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FINAL
SHORELINE MASTER PROGRAM
CITY OF ILWACO

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SHORELINE MASTER PROGRAM

CITY OF ILWACO

1 GENERAL PROVISIONS

1.1 Purpose

(1) The purpose of the City's Shoreline Master Program is to implement the requirements of RCW 90.58, the Shoreline Management Act of 1971. RCW 90.58.080 directs local governments to develop and administer local shoreline master programs for regulation of uses on shorelines of the state.

1.2 Authority

(1) The City's Shoreline Master Program is enacted and administered according to the following state law and rules:

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

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

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

D. Other implementing rules.

1.3 Applicability

(1) The City's Shoreline Master Program shall apply to all shorelines of the state as defined in RCW 90.58.030.

(2) Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to RCW 90.58, the Shoreline Management Act, and the City's Shoreline Master Program whether or not a permit is required.

(3) Federal agency activities must comply with WAC 173-27-060.

(4) Nothing in the City's Shoreline Master Program shall affect any rights established by treaty to which the United States is a party.

1.4 Relationship to other regulations

(1) Compliance with the City's Shoreline Master Program does not constitute compliance with other federal, state, and local regulations and permit requirements that may apply. The applicant is responsible for complying with all other applicable requirements.

(2) When any provision of the City's Shoreline Master Program or any other federal, state, or local provision conflicts with the City's Shoreline Master Program, the provision that is most protective of shoreline resources shall prevail.

(3) The City's Shoreline Master Program includes critical areas regulations applicable only in shoreline jurisdiction (Appendix B); these regulations shall control within shoreline jurisdiction over the general critical area regulations adopted pursuant to the Growth Management Act.

1.5 Liberal construction

(1) As provided for in RCW 90.58.900, the Shoreline Management Act is exempted from the rule of strict construction. Therefore, the City's Shoreline Master Program shall be liberally construed to give full effect to the purposes and policies for which it was enacted.

1.6 Severability

(1) If any provision of the City's Shoreline Master Program, or its application to any person or legal entity or circumstances, is held invalid, the remainder of the City's Shoreline Master Program, or the application of the provision to other persons or legal entities or circumstances, shall not be affected.

1.7 Effective date

(1) The City's Shoreline Master Program and all amendments thereto shall become effective 14 days from the date of Ecology's written notice of final action.

2 DEFINITIONS

(1) **"Agricultural activities"** means agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting

agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

(2) **"Agricultural equipment"** includes, but is not limited to:

A. The following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

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.

(3) **"Agricultural facilities"** has the same meaning as "agricultural equipment."

(4) **"Agricultural land"** means those specific land areas on which agricultural activities are conducted as of the date of adoption of the City's Shoreline Master Program as evidenced by aerial photography or other documentation. After the effective date of the City's Shoreline Master Program, land converted to agricultural use is subject to compliance with its requirements.

(5) **"Agricultural products"** includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within 20 years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.

(6) **"Amendment"** means a revision, update, addition, deletion, and/or reenactment to the City's Shoreline Master Program.

(7) **"Aquaculture"** means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

(8) **"Archaeology"** means systematic, scientific study of the human past through material remains.

(9) **"Archaeological object"** means 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.

(10) **"Archaeological resource/site"** means a geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(11) **"Associated wetlands"** means those wetlands which are in proximity to and either influence or are influenced by waters subject to the Shoreline Management Act.

(12) **"Average grade level"** means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

(13) **"Buffer"** means an area that is contiguous to and protects a shoreline or critical area that is required for the continued maintenance, functioning, and/or structural stability of a shoreline or critical area.

(14) **"Channel migration zone"** means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. A planning-level map of the channel migration zone in the City is included in the Final Shoreline Analysis Report for Shorelines in the City of Ilwaco (January 2015) as Inventory Mapfolio Addendum 1, Channel Migration Zone.

(15) **"City"** means the City of Ilwaco.

(16) **"City Planner"** means the Mayor, or his or her designee with approval of the City Council, of the City.

(17) **"County"** means Pacific County.

(18) **"Critical areas"** include the following areas and ecosystems: wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(19) **"Critical saltwater habitats"** include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and

recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

(20) **"Danger tree"** means a tree with a high probability of falling due to a debilitating disease, a structural defect, a root mass more than 50 percent exposed, or having been exposed to wind throw within the past 10 years, and where there is a residence or residential accessory structure within a tree length and a half from the base of the trunk, or where there is a risk to public safety or property. Where not immediately apparent to the review authority, the danger tree determination shall be made after a review of a report prepared by an arborist or forester.

(21) **"Date of filing"** for locally approved conditional use or variance permits, and when the City simultaneously transmits its decision on a substantial development permit with its approval of either a shoreline conditional use permit or variance, or both, is the date Ecology transmits its decision to the City. For all other shoreline permit decisions, it is the date of actual receipt by Ecology of the City's final decision on the permit.

(22) **"Development"** means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act at any stage of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

(23) **"Dune modification"** is the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune's shape or sediment migration.

(24) **"Ecological functions"** means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

(25) **"Ecological restoration"** has the same meaning as "restore."

(26) **"Ecology"** means the Washington State Department of Ecology.

(27) **"Ecosystem-wide processes"** means 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.

(28) **"Exempt"** developments are those set forth in WAC 173-27-040; RCW 90.58.030(3)(e); RCW 90.58.140(9); RCW 90.58.147; RCW 90.58.355; and RCW 90.58.515 that are not required to obtain a shoreline substantial development permit but which must otherwise

comply with applicable provisions of the Shoreline Management Act and the City's Shoreline Master Program.

(29) **"Feasible''** means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions. In cases where the City's Shoreline Master Program requires 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.

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

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

C. The action does not physically preclude achieving the project's primary intended legal use.

(30) **"Fill"** means the addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

(31) **"Fish and wildlife habitat conservation areas"** are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. The city may also designate locally important habitats and species. Fish and wildlife habitat conservation areas does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(32) **"Floodplain"** is synonymous with 100-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 that meets the objectives of the Shoreline Management Act.

(33) **"Floodway"** means the area that has been established in effective Federal Emergency Management Agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood

control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

(34) **"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. "Forest practice" shall 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.

(35) **"Frequently flooded areas"** means lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.

(36) **"Functions and values"** means the services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

(37) **"Geologically hazardous areas"** means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.

(38) **"Geotechnical analysis"** has the same meaning as "geotechnical report."

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

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

(41) **"Guidelines"** means those standards adopted by Ecology to implement the policy of RCW 90.58 for regulation of use of the shorelines of the state.

(42) **"Height"** is measured from average grade level to the highest point of a structure, provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, and that temporary construction equipment is excluded in this calculation.

(43) **"Historic preservation professional"** means those individuals who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

A. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

B. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

(44) **"Historic site"** means those 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 Council.

(45) **"In-stream structures"** are structures placed by humans within a stream or river waterward of the ordinary high water mark that either cause or have the potential to cause water impoundment or the diversion, obstruction, or modification of water flow.

(46) **"May"** means the action is acceptable, provided it conforms to the provisions of the City's Shoreline Master Program.

(47) **"Must"** means a mandate; the action is required.

(48) **"Natural or existing topography"** means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

(49) **"Nonconforming use or development"** means a shoreline use or development that was lawfully constructed or established prior to the effective date of the City's Shoreline Master Program, or amendments thereto, but that does not conform to present regulations or standards of the City's Shoreline Master Program.

(50) **"Nonwater-oriented uses**" means those uses that are not water-dependent, water-related, or water-enjoyment.

(51) **"Ordinary high water mark"** on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

(52) **"Party of record"** includes all persons, agencies or organizations who have submitted written 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.

(53) **"Person"** means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

(54) **"Practical alternative"** means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

(55) **"Priority habitat"** means a habitat type with unique or significant value to one or more species.

A. An area classified and mapped as priority habitat must have one or more of the following attributes: comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; important marine mammal haul-out; refugia habitat; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed.

B. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, snags) of

key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

(56) **"Priority species"** means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

A. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Washington State Department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

B. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

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

D. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

(57) **"Professional archaeologist"** means a person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal Secretary of the Interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

(58) **"Provisions"** means policies, regulations, standards, or environment designations.

(59) **"Public interest"** means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

(60) **"Qualified professional"** means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for

the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

A. A qualified professional for habitats or wetlands must have a degree in biology, geology or hydrology, and professional experience related to the subject species.

B. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

(61) **"Restoration"** has the same meaning as "restore."

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

(63) **"Shall"** means a mandate; the action is required.

(64) **"Shorelands"** means 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 that are subject to the provisions of the City's Shoreline Master Program.

(65) **"Shoreline areas"** means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

(66) **"Shoreline conditional use"** means a use, development, or substantial development that is classified as a shoreline conditional use or is not classified within the City's Shoreline Master Program.

(67) **"Shoreline functions"** has the same meaning as "ecological functions."

(68) **"Shoreline jurisdiction"** has the same meaning as "shoreline areas."

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

(70) **"Shoreline permit"** means any shoreline substantial development permit, shoreline variance permit, shoreline conditional use permit, or revision authorized under RCW 90.58.

(71) **"Shoreline stabilization"** includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current,

flood, tides, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, groundwater management, and planning and regulatory measures to avoid the need for structural stabilization.

(72) **"Shoreline stabilization, hard"** refers to shoreline stabilization measures with solid, hard surfaces, such as concrete bulkheads.

(73) **"Shoreline stabilization, soft"** refers to shoreline stabilization measures that rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement.

(74) **"Shoreline variance"** is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the City's Shoreline Master Program and not a means to vary a use of a shoreline.

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

(76) **"Shorelines of statewide significance"** means the following shorelines of the state, as applicable to the City:

A. The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets.

B. Those natural rivers or segments thereof west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second or more.

C. Shorelands associated with the above.

(77) **"Shorelines of the state"** are the total of all "shorelines" and "shorelines of statewide significance" within the state.

(78) **"Should"** means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act, the Guidelines, and the City's Shoreline Master Program against taking the action.

(79) **"Significant,"** only as used in archaeological, historic and cultural resource policies and regulations contained in the City's Shoreline Master Program, is that quality in American history, architecture, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. That are associated with the lives of significant persons in our past; or

C. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. That have yielded or may be likely to yield, information important in history or prehistory.

(80) **"Significant tree"** means an evergreen tree 10 inches in diameter or greater, or a deciduous tree 12 inches in diameter or greater, measured four and one-half feet above existing grade.

(81) **"Significant vegetation removal"** means the removal or alteration of trees, shrubs, and/or ground cover 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.

(82) **"Streams"** means those areas where surface water flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds and defined channel swales. The channel or bed need not contain water year round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses, unless they are used by salmon or used to convey streams naturally occurring prior to construction.

For regulatory purposes under the City's Shoreline Master Program once streams are identified, the streams are typed following the Washington State Department of Natural Resource Stream Typing System found in WAC 222-16-031 as now or hereafter amended.

(83) **"Structure"** means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

(84) **"Substantial development"** shall mean any development of which the total cost or fair market value exceeds the dollar amount established in RCW 90.58.030(3)(e) (currently $8,504; the dollar amount is adjusted for inflation by the Office of Financial Management every five years, with the next adjustment due July 1, 2027), or any development which materially interferes with the normal public use of the water or shorelines of the state. See

WAC 173-27-040 for a list of developments that shall not be considered substantial development.

(85) **"Substantially degrade"** means to cause significant ecological impact.

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

(87) **"Water-dependent use"** means a use or portion of a use that cannot exist in a location that is not adjacent to the water and that is dependent on the water by reason of the intrinsic nature of its operations.

(88) **"Water-enjoyment use"** means 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.

(89) **"Water-oriented use"** means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

(90) **"Water-related use"** means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

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

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

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

(92) **"Wetland mosaic"** means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water.

3 SHORELINE JURISDICTION

3.1 Shoreline jurisdiction

(1) **Shorelines of the state.** In accordance with the Shoreline Management Act, the City's shoreline jurisdiction subject to the City's Shoreline Master Program includes all "shorelines of the state" and "shorelands." Shorelines of the state are the total of all "shorelines" and "shorelines of statewide significance." These terms are defined in Chapter 2, Definitions. The City's shoreline jurisdiction does not include the optional inclusion of the entire 100-year floodplain or land necessary for buffers for critical areas.

