VESSEL. A floating structure that is designed primarily for navigation, is normally capable of self-propulsion and use as a means of transportation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency.

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VIEW ANALYSIS. An analysis to evaluate the ability of the general public to view the water and the shoreline from adjacent locations such as public places or from substantial numbers of residences.

VISUAL ACCESS. The ability of the general public to view the water and the shoreline from adjacent locations.

VIEW CORRIDOR. The line of sight (identified as to height, width, and distance) of an observer looking toward shoreline from upland locations, public spaces, such as parks, trails, or streets that have particular significance in preserving the unique character of the shoreline.

W

WAC. Washington Administrative Code.

WASTE STORAGE AND TREATMENT. Facilities for collecting and treating, as an accessory use only, garbage, solid waste or sewage generated by the development and its users. This definition does not include municipal sewage treatment facilities.

WATERBODY. A body of still or flowing water, fresh or marine, bounded by the OHWM.

WATERCRAFT LIFT. An in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water. A watercraft lift is generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a pier or float, and may be floating or ground-based. Watercraft lifts include, but are not limited to, lifts for motorized boats, kayaks, canoes, jet skis, and float planes. A watercraft lift is different from a hoist or crane used for the launching of vessels.

WATER-DEPENDENT USE. A use or portion of a use which cannot exist in a location that 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 may include but are not limited to ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, boating facilities, private moorage facilities, aquaculture, float plane facilities, sewer outfalls, hydroelectric generating plants and water diversion facilities, such as agricultural pumphouses.

WATER-ENJOYMENT USE. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, viewing and walking piers and other improvements facilitating public access to the shorelines of the State, including public view or fishing platforms; and general water-enjoyment uses may include, but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts/hotels (as part of mixed use development or with significant public access or restoration components), and mixed-use commercial/office.

WATERFRONT. A parcel of property with upland characteristics which includes within its boundary a physical interface with the existing shoreline of a body of water.

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

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

WATER-RELATED USE. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

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

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

Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, , gravel storage when transported by barge, oil refineries where transport is by tanker, log storage, and agriculturally related water transportation systems.

WATERSHED. A geographic region within which water drains into a particular river, stream or body of water.

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

WATERSHED RESTORATION PROJECT. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

A. A project that involves less than 10 miles of stream or lake reach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings; or

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

C. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure (e.g., project equipment shed), other than a bridge or culvert or in-water habitat enhancement structure associated with the project, is less than 200 square feet in floor area and is located above the ordinary high water mark of the stream or lake.

WEIR. A structure generally built across a stream channel for the purpose of diverting water or trapping sediment or other moving objects transported by water.

WETLAND OR WETLANDS. Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support—and that under normal circumstances do support—a prevalence of vegetation typically adapted for life in 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 nonwetland areas to mitigate the conversion of wetlands.

WILDLIFE CORRIDOR. Undeveloped canyons, other vegetated topographic valleys, or vegetated strips of any width or length that extend from uplands to the water's edge, generally perpendicular to the shoreline. These features provide safer migration pathways for wildlife to access water.

Z

ZONING. The system of land use and development regulations and related provisions of the City of Chelan.

Universal Note

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules in the Washington Administrative Code shall also apply as used herein.