A. In the City, shorelines include:

1. Wallacut River
2. Black Lake

B. In the City, shorelines of statewide significance include:

1. Baker Bay (Columbia River)
2. Pacific Ocean

(2) **Where shoreline jurisdiction does not include an entire parcel.** 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 the City's Shoreline Master Program.

3.2 Official Shorelines Map

(1) **Official Shorelines Map.**

A. The City's shoreline jurisdiction and the environment designations established by the City's Shoreline Master Program are shown on the Official Shorelines Map. The Official Shorelines Map is adopted by reference and declared to be a part of the City's Shoreline Master Program. The Official Shorelines Map can be seen in Appendix A. The Official Shorelines Map is available at City Hall.

B. The Shorelines Map may be updated through an amendment to the City's Shoreline Master Program as indicated in regulation 3.2(2) below.

(2) **Official Shorelines Map approximate.** The Official Shorelines Map only approximately identifies or depicts the lateral extent of shoreline jurisdiction and environment designations from the shoreline waterbody. The actual lateral extent of shoreline jurisdiction and environment designations shall be determined on a site-specific basis at the time a development is proposed based on the location of the ordinary high water mark, floodway, floodplain, and the presence of associated wetlands.

A. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction related to site-specific surveys of ordinary high water mark, floodway, and/or floodplain are automatically assigned the category of the contiguous environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Conservancy designation.

B. Any areas within shoreline jurisdiction that are not mapped and/or designated shall be assigned an Urban Conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with Section 8.16, Amendments.

C. Any area shown on the Official Shorelines Map as within shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of the City's Shoreline Master Program. In the event of a mapping error, the City shall rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

D. When interpreting the exact location of an environment designation boundary line, the location shown on the Official Shorelines Map shall prevail consistent with the following rules:

1. Boundaries indicated as approximately following parcel, tract, or section lines shall be so construed.

2. In cases of boundary line adjustments or subdivisions, the designation of the parent parcel shall not change as a result, except if pursuant to an amendment to the City's Shoreline Master Program.

3. Boundaries indicated as approximately following roads shall be construed to follow the nearest right-of-way edge.

4. Boundaries indicated as approximately parallel to or extensions of features indicated in regulations 3.2(2)D.1 through 3.2(2)D.3 above shall be so construed.

4 SHORELINE POLICIES

4.1 General policies

4.1.1 Archaeological, historic & cultural sites

(1) Shoreline features should be protected to prevent the destruction of, or damage to, any site having archaeological, historic, cultural, or scientific value through coordination and consultation with the appropriate local, state, tribal and federal authorities.

(2) Cooperation among public and private parties is to be encouraged in the identification, protection, and management of cultural resources.

A. Owners of property containing previously identified historic, cultural or archaeological sites are encouraged to make development plans known well in advance of application, so that appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, affected tribes and others may have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.

(3) As appropriate, such sites should be preserved and/or restored for study, education and/or public enjoyment to the maximum possible extent. When and/or where appropriate, access to such sites should be made available to parties of interest. Access to such sites must be designed and managed in a manner that gives maximum protection to the resource.

4.1.2 Critical areas

(1) The existing ecological functions and ecosystem-wide processes of critical areas should be protected.

(2) Human uses and values that are compatible with the protection of the existing ecological functions and ecosystem-wide processes of critical areas, such as public access and aesthetic values, should be promoted provided that impacts to ecological functions are first avoided, and any unavoidable impacts are mitigated.

4.1.3 Environmental protection

(1) The City's Shoreline Master Program should assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.

(2) To assure no net loss of shoreline ecological functions, individual uses and developments should be required to mitigate environmental impacts not otherwise avoided or minimized by compliance with the City's Shoreline Master Program or other applicable regulations.

4.1.4 Flood hazard reduction

(1) When evaluating alternate flood control measures, the removal or relocation of structures in flood-prone areas should be considered.

(2) Where feasible, preference should be given to non-structural flood hazard reduction measures over structural measures.

(3) River and stream processes should be returned to a more natural state where feasible and appropriate, including the removal of artificial restrictions to natural channel migration and the restoration of off-channel hydrological connections.

(4) Flood hazard protection measures should not result in a net loss of ecological functions and ecosystem-wide processes associated with rivers and streams.

4.1.5 Public access

(1) The public interest with regard to rights to access waters held in public trust by the state should be promoted and enhanced, while protecting private property rights and public safety.

(2) The rights of navigation and space necessary for water-dependent uses should be protected.

(3) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water, should be protected.

(4) The design, construction, and operation of permitted uses in shorelines of the state should be regulated to minimize, insofar as practical, interference with the public's use of the water.

4.1.6 Vegetation conservation

(1) Vegetation conservation should be undertaken to protect the ecological functions and ecosystem-wide processes performed by vegetation along shorelines. Vegetation conservation should also be undertaken to protect human safety and property, to increase the stability of shorelines, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, to protect plant and animal species and their habitats, and to enhance shoreline uses.

4.1.7 Water quality & quantity

(1) Impacts to water quality and quantity that would result in a net loss of shoreline ecological functions or in a significant impact to aesthetic qualities or recreational opportunities should be prevented.

(2) Low impact development facilities that do not substantially change the character of the shoreline, such as vegetation filter strips, grass-lined swales, and vegetated bioretention and infiltration facilities, should be encouraged in association with development allowed in shoreline jurisdiction.

4.2 Shoreline use, development & modification policies

4.2.1 General shoreline use, development & modification policies

(1) The development of property in shoreline jurisdiction should protect the public's health, safety, and welfare; the land and its vegetation and wildlife; and property rights while implementing the policies of the Shoreline Management Act.

(2) The City, when determining allowable uses and resolving use conflicts on shorelines within jurisdiction, shall apply the following preferences and priorities in the order listed below.

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

B. Reserve shoreline areas for water-dependent and associated water-related uses.

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

D. 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.

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

(3) For shorelines of statewide significance, the City shall give preference to uses, in the following order of preference, which:

A. Recognize and protect the statewide interest over local interest;

B. Preserve the natural character of the shoreline;

C. Result in long-term over short-term benefit;

D. Protect the resources and ecology of the shoreline;

E. Increase public access to publicly owned areas of the shorelines;

F. Increase recreational opportunities for the public in the shoreline;

G. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

(4) Use conflicts should be reduced by prohibiting or applying special conditions to uses that 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 City's shoreline.

(5) Only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed should be allowed.

(6) The adverse effects of shoreline modifications should be reduced and, as much as possible, shoreline modifications should be limited in number and extent.

(7) Shoreline modifications, individually and cumulatively, should not result in a net loss of ecological functions. This should be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

(8) Structural shoreline modifications should be allowed only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

(9) The enhancement of impaired ecological functions should be planned for where feasible and appropriate, while accommodating permitted uses.

4.2.2 Agriculture

(1) New agricultural activities on land not meeting the definition of agricultural land, the conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities should be consistent with the environment designation and the general and specific use regulations applicable to the proposed use, and should assure no net loss of ecological functions and not have a significant adverse impact on other shoreline resources and values.

4.2.3 Aquaculture

(1) Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. While aquaculture is not anticipated within the City’s shoreline jurisdiction, some scale or form of aquaculture could be appropriate.

4.2.4 Beach & dunes management

(1) Beaches and dunes should be managed to conserve, protect, and, where appropriate, develop or restore the resources and benefits of coastal beaches. Beaches and dunes should also be managed to reduce the hazard to human life and property from natural or human-induced actions associated with these areas.

(2) Dune modification may be proposed for a number of purposes, including protection of property, flood and storm hazard reduction, erosion prevention, or ecological restoration.

4.2.5 Boating facilities

(1) Boating facilities should meet applicable federal, state, and local requirements related to health, safety, and welfare, and no net loss of ecological functions as a result of development of such facilities should be assured.

4.2.6 Breakwaters, jetties & groins

(1) Breakwaters, jetties, and groins waterward of the ordinary high water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

4.2.7 Commercial development

(1) Preference should be given first to water-dependent commercial uses over nonwater-dependent commercial uses; and second, to water-related and water-enjoyment commercial uses over nonwater-oriented commercial uses.

(2) Public access and ecological restoration should be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent commercial development unless such improvements are demonstrated to be infeasible or inappropriate.

4.2.8 Dredging & dredge material disposal

(1) Dredging and dredge material disposal should be done in a manner that avoids, minimizes or mitigates significant ecological impacts.

(2) Dredging and dredge material disposal should be consistent with adopted regional interagency dredge material management plans and watershed management plans.

(3) Uses of suitable dredge material that benefit shoreline resources are encouraged.

(4) Placement of dredge material into the flow lane or in-water disposal site is encouraged to reduce the pressure for upland placement of dredge material whenever possible.

4.2.9 Fill & excavation

(1) Fills and excavations should be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

(2) Fills waterward of the ordinary high water mark should be allowed in limited instances only.

4.2.10 Forest practices

(1) The City's Shoreline Master Program should rely on the Forest Practices Act and implementing rules, as well as the Forest and Fish Report as adequate management of commercial forest uses within shoreline jurisdiction.

4.2.11 Industrial development

(1) Preference should first be given to water-dependent industrial uses over nonwater-dependent industrial uses; and second, to water-related industrial uses over nonwater-oriented industrial uses.

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

4.2.12 In-stream structures

(1) The location and planning of in-stream structures should give due consideration to the full range of public interests.

4.2.13 Mining

(1) Mining should be prohibited within the City's shoreline jurisdiction, except for ocean beach mineral prospecting conducted under a valid Hydraulic Project Approval issued by the Washington Department of Fish and Wildlife.

4.2.14 Ocean uses & modifications

(1) Policies for ocean uses and modifications are located in Appendix C.

4.2.15 Recreational development

(1) Shoreline recreational development should be given priority and should be primarily related to access to, enjoyment of, and use of shorelines of the state.

(2) State-owned shorelines should be given appropriate special consideration for providing recreational activities for the public.

4.2.16 Residential development

(1) Single-family residences are a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

4.2.17 Shoreline habitat & natural systems enhancement projects

(1) Shoreline habitat and natural system enhancement projects should be fostered.

(2) Shoreline habitat and natural system enhancement projects should address legitimate restoration needs and priorities, and implement City-approved restoration plans, such as the City's Shoreline Restoration Plan.

4.2.18 Shoreline stabilization

(1) The City should regulate shoreline stabilization in order to avoid the individual and cumulative net loss of ecological functions.

4.2.19 Transportation & parking

(1) Safe, reasonable, and adequate circulation systems should be provided to, through or over shorelines where necessary and otherwise consistent with the City's Shoreline Master Program.

(2) Circulation systems should include systems for pedestrian, bicycle, and public transportation where appropriate.

4.2.20 Utilities

(1) All utility facilities should be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

(2) Shoreline uses should not be allowed where the City's comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Existing utility services routed through shoreline areas should not be the sole justification for more intense development.

5 ENVIRONMENT DESIGNATIONS

5.1 High-Intensity

5.1.1 Purpose

(1) 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.

5.1.2 Designation

(1) A High-Intensity environment designation is assigned to shoreline areas that currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

5.1.3 Management policies

(1) In regulating uses 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.

(2) Full use of the High-Intensity environment should be required before expansion of the High-Intensity environment is allowed.

(3) Where feasible, visual and physical public access should be required.

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

(5) New development should not cause a net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state or federal laws.

5.2 Shoreline Residential

5.2.1 Purpose

(1) The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the City's Shoreline Master Program. An additional purpose is to provide appropriate public access and recreational uses.

5.2.2 Designation

(1) A Shoreline Residential environment designation is assigned to shoreline areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development.

5.2.3 Management policies

(1) Development in the Shoreline Residential designation should assure no net loss of shoreline ecological functions through the application of development standards.

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

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

(4) Commercial development should be limited to water-oriented uses.

5.3 Urban Conservancy

5.3.1 Purpose

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

5.3.2 Designation

(1) An Urban Conservancy environment designation is assigned to shoreline areas that are appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area, that are not generally suitable for water-dependent uses, if any of the following characteristics apply:

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

B. They are open space, floodplain or other sensitive areas that should not be more intensively developed;

C. They have potential for ecological restoration;

D. They retain important ecological functions, even though partially developed; or

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

5.3.3 Management policies

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

(2) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(3) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

5.4 Natural

5.4.1 Purpose

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

5.4.2 Designation

(1) A Natural environment designation is assigned to shoreline areas with any of the following characteristics:

A. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

B. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

C. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

5.4.3 Management policies

(1) Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

(2) The following new uses should not be allowed in the Natural environment: commercial; industrial; nonwater-oriented recreation; and roads, utility corridors, and parking areas that can be located outside of Natural-designated shorelines.

(3) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

(4) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant

vegetation removal or shoreline modification that adversely impacts ecological functions should not be allowed. That is, each new parcel must be able to support its intended development without significant ecological impacts to shoreline ecological functions.

5.5 Aquatic

5.5.1 Purpose

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

5.5.2 Designation

(1) An Aquatic environment designation is assigned to lands waterward of the ordinary high water mark.

5.5.3 Management policies

(1) New over-water structures should only be allowed for water-dependent uses, public access, or ecological restoration.

(2) The size of new overwater structures should be limited to the minimum necessary to support the structure's intended use.

(3) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of overwater facilities should be encouraged.

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

(5) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in regulation 6.3(3) as necessary to assure no net loss of ecological functions.

(6) Shoreline uses, developments and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

6 GENERAL REGULATIONS

6.1 Archaeological, historic & cultural sites

(1) **Known historic, cultural or archaeological sites.**

A. The City shall work with tribal, state, federal, and local governments and special districts as appropriate to be aware of all known significant local historic, cultural and archaeological sites while adhering to applicable state and federal laws protecting such information from public disclosure.

B. Upon receipt of application for a shoreline permit or application for a demolition permit within the shoreline zone, or request for a statement of exemption for development on properties within 500 feet of a site known to contain a historic, cultural or archaeological resource(s), the City shall require a cultural resource site survey/assessment. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of historic or significant archaeological resources. Buildings or structures over 40 years in age shall be inventoried in a Washington State Department of Archaeology and Historic Preservation Historic Property Inventory Database entry and archaeological sites shall be recorded on Archaeological Site Inventory Forms. The fee for the services of the professional archaeologist or historic preservationist shall be paid by the applicant.

   1. If the cultural resource site assessment identifies the presence of archaeological, or significant historic, cultural resources, recommendations shall be prepared by a professional archaeologist or historic preservation professional, as part of the survey/assessment. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation and affected tribes. Comments received shall be incorporated into the conclusions and recommended conditions of the survey/assessment to the maximum extent practicable.

C. A cultural resources survey/assessment shall contain the following minimum elements:

   1. The purpose of the project; a site plan for proposed on-site development; including indication of any existing building or structures on-site as well as any that are proposed for removal; depth and location of all ground-disturbing activities including, but not limited to, utilities, paved areas, clearing and grading, landscaping or new landscape features (i.e. fencing, walls, etc.); an examination of project on-site design alternatives; and an explanation of why the proposed activity requires a location on, or access across and/or through, an historic or archaeological resource; and

   2. A description of the historic/archaeological resources present, including any building or structure over 40 years of age affected by the proposal; and

3. An analysis of the significance of the historic resource and an analysis of the potential adverse impacts as a result of the activity;
4. An analysis of how these impacts will be/have been avoided; or
5. A recommendation of appropriate mitigation measures if the resources cannot be avoided (some mitigation measure may require a permit from Washington State Department of Archaeology and Historic Preservation). In the case of archaeological resources, mitigation measures may include but are not limited to the following:
    i. Recording the site with the Washington State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic registry formally adopted by the City Council;
    ii. Adaptive re-use of buildings or structures according to the U.S. Secretary of the Interior's Standards for Rehabilitation.
    iii. Preservation in place;
    iv. Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g. maintained grass or pavement);
    v. Excavation and recovery of archaeological resources;
    vi. Inventorying prior to covering of archaeological resources with structures or development; and
    vii. Archaeological monitoring of construction excavation.

D. The Shoreline Administrator shall consult with the Washington State Department of Archaeology and Historic Preservation and affected tribes prior to approval and acceptance of the survey/assessment.

1. Based upon such consultation, the Shoreline Administrator may reject or request revision of the conclusions reached in a survey/assessment when the administrator can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

E. Within 14 days of receipt of a complete application for a shoreline permit or shoreline exemption in an area of known historic/archaeological resources, the City shall notify and request a recommendation from appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation and affected tribes. Recommendations of such agencies and other affected persons shall be duly

considered and adhered to whenever possible and reasonable. Notification shall include the following information:

1. The date of application, the date of notice of completion for the application, and the date of the notice of application;
2. The date, time, place, and type of the hearing, if applicable, and scheduled at the date of notice of the application;
3. A site map including the street address, tax parcel number, township, range, and section of the proposed project area;
4. A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the City;
5. The identification of other permits not included in the application to the extent known by the City;
6. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
7. Any other information determined appropriate by the City;
8. A statement of the limits of the comment period, the right of each agency to comment on the application within a 30-day time period, receive notice of and participate in any hearings, request a copy of the decision once made, and to appeal a decision when allowed by law. In addition, the statement shall indicate that any agency wishing to receive personal notice of any hearings must notify the hearing examiner's office within 30 days of the date of the notice of application.

F. In granting shoreline permits or statements of exemption for such development, the City may attach conditions to require consultation with the Washington State Department of Archaeology and Historic Preservation and affected tribes, and to assure that historic/archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provision for the protection and preservation of historic/archaeological sites, structures or areas shall be incorporated to the maximum extent practicable.

(2) **Inadvertent discovery.**

A. Whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development on shorelines, work on that portion of the development site

shall be stopped immediately and the find reported as soon as possible to the Shoreline Administrator.

B. The Shoreline Administrator shall then notify the Washington State Department of Archaeology and Historic Preservation, affected tribes and other appropriate agencies and shall require that an immediate site assessment be conducted by a professional archaeologist or historic preservation professional, as applicable, pursuant to regulation 6.1(1) to the extent of damage to the resource. The site assessment shall be distributed to the Washington State Department of Archaeology and Historic Preservation, and affected tribes for a 15-day review period. If the above-listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.

C. If human remains are encountered, all activity must cease and the area must be protected and the find reported to local law enforcement and the County coroner or medical examiner.

(3) **Public access.**

A. If a private or publicly owned building or structure of historic significance is identified, public access shall be encouraged as appropriate for purposes of public education; provided that:

1. The type and/or level of public access is consistent with the long-term protection of both historic resource values and shoreline ecological functions; and

2. An access management plan is developed in accordance with site- and resource-specific conditions in consultation with the Washington State Department of Archaeology and Historic Preservation, affected tribes and/or other agencies, as appropriate, to address the following: hours of operation; entrance fees and/or permits; interpretive and/or directional signage; lighting; pedestrian and handicap access; and/or traffic and parking.

B. For archaeological and cultural resource sites, the Washington State Department of Archaeology and Historic Preservation, affected tribes and/or other agencies, as appropriate, shall be in agreement prior to providing public access to a site. An access and resource management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation and affected tribes.

6.2 Critical areas

(1) **Critical areas within shoreline jurisdiction.** Critical areas within shoreline jurisdiction are subject to the regulations contained in Appendix B of the City's Shoreline Master Program. Although the regulations in Appendix B are nearly identical to the City's general critical areas regulations, key differences exist. If there are conflicts between the regulations contained in Appendix B and the regulations contained in the rest of the City's Shoreline Master Program, those that are the most protective of shoreline ecological functions shall apply.

6.3 Environmental protection

(1) **No net loss of ecological functions.** Individual uses and developments shall not result in a net loss of shoreline ecological functions. Individual uses and developments are required to follow the mitigation sequence and mitigate environmental impacts not otherwise avoided or minimized by compliance with the City's Shoreline Master Program or other applicable regulations.

(2) **Mitigation sequence analysis, when required.** If a proposed shoreline use or modification is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in the City's Shoreline Master Program, then the mitigation sequence analysis described in regulation 6.3(3) is not required. In the following circumstances, a project applicant must provide a mitigation sequence analysis as described in regulation 6.3(3):

A. If a proposed shoreline use or modification is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in the City's shoreline regulations, then the mitigation sequence analysis is required for the discretionary standard(s).

B. When an action requires a shoreline conditional use permit or shoreline variance permit.

C. When specifically required by a provision in the City's Shoreline Master Program.

(3) **Mitigation sequence analysis.** An applicant required to complete a mitigation sequence analysis pursuant to regulation 6.3(2) must describe how the proposal will follow the below mitigation sequence. Application of the mitigation sequence must achieve no net loss of ecological functions for each new development and not have a significant adverse impact on other shoreline functions fostered by the policy of the Shoreline Management Act. Mitigation measures are listed in descending order of priority. Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable. Mitigation in excess of that necessary to ensure that development will result

in no net loss of ecological functions will not be required, but may be voluntarily performed.

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

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

C. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

D. Reduce or eliminate the impact over time by preservation and maintenance operations;

E. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

F. Monitor the impact and the compensation projects and taking appropriate corrective measures.

(4) **Compensatory mitigation.** When compensatory measures are appropriate pursuant to the mitigation sequence analysis described in regulation 6.3(3):

A. Preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized.

B. Compensatory mitigation measures must be maintained over the life of the use or development.

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

(5) **Mitigation plan.** When compensatory measures are appropriate, the applicant must develop and implement a mitigation plan prepared by a qualified professional. A mitigation plan must include, at a minimum:

A. A description of the existing shoreline environment.

B. A description of anticipated impacts.

C. A description of how the mitigation plan addresses anticipated impacts, with supporting rationale.

D. Drawings showing existing and proposed conditions.

E. Measurable performance standards for evaluating the success of the mitigation plan.

F. A contingency plan identifying potential courses of action if performance standards are not being met.

G. A five-year maintenance and monitoring program, including:

1. A schedule for maintenance and monitoring.

2. A schedule for the submission of monitoring reports to the City to document milestones, successes, problems, and contingency actions.

3. A discussion of how monitoring data will be evaluated to determine if performance standards are being met.

H. Financial guarantees to ensure the mitigation plan is fully implemented.

6.4 Flood hazard reduction

(1) **Applicability.** Flood hazard reduction provisions apply 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 setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater 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.

(2) **Development in floodplains.** Development in floodplains must not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to RCW 86.12 (provided the plan has been adopted after 1994 and approved by Ecology).

(3) **New development or uses, including subdivisions.** New development or uses in shoreline jurisdiction, including the subdivision of land, must not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway during the life of the development or use.

(4) **Uses and activities within the channel migration zone or floodway.** The following uses and activities may be authorized where appropriate and/or necessary within the channel migration zone or floodway:

A. Actions that protect or restore the ecosystem-wide processes or ecological functions, including development with a primary purpose of protecting or restoring ecological functions and/or ecosystem-wide processes.

B. Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.

C. Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur.

D. Bridges, utility lines, outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of the watershed or drift cell.

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

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

G. Development where structures exist that prevent active channel movement and flooding.

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

(5) **Structural flood hazard reduction measures.**

A. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by Ecology that evaluates cumulative impacts to the watershed system.

B. New structural flood hazard reduction measures in shoreline jurisdiction may be allowed only when demonstrated by a scientific and engineering analysis that they are necessary to protect existing development and 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 will be undertaken consistent with Section 6.6, Vegetation conservation.

C. New structural flood hazard reduction measures must be placed landward of associated wetlands and applicable shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized only if it is determined that no other alternative to

reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements must be documented through a geotechnical and hydrological analysis.

D. New structural public flood hazard reduction measures, such as dikes and levees, must dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(6) **Removal of gravel for flood management purposes.** The removal of gravel for flood management purposes must be consistent with an adopted flood hazard reduction plan and the City's Shoreline Master Program, and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

6.5 Public access

(1) **Applicability.** Public access includes 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.

(2) **Conditions when required.** Except as provided in regulations 6.5(5) and 6.5(6), shoreline substantial developments or conditional uses shall provide public access where any of the following conditions are present:

A. A development or use will create increased demand for public access to the shoreline.

B. A development or use will interfere with an existing public access way. Such interference may be caused by blocking access or by discouraging use of existing on-site or nearby access.

C. New non-water-oriented uses are proposed.

D. A use or activity will interfere with public use of lands or waters subject to the public trust doctrine.

E. Where a commercial or industrial use is proposed for location on land in public ownership.

(3) **When required for public entities.** Shoreline development by public entities, port districts, state agencies, and public utility districts shall include public access measures as

part of each shoreline development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

(4) **When required for residential development.** New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access. Public access shall not be required for single-family residential development of four or fewer lots.

(5) **When not required.** Public access shall not be required on-site where one or more of the following conditions apply.

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

B. Constitutional or other legal limitations may apply.

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

D. The cost of providing the access, easement or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development.

E. Adverse impacts to shoreline ecological processes and functions that cannot be mitigated will result from the public access.

F. Significant unavoidable conflict between any access regulations and the proposed use and adjacent uses would occur and cannot be mitigated.

(6) **Reasonable alternatives.** To meet any of the conditions in regulation 6.5(5), the applicant must first demonstrate and the City determine in its findings that all reasonable alternatives to provide on-site public access have been exhausted, including, but not limited to:

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

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

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

D. Sharing the cost of providing and maintaining public access between public and private entities.

(7) **Projects that meet the criteria of regulation 6.5(6).** For projects that meet the criteria of regulation 6.5(6), the City may require the applicant to build off-site public access facilities or, if established and approved by the Shoreline Administrator, contribute to the local public access fund.

(8) **Preparation of written findings.** When provisions for public access are required as a condition of project approval, the Shoreline Administrator shall prepare written findings demonstrating consistency with constitutional and legal practices regarding private property and the principles of nexus and proportionality.

(9) **Dedication of land or a physical improvement.**

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

B. Minimum width of public access easements shall be at least 12 feet, unless the Shoreline Administrator determines that undue hardship to the proponent would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.

(10) **Recorded via a legal instrument.** Public access provisions shall run with the land and be recorded via a legal instrument such as an easement, or as a dedication on the face of a plat or short plat. Such legal instruments shall be recorded with the Pacific County Auditor's Office prior to the time of building permit approval, occupancy or plat approval, whichever comes first (RCW 58.17.110). Future actions by the applicant's successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

(11) **Location and design criteria.** Public access shall meet the following location and design criteria:

A. A public pedestrian access walkway is required where open space is provided along the shoreline, and public access can be provided in a manner that will not adversely impact shoreline ecological processes and functions. The walkway shall be buffered from sensitive ecological features and provide limited and controlled access to the water's edge where appropriate. Fencing may be used to control damage to plants and other sensitive ecological features. Trails shall be constructed of permeable materials and limited to five feet in width to reduce impacts to ecologically sensitive resources.

B. Where views of the water or shoreline are available and physical access to the water's edge is not present or appropriate, a public viewing area shall be provided.

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

D. Development over water shall be constructed as far landward as possible to reduce interference with views to the shoreline from surrounding properties.

E. Appropriate amenities such as benches, picnic tables and public parking sufficient to serve the users shall be provided. Public restrooms, facilities for disposal of animal waste, and other appropriate public facilities shall be required at developments that attract a substantial number of persons.

F. New development shall be located and designed to avoid or minimize adverse impacts to views from public property.

G. Intrusions on privacy shall be minimized by avoiding locations adjacent to windows and outdoor private open spaces or by screening or other separation techniques.

H. Public access design shall provide for the safety of users to the extent feasible.

I. The standard state-approved logo or other locally approved signs that indicate the public's right of access and hours of access shall be constructed, installed, and maintained by the applicant or owner in conspicuous locations at public access sites.

(12) **At time of occupancy.** Required public access sites shall be fully developed and available for public or community use at the time of occupancy of the shoreline development.

(13) **Maintenance.** Maintenance of the public access facility over the life of the use or development shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement recorded with the Pacific County Auditor's Office.

(14) **Shoreline street ends and public right-of-ways.** Public access provided by existing shoreline street ends and public right-of-ways shall be preserved, maintained and enhanced consistent with RCW 35.79.035 and RCW 36.87.130.

(15) **No net loss of ecological functions.** Public access improvements shall be constructed and maintained in a manner that does not result in a net loss of shoreline ecological functions.

6.6 Vegetation conservation

(1) **Applicability.** Vegetation conservation includes activities to protect vegetation along or near shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions apply throughout shoreline jurisdiction. Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and other forest practice activities over which the City has authority.

(2) **Existing vegetation.** Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with such uses and developments may be maintained.

(3) **Shoreline buffers and building setbacks.** Requirements for shoreline buffers and setbacks are identified in Appendix B in Table B3-1. Other buffers, particularly estuarine wetland buffers, may exceed the shoreline buffer. The provision that is most protective of shoreline resources shall prevail.

(4) **Vegetation removal.**

A. Vegetation removal must be limited to the minimum necessary to accommodate approved shoreline development. Mitigation sequencing per regulation 6.3(3) must be applied unless specifically excluded by other shoreline provisions, so that the design and location of the structure or development minimizes short- and long-term vegetation removal. The City may require site plan alterations to achieve maximum vegetation retention.

B. Where vegetation removal conducted consistent with this section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a mitigation plan unless specifically excluded by other shoreline provisions. Examples of actions that may result in adverse impacts include:

1. Removal of native trees, shrubs or groundcovers;
2. Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes; or
3. Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

(5) **Pruning.** Nondestructive thinning of lateral branches to enhance views or trimming, shaping, thinning or pruning of a tree necessary to its health and growth is allowed, consistent with the following standards:

1. In no circumstance shall removal of more than one-fourth of the original crown be permitted.
2. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy.
3. Pruning shall retain branches that overhang the water to the maximum extent feasible.
4. Pruning must not compromise the health of the tree.

5. Selective pruning of trees for views shall not include removal of understory vegetation

(6) **Danger trees.** Danger trees may be removed if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function. Danger tree removal may be mitigated without a mitigation plan by conversion of the danger tree to a wildlife snag and the installation of similar trees. Native tree removal in shoreline jurisdiction must be mitigated by the installation of a similar native tree at a 6:1 impact to mitigation ratio. Non-native tree removal must be mitigated by installation of a native or suitable non-native tree at a 6:1 impact to mitigation ratio. All mitigation trees shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas.

(7) **Noxious weeds.** Hand removal or spot spraying of noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is allowed.

(8) **Aquatic weed control.** Aquatic weed control may only occur to address adverse impacts to native plant communities, fish and wildlife habitats, or existing water-dependent uses. Aquatic weed control shall occur in compliance with applicable laws and standards. Removal using mechanical methods is preferred over chemical methods.

(9) **Mitigation plans for vegetation removal.** Mitigation plans for vegetation removal must be prepared by a qualified professional and must contain information required in regulation 6.3(5). In addition, such mitigation plans must include the following standards, as applicable.

A. Performance standards shall require 100 percent survival in year 1, with 100 percent tree survival and 80 percent shrub and groundcover survival at the end of the monitoring period.

B. Tree removal in shoreline jurisdiction must be mitigated by installation of a similar native tree at a 6:1 impact to mitigation ratio. Non-native tree removal must be mitigated by installation of a native or suitable non-native tree at a 6:1 impact to mitigation ratio. All mitigation trees shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas.

6.7 Water quality & quantity

(1) **Applicability.** Water quality and quantity provisions apply to all development and uses in shoreline jurisdiction that could adversely affect water quality and quantity.

(2) **Prevent impacts.** The design, construction and operation of shoreline uses and developments shall incorporate measures, including but not limited to best management

practices, to prevent impacts to surface water and groundwater quality and quantity that would result in a net loss of shoreline ecological functions or in a significant impact to aesthetic qualities or recreational opportunities.

(3) **Stormwater management structures.** Stormwater management structures, including but not limited to ponds, basins, and vaults, shall be located outside of shoreline jurisdiction where possible, as far from the ordinary high water mark as feasible, and shall minimize disturbance of vegetation conservation buffers.

(4) **Materials.** 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.

(5) **Chemicals**. Pesticides, herbicides, and fertilizers must be applied in a manner that minimizes direct or indirect entrance into nearby waters. The usage of chemicals in water must be in accordance with all applicable agency standards.

7 SHORELINE USE, DEVELOPMENT & MODIFICATION REGULATIONS

7.1 General shoreline use, development & modification regulations

(1) **Applicability.** The regulations in this section apply to all shoreline uses, development and modifications.

(2) **Shoreline use, development and modification matrix.** Table 7-1 indicates shoreline uses, development and modifications that may be allowed or are prohibited in shoreline jurisdiction within each environment designation. Shoreline uses, developments and modifications are classified in the matrix as indicated below. Uses, developments and modifications that may be allowed according to the matrix must in all cases be consistent with all other applicable parts of the City's Shoreline Master Program in order to be authorized by the City. Should any provision of Table 7-1 conflict with the text of the City's Shoreline Master Program, the text shall prevail.

A. Uses, developments and modifications that may be allowed by a shoreline substantial development permit or exemption are indicated by an "P" on the matrix.

B. Uses, developments and modifications that may be allowed by a shoreline conditional use permit are indicated by a "C" on the matrix.

C. Uses, developments and modifications that are prohibited are indicated by an "X" on the matrix.

D. Uses, development and modifications that are not applicable to an environment designation are indicated by an "NA" on the matrix.

Table 7-1. Shoreline use, development and modification matrix

Shoreline Use, Development or Modification	High-Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic
Agriculture	X	P	X	X	NA
Aquaculture					
General aquaculture	NA	NA	NA	NA	C
General associated upland facilities for aquaculture	C	X	X	X	NA
Beach and dunes management	NA	NA	C[1]	NA	C[1]
Boating facilities					
Boat launch					
Commercial/Industrial	P	X	X	X	see upland environment
Public	P	X	P[2]	X	see upland environment
Other private	X	X	X	X	X
Marinas	P	X	X	X	see upland environment
Piers/Docks					
Commercial, industrial, recreational, or public access	P	X	P[2]	X	see upland environment
Residential	X	X	X	X	X
Breakwaters, jetties, groins	C[1]	C[1]	C[1]	C[1]	C[1]
Commercial development					
Water-oriented	P	P	X	X	see upland environment
Nonwater-oriented, general	C	C	X	X	see upland environment
Nonwater-oriented, separated from shoreline	P	P	X	X	NA

Shoreline Use, Development or Modification	High-Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic
Dredging and dredge material disposal					
Dredging for existing navigation uses	NA	NA	NA	NA	P
Dredging for water-dependent uses	NA	NA	NA	NA	P
Maintenance dredging	NA	NA	NA	NA	P
Dredging or dredge material disposal for habitat restoration	P	P	P	P	P
Dredging, other	NA	NA	NA	NA	C
Dredge material disposal, inside channel migration zone	NA	C	C	C	C
Dredge material disposal, outside channel migration zone	P	C	C	C	C
Fill and excavation					
Fill	P	P	P	P	C[3]
Excavation	P	P	P	P	NA
Flood hazard reduction measures	P	C	C	C	see upland environment
Forest practices	X	P	P	C	NA
Industrial development					
Water-oriented	P	X	X	X	see upland environment
Nonwater-oriented, general	C	X	X	X	see upland environment
Nonwater-oriented, separated from shoreline	P	X	X	X	NA
In-stream structures					
Structures installed to protect or restore ecological functions or monitor flows, water quality, or other habitat characteristics	P	P	P	P	P
Other	P	C	C	C	see upland environment

Shoreline Use, Development or Modification	High-Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic
Mining	X	X	X[4]	X	X
Ocean uses and modifications					
General ocean uses and modifications	NA	NA	C	NA	C
Fixed structures	NA	NA	NA	NA	X[5]
Recreational development					
Water-oriented	P	P	P	P	P
Trails	P	P	P	P	P
Non-water-oriented	C	C	C	X	X
Residential development	P	P	P	X	X
Shoreline habitat and natural systems enhancement projects	P	P	P	P	P
Shoreline stabilization					
New hard	P	P	C	C	see upland environment
New soft	P	P	P	P	see upland environment
Repair and replacement	P	P	P	P	P
Transportation and parking					
New and expanded accessory roads serving allowed uses	P	P	P	P[6]	X
New and expanded non-accessory roads (e.g. local roads, arterials, etc) and bridges	P	P	C	C[6]	see upland environment
Parking accessory to an allowed use	reviewed as part of primary use	reviewed as part of primary use	reviewed as part of primary use	reviewed as part of primary use[6]	X
Stand-alone parking	X	X	X	X	X
Utilities					
Production and processing facilities	C	X	X	X	X
Transmission facilities	P	P	C	C[6]	C

Shoreline Use, Development or Modification	High-Intensity	Shoreline Residential	Urban Conservancy	Natural	Aquatic
Accessory utilities	Reviewed as part of primary use	Reviewed as part of primary use	Reviewed as part of primary use	reviewed as part of primary use	Reviewed as part of primary use
[1] Projects to protect or restore ecological functions may be allowed by a shoreline substantial development permit or exemption.					
[2] At Black Lake only.					
[3] Fills waterward of the ordinary high water mark for ecological restoration may be allowed by a shoreline substantial development permit or exemption.					
[4] Ocean beach mineral prospecting conducted under a valid Hydraulic Project Approval issued by the Washington Department of Fish and Wildlife is allowed.					
[5] Temporary structures may be permitted as a conditional use for a period of up to two years, with an option for a one-year extension. Single-anchor systems are coded as "P." Buried transmission lines may be permitted as a conditional use.					
[6] Roads, utility corridors, and parking areas that can be located outside of Natural-designated shorelines are prohibited.					

(3) **Unlisted uses.** Any new uses, developments or modifications not explicitly listed or comparable to those included in Table 7-1 shall be reviewed through a shoreline conditional use permit.

(4) **Height limitation.**

A. No permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level, unless in accordance with regulation 7.1(4)A.1 or regulation 7.1(4)A.2, below.

1. In areas of shoreline jurisdiction zoned Light Industrial (M-1) or Low Density Commercial (C-2) on the effective date of the City's Shoreline Master Program, water-oriented structures may exceed a height of 35 feet if allowed under zoning regulations. The applicant must demonstrate compliance with the following criteria:

   a. Overriding considerations of the public interest will be served.

   b. The view of a substantial number of residences on areas adjoining shorelines will not be obstructed.

2. To otherwise exceed 35 feet, an applicant must apply for a shoreline variance permit, and comply with the following criteria in addition to the shoreline variance permit criteria:

a. Overriding considerations of the public interest will be served.

b. The view of a substantial number of residences on areas adjoining shorelines will not be obstructed.

7.2 Agriculture

(1) **Applicability.** Agriculture provisions apply to new agricultural activities on land not meeting the definition of agricultural land, the conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities. The City's Shoreline Master Program does not require modification of or limit agricultural activities occurring on agricultural lands.

(2) **New agricultural activities.** New agricultural activities are activities that meet the definition of agricultural activities but are proposed on land not currently in agricultural use. New agricultural activities must assure that uses and developments in support of agricultural uses are:

A. Consistent with the environment designation in which the land is located.

B. Located and designed to assure no net loss of ecological functions and to not have a significant adverse impact on other shoreline resources and values.

(3) **Best management practices.** New agricultural activities and agricultural facilities shall employ applicable best management practices established by the US Department of Agriculture Natural Resources Conservation Service or by similar agencies.

(4) **Nonagricultural development and conversion to nonagricultural uses.** Development on agricultural land that does not meet the definition of agricultural activities and the conversion of agricultural land to nonagricultural uses shall be consistent with the environment designation and the general and specific use regulations applicable to the proposed use, and shall not result in a net loss of ecological functions associated with the shoreline.

7.3 Aquaculture

(1) **Where allowed.** Aquaculture is allowed as a conditional use in the Aquatic environment where it can be located, designed, constructed, and managed to avoid all of the following: a net loss of shoreline ecological functions, spreading diseases to native aquatic life, adversely impacting native eelgrass and macroalgae species, and significantly conflicting with navigation and public access.

(2) **Best management practices.** Aquaculture facilities must identify and use best management practices to minimize impacts such as light and noise from the construction and management of the facilities.

(3) **New aquatic species.** New aquatic species that have not been previously cultivated in Washington State shall not be introduced into City waters without prior written approval of the Director of the Washington State Department of Fish and Wildlife and the Director of the Washington State Department of Health.

(4) **Wastes.** Aquaculture wastes shall be disposed of in a manner compliant with all applicable governmental waste disposal standards. No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation.

(5) **Rights of treaty tribes.** The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the project proponent and the affected tribe(s) through the permit review process.

7.4 Beach & dunes management

(1) **Applicability.** Beach and dunes management provisions apply to the City's beaches and their associated dunes that lie along the Pacific Ocean.

(2) **Dune modification, when allowed.** Coastal dune modification shall be allowed only when consistent with state and federal flood protection standards, and when it will not result in a net loss of shoreline ecological functions or significant adverse impacts to other shoreline resources and values.

7.5 Boating facilities

(1) **Applicability.** Boating facilities provisions apply to all over- and in-water facilities that facilitate as their primary purpose the launching or mooring of vessels, or serve some other water-dependent purpose. Facilities covered include piers and docks for commercial, industrial, recreational, residential or public access use; marinas; and boat launches.

(2) **Piers and docks.**

A. New piers and docks shall be allowed only for water-dependent uses or public access.

1. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of a water-dependent use, provided the minimum size requirement needed to meet the water-dependent use is not violated.

B. New pier or dock construction shall be permitted only when the applicant has demonstrated that a need exists to support a water-dependent use.

1. If the Port of Ilwaco or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan

projecting the future needs for pier or dock space, and if the plan or analysis is approved by the City, it may serve as the necessary justification for pier design, size and construction.

C. Nonwater-dependent pier and dock accessory uses must be located outside of shoreline jurisdiction or outside of the shoreline buffer whenever possible. 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) **Marinas.**

A. Marinas, particularly where water-enjoyment uses are associated with the marina, shall provide public access if required by Section 6.5, Public access.

B. Marinas must provide adequate restroom and sewage disposal facilities.

C. Marinas must provide facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan.

D. Marina operators must post all regulations pertaining to handling, disposal and reporting of waste, sewage, fuel, oil or toxic materials where all users may easily read them. Rules for spill prevention and response must also be posted.

(4) **Boat launches.**

A. Boat launches shall be designed and constructed using methods and technologies that have been recognized and approved by state and federal resource agencies as the best currently available, with consideration of site-specific conditions. At a minimum, the obstruction of currents, alteration of sediment transport, and the accumulation of debris shall be minimized.

(5) **Location, design and construction of boating facilities.**

A. Boating facilities, including associated and accessory uses, shall be located, designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to:

1. Ecological functions, critical areas resources such as eelgrass beds and fish habitats, and processes such as currents and littoral drift.

2. Navigation.

3. Public access.

B. Boating facility size shall be restricted to the minimum necessary to meet the needs of the proposed use. The amount of overwater cover, including length and width; the number of in-water structures; and the extent of any necessary shoreline stabilization or modification must be minimized.

C. Structures shall be made of materials that:

1. Have been approved by applicable state agencies.

2. Have a generally non-reflective exterior finish to reduce glare.

D. New piling must be the smallest diameter necessary.

E. Flotation materials shall be permanently encapsulated to prevent breakup into small pieces and dispersal in water.

F. Safety railings, if proposed, must meet International Building Code requirements and must be an open framework that does not unreasonably interfere with shoreline views.

G. No new skirting is allowed on any structure.

H. New covered moorage is prohibited, except when necessary for operation of a water-dependent use at commercial, industrial, or transportation-related facilities.

I. Garbage or litter receptacles must be provided and maintained by the operator at locations convenient to users.

J. Construction of overwater structures shall be completed during allowed in-water work windows.

K. Construction impacts shall be confined to the minimum area needed to complete the project.

(6) **Enlargement of boating facilities.**

A. Applicants must demonstrate that there is a need for modification or enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water.

B. Enlarged portions of existing boating facilities must comply with applicable standards for new facilities.

(7) **Repair of boating facilities.** All repairs must utilize any material standards specified for new facilities.

(8) **Live-aboard vessels.** Live-aboard vessels are restricted to marinas that have provisions in effect that are consistent with state law to limit potential impacts.

A. Live-aboard vessels must have a valid live-aboard permit issued by the marina operator.

B. Discharge of waste or other contaminated material from vessels is prohibited.

C. Marinas shall provide adequate pump-out facilities and owners of live-aboard vessels shall provide proof of sufficient use of pump-out facilities or pump-out service.

D. All live-aboard vessels shall meet US Coast Guard requirements for recreational boats and be capable of leaving the marina under their own power.

E. Owners of live-aboard vessels shall comply with all applicable marina rules.

(9) **Extended mooring.** Extended mooring on waters of the state by vessels is only as allowed by applicable state regulations, unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

7.6 Breakwaters, jetties & groins

(1) **When allowed**. New or expanded breakwaters, jetties, and groins located waterward of the ordinary high water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

(2) **Professional design.** Proposed designs for new or expanded breakwaters, jetties, and groins shall be designed by qualified professionals, including both an engineer and a biologist.

(3) **Minimum size.** Breakwaters, jetties, and groins shall be limited to the minimum size necessary.

(4) **Protection of critical areas and ecological functions.** Breakwaters, jetties, and groins shall be designed to protect critical areas and ecological functions, and shall provide for mitigation according to the sequence defined in regulation 6.3(3).

7.7 Commercial development

(1) **Use preference.** Preference shall be given first to water-dependent commercial uses over nonwater-dependent commercial uses; and second, to water-related and water-enjoyment commercial uses over nonwater-oriented commercial uses.

(2) **Appropriate design and operational elements.** Commercial uses that may be authorized as water-related or water-enjoyment uses must incorporate appropriate design and operational elements so that they meet the definition of water-related or water-enjoyment uses.

(3) **Nonwater-oriented commercial uses, when allowed.** Nonwater-oriented commercial uses are prohibited on the shoreline except when:

A. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration;

B. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration; or

C. If the site is physically separated from the shoreline by another property or public right-of-way.

(4) **Nonwater-oriented commercial uses over water.** Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

(5) **No net loss of ecological functions or significant adverse impacts.** Commercial development must not result in a net loss of shoreline ecological functions or have significant adverse impacts to other shoreline uses, resources and values such as navigation, recreation and public access.

(6) **Public access.** Commercial development shall provide public access if required by Section 6.5, Public access.

7.8 Dredging & dredge material disposal

(1) **Applicability.** As regulated by the City's Shoreline Master Program, dredging is the removal of bed material from below the ordinary high water mark or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in regulation 7.8(3) below. Dredging and dredge material disposal provisions are not intended to cover other removals of bed material waterward of the ordinary high water mark or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings, bulkhead replacements). Such in-water substrate modifications should be conducted pursuant to applicable general and specific use, development and modification regulations of the City's Shoreline Master Program.

(2) **New development.** New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

(3) **Dredging, when allowed.** Dredging may be allowed for the following purposes when significant ecological impacts are minimized and mitigation is provided:

A. Establishment, expansion, relocation or reconfiguration of navigation channels and basins where necessary for assuring safe and efficient accommodation of existing navigational uses.

B. Maintenance dredging of established navigation channels and basins provided dredging is restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

C. An authorized water-dependent use.

D. Development, expansion and maintenance of essential public facilities when there are no feasible alternatives.

E. Maintenance of tidegates and tidegate drainage channels.

F. Reduction of flood hazards when consistent with an approved flood hazard management plan.

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

(4) **Dredging for fill material.**

A. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions.

B. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high water mark. The project must be associated with either a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.

(5) **Dredge material disposal, upland.** Upland dredge material disposal may be approved, provided:

A. The dredge material disposal complies with at least one of the following:

1. The dredge material disposal has been evaluated and approved by the interagency Dredge Management Material Program; or

2. The dredge material disposal is consistent with the guidance from the U.S. Army Corps of Engineers/Environmental Protection Agency publication, Identifying, Planning, and Financing Beneficial Use Projects Using Dredged Material – Beneficial Use Planning Manual (EPA842-B-07-001, October 2007, or as amended).

B. A qualified professional demonstrates that the dredge material disposal will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, or shoreline public access.

C. Surface runoff shall be controlled to protect water quality and prevent sedimentation of adjacent waterbodies, wetlands and drainageways. Disposal runoff water shall enter the receiving waterway through a controlled outfall at a location with adequate

circulation and flushing. Underground springs and aquifers shall be identified and protected.

D. Dikes shall be constructed and form a sufficiently large containment area to encourage property "ponding" and to prevent the return of dredged materials into the waterway or estuary.

F. The final height and slope after each use of a land dredged material site:

1. Shall not enlarge itself by sloughing and eroding into adjacent aquatic areas;

2. Shall minimize loss of material from the site during storms and freshets;

3. Shall not interfere with the view of nearby residences or the public.

G. Approved upland dredge disposal sites may conduct site management activities, such as regular clearing and grading, as specified in agency approval documents. Such activities will be regulated as maintenance activities under the City's Shoreline Master Program, provided there are no impacts to water quality or other ecological functions outside of the dredge material disposal area. Vegetation clearing on a dredge disposal site shall not require compensatory mitigation.

(6) **Dredge material disposal, in water.** In-water dredge material disposal may be approved provided the dredge material disposal has been evaluated and approved by the interagency Dredge Management Material Program.

(7) **Avoid, minimize and mitigate.**

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

B. Dredging and dredge material disposal shall be confined to the minimum area necessary to accomplish the intended purpose or use.

C. Dredging and dredge material disposal shall be scheduled to minimize impacts to biological productivity (including, but not limited to, fish runs, spawning, and benthic productivity).

D. Erosion, sedimentation, increased flood hazard, and other undesirable changes in circulation shall be avoided. Tidal marshes, tidal flats, and other wetlands shall not be adversely affected.

(8) **Agency approvals.** Dredging and dredge material disposal must be approved by all state and federal agencies with jurisdiction. Copies of all such approvals must be provided to the City.

7.9 Fill & excavation

(1) **When fills and excavations allowed, upland.** Upland fills and excavations may be allowed provided they are:

A. Part of an allowed shoreline use or modification.

B. Located outside applicable buffers, unless specifically allowed.

(2) **When allowed, waterward of the ordinary high water mark.** Fills waterward of the ordinary high water mark shall be allowed only when necessary to support:

A. A water-dependent or public access use.

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

C. Disposal of dredged material considered suitable under, and conducted in accordance with the Dredged Material Management Program of the Department of Natural Resources.

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

E. A mitigation, environmental restoration, beach nourishment or enhancement project.

(3) **Protection of shoreline ecological functions.** Fills and excavations shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

(4) **Design.** All fills and excavations, except when for the purpose of shoreline restoration, must be designed:

A. To be the minimum size necessary to implement the allowed use or modification.

B. To fit the topography so that minimum alterations of natural conditions will be necessary.

C. To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.

(5) **Fill material.** Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potential to degrade water quality and shall be obtained from a state-authorized source.

(6) **Temporary erosion and sediment control plan.** A temporary erosion and sediment control plan, including best management practices, shall be provided for all proposed fill

and excavation activities. Disturbed areas shall be immediately protected from erosion using mulches, hydroseed, or similar methods, and revegetated, as applicable.

(7) **Excavation below the ordinary high water mark or in wetlands.** Excavation below the ordinary high water mark or in wetlands using other than unpowered, hand-held tools, except removals of bed material that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline stabilization measure), shall be considered dredging and be subject to the regulations in Section 7.8, Dredging and dredge material disposal.

7.10 Forest practices

(1) **Applicability.** This section shall apply to forest practices on Shorelines of Statewide Significance and Class IV-general forest practices where shorelines are being converted or are expected to be converted to non-forest uses.

(2) **Conversion.** Forest practice conversions and other Class IV-general forest practices where there is a likelihood of conversion to nonforest uses shall assure no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values such as navigation, recreation and public access.

(3) **Shorelines of statewide significance.** On shorelines of statewide significance, the City shall allow only selective commercial timber cutting, so that no more than 30 percent of the merchantable trees may be harvested in any ten-year period of time, provided:

A. That other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental;

B. That clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by the City's Shoreline Master Program may be permitted; and

C. That exceptions to this regulation require a shoreline conditional use permit.

7.11 Industrial development

(1) **Use preference.** Preference shall first be given to water-dependent industrial uses over nonwater-dependent industrial uses; and second, to water-related industrial uses over nonwater-oriented industrial uses.

(2) **Nonwater-oriented industrial development.** New nonwater-oriented industrial development shall be prohibited on shorelines except when:

A. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration;

B. Navigability is severely limited at the proposed site and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration; or

C. If the site is physically separated from the shoreline by another property or public right-of-way.

(3) **No net loss of ecological functions or significant adverse impacts.** Industrial development must be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.

(4) **Public access.** Industrial development shall provide public access if required by Section 6.5, Public access.

7.12 In-stream structures

(1) **Consideration of public interests.** The location and planning of in-stream structures shall give due consideration to the full range of public interests, including, but not limited to, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

(2) **Protection and preservation of ecosystem-wide processes, ecological functions, 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, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

7.13 Mining

(1) **Prohibited.** Mining is prohibited within the City's shoreline jurisdiction, except for ocean beach mineral prospecting conducted under a valid Hydraulic Project Approval issued by the Washington Department of Fish and Wildlife.

7.14 Ocean uses & modifications

(1) **Appendix C.** Regulations for ocean uses and modifications are located in Appendix C.

7.15 Recreational development

(1) **Applicability.** Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public.

(2) **Features.** Recreational uses and facilities located within shoreline jurisdiction shall include features related to access to, enjoyment of, and use of shorelines of the state.

(3) **Consistency with environment designation.** Recreational developments shall be located, designed, and operated in a manner consistent with the purpose of the environment designation in which they are located.

(4) **No net loss.** Recreational developments shall not result in a net loss of shoreline ecological functions or ecosystem-wide processes.

7.16 Residential development

(1) **Applicability.** Residential development consists of single-family and multifamily development, including the creation of new residential lots through land division.

(2) **Land division.** The creation of new residential lots through land division must:

A. Be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.

B. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

(3) **Access, utilities, and public services.** Access, utilities, and public services must be available and adequate to serve the development.

(4) **Set back from steep slopes and shorelines vulnerable to erosion.** Residential development, including appurtenant structures and uses, shall 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 during the life of the development.

(5) **Public access.** Residential development shall provide public access if required by regulation 6.5(4).

(6) **New over-water residences.** New over-water residences, including floating homes, are prohibited.

(7) **No net loss of shoreline ecological functions.** No net loss of shoreline ecological functions shall result from residential development.

7.17 Shoreline habitat & natural systems enhancement projects

(1) **Applicability.** Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Shoreline habitat and natural systems enhancement projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

(2) **Approved plan.** Shoreline habitat and natural system enhancement projects must be carried out in accordance with an approved shoreline restoration planning document, including, but not limited to, the Shoreline Restoration Plan prepared as part of the City's Shoreline Master Program.

(3) **Scientific and technical information and best management practices.** Shoreline restoration and enhancement projects shall be designed using the most current, accurate, and complete scientific and technical information available, and implemented using best management practices.

(4) **Other shoreline uses, resources and values.** Shoreline habitat and natural systems must not result in substantial interference with other shoreline uses, resources and values such as navigation, recreation and public access.

(5) **Maintenance and monitoring.** Long-term maintenance and monitoring (minimum of three years) shall be arranged by the project applicant and included in shoreline habitat and natural system enhancement project proposals.

(6) **Relief from development standards and use regulations.** The City may grant relief from Shoreline Master Program development standards and use regulations resulting from shoreline restoration projects consistent with criteria and procedures in WAC 173-27-215.

7.18 Shoreline stabilization

(1) **Subdivision.** Subdivision of land must be based on a geotechnical report prepared in accordance with regulation 7.18(6) to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur.

(2) **New development.**

A. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

B. 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 report prepared in accordance with regulation 7.18(6).

C. New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

(3) **New or enlarged structural stabilization measures, when allowed.** New or enlarged structural stabilization measures shall not be allowed except as follows.

A. To protect existing primary structures, when all of the conditions below apply.

1. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical report prepared in accordance with regulation 7.18(6), that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a geotechnical report, is not demonstration of need. The geotechnical report shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure, stabilization structures or measures to protect existing primary residential structures may be allowed.

2. The stabilization measure will not result in a net loss of shoreline ecological functions.

B. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply.

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

2. Nonstructural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

3. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report prepared in accordance with regulation 7.18(6). The damage must be caused by natural processes, such as tidal action, currents, and waves.

4. The stabilization measure will not result in a net loss of shoreline ecological functions.

C. In support of water-dependent development, when all of the conditions below apply.

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

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

3. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report prepared in accordance with regulation 7.18(6).

4. The stabilization measure will not result in a net loss of shoreline ecological functions.

D. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to RCW 70.105D, when all of the conditions below apply.

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

2. The stabilization measure will not result in a net loss of shoreline ecological functions.

(4) **Replacement of existing structural stabilization measures.** 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 be considered new structures. An existing shoreline stabilization structure may be replaced with a similar structure if in accordance with the following.

A. There is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.

B. The replacement structure must be designed, located, sized, and constructed to assure no net loss of ecological functions.

1. Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, it shall be removed as part of the replacement measure if feasible.

C. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1,

1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

(5) **Repair and maintenance.** Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following provisions. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a shoreline substantial development permit, such activity is not exempt from the provisions of the City's Shoreline Master Program.

A. If within a three-year time period, more than 50 percent of the length of an existing structure is removed, including its footing or bottom course of rock, prior to placement of new stabilization materials, such work will not be considered repair and maintenance and shall be considered replacement. Work that only involves the removal of material above the footing or bottom course of rock does not constitute replacement.

B. Any additions to or increases in the size of existing shoreline stabilization measures, including the placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure, shall be considered new structures, not maintenance or repair.

C. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

(6) **Geotechnical reports.** Geotechnical reports pursuant to this section shall meet the definition of a "geotechnical report" as established in Chapter 2, Definitions, and comply with the following provision, as applicable.

A. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation.

(7) **Design of structural stabilization measures.**

A. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses. Hard armoring solutions shall not be authorized except when a geotechnical report prepared in accordance with regulation 7.18(6) confirms that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent

potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

B. The size of stabilization measures shall be limited to the minimum necessary.

C. Measures shall be used to assure no net loss of shoreline ecological functions.

D. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

E. Avoid and, if that is not possible, minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, the local governments should coordinate shoreline management efforts.

F. Publicly financed or subsidized shoreline erosion control measures must not restrict appropriate public access to the shoreline except where such access is determined to be infeasible in accordance with regulation 6.5(5). Where feasible, ecological restoration and public access improvements shall be incorporated into projects.

7.19 Transportation & parking

(1) **Planning, location and design.** Transportation and parking facilities and routes must be planned, located and designed to have the least possible adverse effect on unique or fragile shoreline features, to not result in a net loss of shoreline ecological functions, and to not adversely impact existing or planned water-dependent uses.

A. Where other options are available and feasible, new roads or road expansions shall not be built within shoreline jurisdiction.

B. 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.

(2) **Parking facilities.** Parking facilities in shorelines are not a preferred use and are subject to the following provisions:

A. Parking shall be allowed only as necessary to support an authorized use.

B. Parking shall be sited outside of shoreline jurisdiction unless no feasible alternative location exists.

C. Parking shall be located landward of the use served, if feasible.

D. Parking shall be planted or landscaped to provide a visual and noise buffer if adjoining dissimilar uses or scenic areas.

7.20 Utilities

(1) **Applicability.** Utilities provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, 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.

(2) **Production and processing facilities.** 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 areas unless it can be demonstrated that no other feasible option is available.

(3) **Transmission facilities.** Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

A. Development of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance that disrupt shoreline ecological functions, should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

(4) **Existing right-of-ways and corridors.** Utilities shall be located in existing right-of-ways and corridors whenever possible.

(5) **Crossings.** Where utility corridors must cross shoreline jurisdiction, such crossings shall take the shortest, most direct route feasible, unless such a route would result in loss of ecological function, disrupt public access to the shoreline, or obstruct visual access to the shoreline.

(6) **Design and location.** All utility facilities shall be designed and located to assure no net loss of shoreline ecological functions.

(7) **Post-installation.** Upon completion of utility system installation, and 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.

8 ADMINISTRATION, PERMITS & ENFORCEMENT

8.1 Administrative responsibilities

(1) **Shoreline Administrator.** The Shoreline Administrator for the City is the City Planner or his/her designee. The Shoreline Administrator is vested with the authority to:

A. Administer the City's Shoreline Master Program.

B. Advise interested persons and prospective applicants as to the administrative procedures and related components of the City's Shoreline Master Program.

C. Determine applicable fees and collect fees for all necessary permits as provided in City ordinances or resolutions.

D. Make field inspections as needed, and prepare or require reports on shoreline permit applications.

E. Make administrative decisions and interpretations of the policies and regulations of the City's Shoreline Master Program and the Shoreline Management Act.

F. Grant or deny exemptions from shoreline substantial development permit requirements.

G. Grant or deny shoreline substantial development permits and time extensions to shoreline permits and their revisions.

H. Make written recommendations to the Hearing Examiner, Planning Commission, or City Council as applicable and appropriate. The Shoreline Administrator may recommend amendments to the City's Shoreline Master Program to the Planning Commission and City Council.

I. Issue a stop work order pursuant to the procedure set forth in WAC 173-27-270 upon a person undertaking an activity on shorelines in violation of RCW 90.58 or the City's Shoreline Master Program, and seek remedies for alleged violations of the City's Shoreline Master Program, provisions of the Shoreline Management Act, or conditions attached to a shoreline permit issued by the City.

(2) **State Environmental Policy Act Official.** The responsible State Environmental Policy Act official or his/her designee is authorized to conduct environmental review of all use and development activities subject to the City's Shoreline Master Program, pursuant to WAC 197-11 and RCW 43.21C. The responsible State Environmental Policy Act official is the City Planner.

(3) **Hearing Examiner.** The Hearing Examiner, if established, shall have the authority to:

A. Grant or deny shoreline conditional use permits.

B. Grant or deny shoreline variance permits.

C. Decide on appeals of administrative decisions issued by the Shoreline Administrator.

(4) **Planning Commission.** If referred to by the City Council, the Planning Commission may review the City's Shoreline Master Program and make recommendations for amendments to the City Council.

(5) **City Council.**

A. The City Council is vested with authority to:

1. Initiate an amendment to City's Shoreline Master Program according to Section 8.16, Amendments.

2. Adopt all amendments to City's Shoreline Master Program, after consideration of the recommendation of the Planning Commission, if provided. Amendments shall become effective 14 days from the date of Ecology's written notice of final approval.

B. If a hearing examiner system has not been established, the City Council is vested with authority to:

1. Grant or deny shoreline conditional use permits.

2. Grant or deny shoreline variance permits.

3. Decide on appeals of administrative decisions issued by the Shoreline Administrator.

8.2 Interpretation

(1) **Administrative interpretations.**

A. Any project permit applicant, Ilwaco resident, owner of real property in Ilwaco, or party of record may request an interpretation of the meaning or application of the City's development regulations applicable to project permit applications.

B. All requests for interpretations must be written and concisely identify the issue and desired interpretation.

C. The City Planner must provide a written administrative interpretation within thirty 30 days of receipt of the request.

D. The City shall consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of RCW 90.58 and WAC 173-26.

8.3 Nonconforming uses, structures & lots

(1) **Applicability.** Nonconforming uses, structures, and lots shall adhere to IMC 15.54 and the following regulations. In the event of a conflict with the following regulations and IMC 15.54, this section shall apply.

(2) **Nonconforming structures.** Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

(3) **Nonconforming lots.** An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the City's Shoreline Master Program, but which does not conform to the present lot size standards, may be developed if permitted by other City land use regulations and so long as such development conforms to all other requirements of the City's Shoreline Master Program and the Shoreline Management Act.

(4) **Pre-existing legal residential structures.** Notwithstanding the above regulations of this section, the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of the City's Shoreline Master Program:

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: setback, buffers, or yards; area; bulk; height; or density.

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 City's Shoreline Master Program, including requirements for no net loss of shoreline ecological functions.

D. 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.

E. Nothing in this section shall:

1. Restrict the ability of the City's Shoreline Master Program to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

2. Affect the application of other federal, state, or City requirements to residential structures.

8.4 Exceptions

(1) **Developments not required to obtain shoreline permits or local reviews.** Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

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

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

C. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

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

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

8.5 Exemptions

(1) **Application and 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. An exemption from the shoreline substantial development permit process is not an exemption from compliance with the Shoreline Management Act or the City's Shoreline Master Program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the provisions of the City's Shoreline Master Program and the Shoreline Management Act. A development or use that is listed as a shoreline conditional use pursuant to City's Shoreline Master

Program 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 dimensional or performance standards of the City's Shoreline Master Program, 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.

D. If any part of a proposed development is not eligible for exemption, then a shoreline substantial development permit is required for the entire proposed development.

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 Shoreline Management Act and the City's Shoreline Master Program.

(2) **Exempt developments.** The City shall exempt from shoreline substantial development permit requirements the shoreline developments listed in WAC 173-27-040(2); RCW 90.58.030(3)(e); RCW 90.58.147; and RCW 90.58.515.

(3) **Letter of exemption.** The City shall issue a letter of exemption when required by WAC 173-27-050. Otherwise, the exemption status shall be documented in the project application file.

8.6 Shoreline permit application requirements

(1) **Shoreline permit application requirements.** A complete application for a shoreline permit shall contain, as a minimum, the following information, as well as any other application requirements identified in the City's Shoreline Master Program.

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

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

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

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

E. Identification of the name of the shoreline waterbody with which the site of the proposal is associated. This should be the waterbody from which jurisdiction of the Shoreline Management Act over the project is derived.

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

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

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

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

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

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

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

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

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

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

7. Where applicable, a landscaping plan for the project.
8. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
9. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
10. Quantity, composition and destination of any excavated or dredged material.
11. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
12. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

(2) **Additional requirements for shoreline variance permit applications.** On all shoreline variance permit applications, the plans shall clearly indicate where development could occur without approval of a shoreline variance permit, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

8.7 Vesting

(1) **Vesting.** A proposed project shall become vested on the date a determination of completeness is made on a shoreline permit or exemption application. Thereafter, the application shall be reviewed under the version of the City's Shoreline Master Program in effect on the date of vesting; provided, in the event an applicant substantially changes the proposal after a determination of completeness, as determined by the Shoreline Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

8.8 Shoreline permit application notice requirements

(1) **Applicability.** The City shall notify the public, Ecology, and other agencies with jurisdiction of applications for a shoreline permit. Notification pursuant to this section may be carried out as a part of an integrated City permit notification procedure.

(2) **Notice of application.** The City shall provide notice of application within 14 days after the determination of completeness as provided in RCW 36.70B.070, and include the following in whatever sequence or format the City deems appropriate:

A. The date of application, the date of the notice of completion for the application, and the date of the notice of application.

B. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070, RCW 36.70B.090 and WAC 173-27-180.

C. The identification of other permits not included in the application, to the extent known by the City.

D. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, the location where the application and any studies can be reviewed.

E. A statement of the public comment period, which shall be not less than 30 days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. The City may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit.

F. The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application.

G. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency.

H. Any other information determined appropriate by the City.

(3) **Open record predecision hearing.** If an open record predecision hearing, as defined in RCW 36.70B.020, is required for the requested project permit(s), the notice of application shall be provided at least 15 days prior to the open record hearing.

(4) **Notification of general public and property owners.** The City shall give notice to the general public and property owners in the vicinity by at least one of the following methods:

A. Mailing of the notice to the latest recorded real property owners as shown by the records of the County assessor within at least 300 feet of the boundary of the property upon which the development is proposed;

B. Posting of the notice in a conspicuous manner on the property upon which the project is to be undertaken; or

C. Any other manner deemed appropriate by the City to accomplish the objectives of reasonable notice to adjacent landowners and the public.

(5) **Notification of individuals and organizations.** The City shall provide for timely notification of individuals and organizations that request such notice in writing.

(6) **Notification of agencies.** The City shall provide notice to all agencies with jurisdiction per RCW 43.21C and to all other agencies that request in writing any such notice.

8.9 Special shoreline permit procedures for limited utility extensions & bulkheads

(1) **Limited utility extension.** For purposes of this section, a "limited utility extension" means the extension of a utility service that:

A. Is categorically exempt under RCW 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 the City's Shoreline Master Program; and

C. Will not extend more than 2,500 linear feet within the shorelines of the state.

(2) **Time periods and procedures.** An application for a shoreline 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 other applicable requirements, except that the following time periods and procedures shall be used:

A. The public comment period shall be 20 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.

B. The City shall issue its decision to grant or deny the permit within 21 days of the last day of the comment period.

C. 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 30 days.

8.10 Shoreline permit review criteria

8.10.1 Review criteria for all development

(1) **Consistency.** No authorization to undertake use or development on shorelines of the state shall be granted by the City unless upon review the use or development is determined to

be consistent with the provisions of the Shoreline Management Act and the City's Shoreline Master Program.

8.10.2 Review criteria for shoreline substantial development permits

(1) **Authorization criteria.** A shoreline substantial development permit shall be granted only when the development proposed is consistent with:

A. The policies and procedures of the Shoreline Management Act;

B. The provisions of this regulation; and

C. The City's Shoreline Master Program.

(2) **Conditions.** The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the Shoreline Management Act and the City's Shoreline Master Program.

8.10.3 Review criteria for shoreline conditional use permits

(1) **Applicability.** The purpose of a shoreline conditional use permit is to provide a system within the City's Shoreline Master Program that allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a shoreline conditional use, special conditions may be attached to the permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and the City's Shoreline Master Program.

(2) **Authorization criteria.** Uses which are classified or set forth in the City's Shoreline Master Program as shoreline conditional uses may be authorized provided that the applicant demonstrates all of the following:

A. That the proposed use is consistent with the policies of RCW 90.58.020 and the City's Shoreline Master Program;

B. That the proposed use will not interfere with the normal public use of public shorelines;

C. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and the City's Shoreline Master Program;

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

E. That the public interest suffers no substantial detrimental effect.

(3) **Consideration of cumulative impacts.** In the granting of all shoreline 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.

(4) **Uses not classified.** Other uses which are not classified or set forth in the City's Shoreline Master Program may be authorized as shoreline conditional uses provided the applicant can demonstrate consistency with the requirements of this section.

(5) **Prohibited uses.** Uses which are specifically prohibited by the City's Shoreline Master Program may not be authorized.

8.10.4 Review criteria for shoreline variance permits

(1) **Applicability.** The purpose of a shoreline variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the City's Shoreline Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the City's Shoreline Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

(2) **Circumstances.** 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 shall be shown and the public interest shall suffer no substantial detrimental effect.

(3) **Authorization criteria, landward of ordinary high water mark.** Shoreline variance permits for development and/or uses that will be located landward of the ordinary high water mark, as defined in RCW 90.58.030(2)(c), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

A. That the strict application of the bulk, dimensional or performance standards set forth in the City's Shoreline Master Program precludes, or significantly interferes with, reasonable use of the property;

B. That the hardship described in regulation 8.10.4(3)A is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the City's Shoreline Master Program, and not, for example, from deed restrictions or the applicant's own actions;

C. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and the City's Shoreline Master Program and will not cause adverse impacts to the shoreline environment;

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

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

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

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

A. That the strict application of the bulk, dimensional or performance standards set forth in the City's Shoreline Master Program precludes all reasonable use of the property;

B. That the proposal is consistent with the criteria established under regulation 8.10.4(3)B through regulation 8.10.4(3)F; and

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

(5) **Consideration of 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. For example if shoreline variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the shoreline variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

(6) **Variances from use.** Variances from the use regulations of the City's Shoreline Master Program are prohibited.

8.11 Filing with Ecology

(1) **Submittal upon final decision.** All applications for a permit or a permit revision shall be submitted to Ecology upon a final decision by the City. Final decision by the City shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed.

(2) **Concurrent submittals.** When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

(3) **Submittal requirements.** A complete submittal shall consist of the following documents and information:

(a) A copy of the complete application pursuant to Section 8.6, Shoreline permit application requirements;

(b) Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable policies and regulations of the City's Shoreline Master Program and the consistency of the project with appropriate review criteria for the type of permit(s) as established in Section 8.10, Shoreline permit review criteria;

(c) The final decision of the City;

(d) The permit data sheet required by WAC 173-27-190; and

(e) Where applicable, the City shall also file the applicable documents required by chapter 43.21C RCW, the State Environmental Policy Act, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under chapter 43.21C RCW.

(4) **Project modification during City review.** When the project has been modified in the course of the City review process, plans or text shall be provided to Ecology that clearly indicate the final approved plan.

(5) **Incomplete submittals.** Submittal of substantial development permits, conditional use permits, variances, rescissions and revisions is complete when all of the documents required pursuant to regulation 8.11(3) and regulation 8.11(4) have been received by Ecology. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and so notify the City and the applicant in writing. Ecology will not act on conditional use permit or variance submittal until the material requested in writing is submitted to Ecology.

(8) **Notice of "date of filing."** Ecology shall provide a written notice to the City and the applicant of the "date of filing."

(9) **Transmittal of decision.** Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with Ecology and the attorney general.

(10) **Appeals.** See Section 8.14, Appeals of final permit decisions.

8.12 Time requirements of shoreline permits

(1) **Applicability.** The time requirements of this section shall apply to all shoreline permits authorized by the City's Shoreline Master Program.

(2) **Different time limits.** Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the provisions of the City's Shoreline Master Program, the City may adopt different time limits from those set forth in regulation 8.12(3) and regulation 8.12(4) as a part of action on a shoreline permit.

(3) **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 the shoreline permit. 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 permit and to Ecology.

(4) **Termination.** Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit. 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 permit and to Ecology.

(5) **Effective date.** The effective date of a shoreline permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in regulation 8.12(3) and regulation 8.12(4) 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.

(6) **Revisions.** Revisions to permits 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 shoreline substantial development after the time limits of the original permit.

(7) **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.

8.13 Shoreline permit revisions

(1) **Applicability.** A permit revision is required whenever an 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, the City's Shoreline Master Program and/or the policies and provisions of RCW 90.58. Changes that are not substantive in effect do not require approval of a revision.

(2) **Description of proposed changes.** When an applicant seeks to revise a permit, the City shall request from the applicant detailed plans and text describing the proposed changes.

(3) **Approval of revisions.** If the City determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the City's Shoreline Master Program and the Shoreline Management Act, the City may approve a revision. If the revision, or the sum of the revision and any previously approved revisions, are not within the scope and intent of the original permit, the City shall require that the applicant apply for a new permit.

A. "Within the scope and intent of the original permit" means all of the following:

1. No additional over water construction is involved except that pier, dock, or float construction may be increased by 500 square feet or ten percent from the provisions of the original permit, whichever is less;

2. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

3. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the City's Shoreline Master Program except as authorized under a shoreline variance granted as the original permit or a part thereof;

4. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the City's Shoreline Master Program;

5. The use authorized pursuant to the original permit is not changed; and

6. No adverse environmental impact will be caused by the project revision.

(4) **Revisions after original permit authorization has expired.** Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes that are consistent with this section and that would not require a permit for the development or change proposed under the terms of RCW 90.58, this regulation and the City's Shoreline Master Program. If the proposed change constitutes substantial development then a new permit is

required. Provided, this regulation shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

(5) **Filing and notification.** The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 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.

(6) **Revisions to shoreline conditional use permits and shoreline variance permits.** If the revision to the original permit involves a shoreline conditional use permit or shoreline variance permit, 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 regulation. Ecology shall render and transmit to the City and the applicant its final decision within 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) **Effective date.** The revised permit is effective immediately upon final decision by the City or, when appropriate under regulation 8.13(6), upon final action by Ecology.

(8) **Appeals.** See Section 8.14, Appeals of final permit decisions.

8.14 Appeals of final permit decisions

(1) **Appeals.** All appeals of any final permit decisions under RCW 90.58 and WAC 173-27 are governed by the procedures established in RCW 90.58.180 and WAC 461-08.

8.15 Enforcement

(1) **WAC 173-27 Part II.** The City shall apply WAC 173-27 Part II, Shoreline Management Act Enforcement, to enforce the provisions of the City's Shoreline Master Program.

(2) **Penalty.**

A. When a shoreline area has been altered in violation of the City's Shoreline Master Program, the City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of the City's Shoreline Master Program. No permit or approval for development of the property shall be authorized or granted for a period of up to three years from completion of restoration as determined by the Shoreline Administrator. In the event of intentional or knowing violation of the City's Shoreline Master Program, the City may bring any appropriate actions in law or equity, including injunctive relief, against the owner of the land and/or the operator who

committed the violation to ensure that no uses are made of shoreline areas that are inconsistent with the City's Shoreline Master Program.

B. Failure to comply with the provisions of the City's Shoreline Master Program will cause the violator to be subject to enforcement procedures under both the City's Shoreline Master Program and applicable requirements of Ilwaco City Code including the provisions of Title 11 "Enforcement Procedures".

(3) **Restoration plan.**

A. All development work shall remain stopped until a restoration plan is prepared at the applicant's cost and approved by the Shoreline Administrator. The Shoreline Administrator may approve, reject or approve the plan with conditions. All restoration shall be consistent with the approved restoration plan.

1. The plan shall be prepared by a qualified professional using the most current, accurate, and complete scientific or technical information available.

2. In preparing and approving the restoration plan, the applicant and the City, respectively, should consult with the Department of Fish and Wildlife, Department of Natural Resources, and the Department of Ecology, as appropriate.

3. The Shoreline Administrator may, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

B. Restoration plan contents.

1. A site plan depicting site characteristics prior to disturbance; the extent of disturbance, or permitted action requiring mitigation, including an inventory of all vegetation cleared shall be shown; and

2. A site plan depicting the specific location of all proposed restoration measures. Those measures shall include:

a. Measures necessary to restore the shoreline area, including, but not limited to, removal of fill, regrading to original contours, replacement of excavated material, revegetation of all cleared areas with native trees and/or plants and removal of structures; or

b. Location of the proposed mitigation action, ownership, and methods to recreate, as nearly as possible, the original wetlands or vegetation area in terms of acreage function, geographic location and setting.

3. A schedule for restoration; and

4. A monitoring plan to evaluate periodically the success of the restoration and provide for amendments to the plan which may become necessary to achieve its purpose.

(3) In any designated shoreline area where restoration has been required, the applicant, at its own cost, shall provide for seasonal monitoring of the site by a qualified biologist or other qualified professional, for a period of at least three years after completion. The applicant shall submit an annual report to the Shoreline Administrator that discusses:

A. The condition of introduced or reintroduced plant species;

B. The condition of open water areas or other water features;

C. Use of the site by fish and wildlife species;

D. Any disturbances or alterations and their effects on the restoration;

E. Additional or corrective measures which should be taken to ensure the success of the restoration; and

F. Other information that the Shoreline Administrator considers necessary to assess the status of the restoration.

(4) Prior to commencing restoration, the applicant shall post with the City a bond or other security in an amount sufficient to cover the cost of conformance with the conditions of the restoration plan, including corrective work necessary to provide adequate drainage, stabilize and restore disturbed areas, and remove sources of hazard associated with work that is not completed. After the Shoreline Administrator determines that restoration has been completed in compliance with approved plans and the monitoring period has expired, the bond or other security shall be released. The City may collect against the bond when work that is not completed is found to be in violation of the conditions set forth in the restoration plan and/or the Shoreline Administrator determines that the site is in violation of the purposes of the City's Shoreline Master Program.

8.16 Amendments

(1) **Process.** Amendments to the City's Shoreline Master Program shall be processed according to the procedures prescribed in WAC 173-26-100 or WAC 173-26-104.

8.17 Shoreline activity tracking

(1) **Documentation of City shoreline project review actions.** The City shall document all project review actions in shoreline jurisdiction, including shoreline substantial development permits, shoreline conditional use permits, shoreline variance permits and shoreline exemptions.

(2) **Periodic evaluation.** The City shall conduct a review of the City's Shoreline Master Program once every eight years, or as required by RCW 90.58.080. Using the information collected per regulation 8.17(1), the City shall evaluate the cumulative effects of authorized development on shoreline conditions.

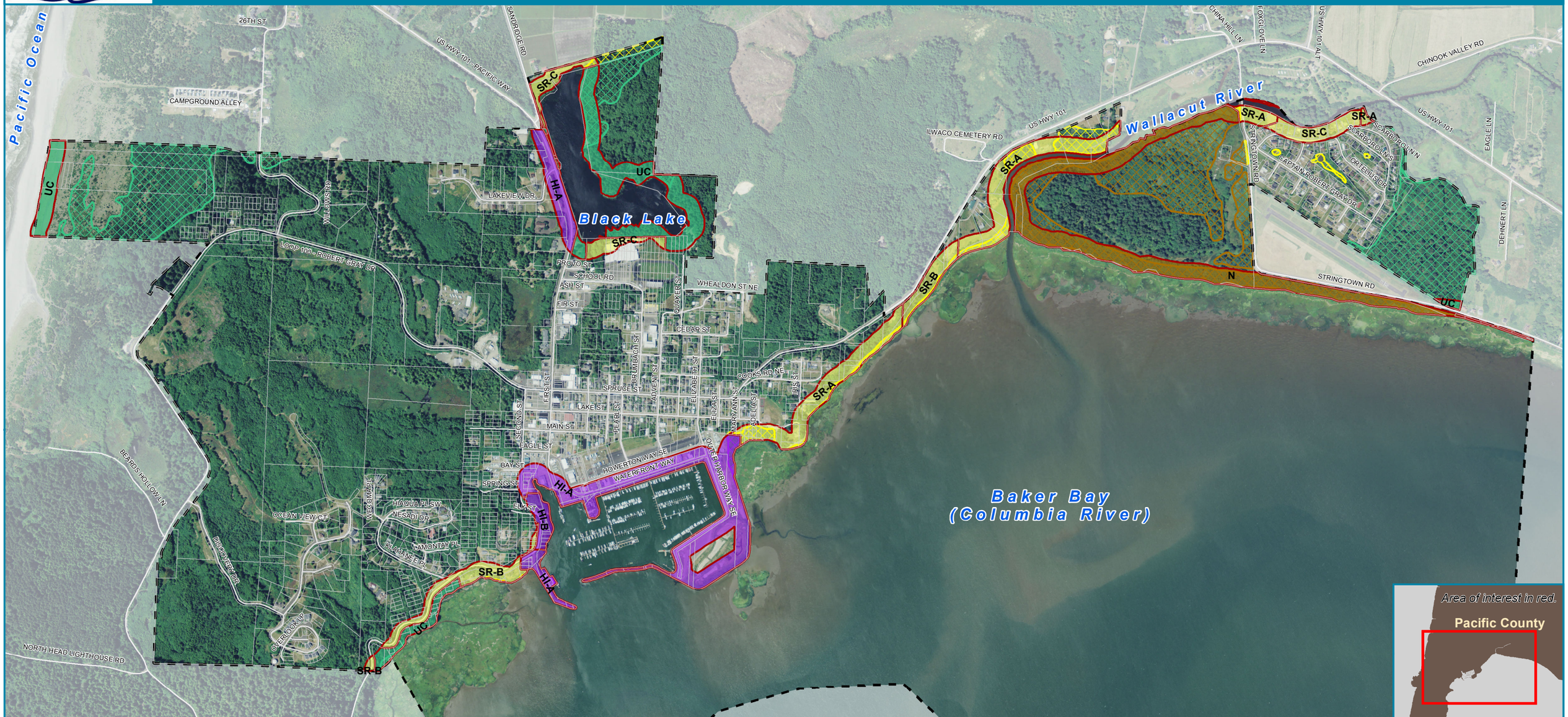
8.18 Annexation

(1) **Annexation of shoreline areas.** City annexation of shoreline areas is subject to the requirements of WAC 173-26-150 and WAC 173-26-160.

APPENDIX A:
OFFICIAL SHORELINES MAP

CITY OF ILWACO

OFFICIAL SHORELINES MAP



Environment Designation[1]

- High-Intensity
- Natural
- Shoreline Residential
- Urban Conservancy

Potentially Associated Wetland

- High-Intensity
- Natural
- Shoreline Residential
- Urban Conservancy

- Environment designation boundary
- Parcel boundary
- Road
- City limit

Notes:

[1] All areas waterward of the ordinary high water mark are designated Aquatic.

0 1,000 2,000 Feet

Original Scale=1:14,500 @ 11 x 17 layout.

THE WATERSHED COMPANY

January 2017

All features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/ verify information shown on this map.

APPENDIX B:
SHORELINE CRITICAL AREAS REGULATIONS

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1 GENERAL PROVISIONS

A. Purpose

1. The purpose of this appendix is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.
2. The City finds that the beneficial functions, structure, and values of critical areas should be protected as identified in this appendix, and further that potential dangers or public costs associated with inappropriate use of such areas should be minimized by reasonable regulation of uses within, adjacent to, or directly affecting such areas. Reasonable regulation shall be achieved by the balancing of individual and collective interests. The most current, accurate, and complete scientific or technical information available shall be used in the administration of this appendix.

B. General critical areas review procedures

Following is a general description of the general procedures for critical areas review under the City's Shoreline Master Program.

1. The Shoreline Administrator first must determine whether the proposed activity fits within any of the exemptions or partial exemptions identified in this appendix. If the proposed activity meets any of the listed exemptions or partial exemptions, no critical area checklist or critical area report is required.
2. If the proposed activity does not fit within any of the exemptions the partial exemptions identified in this appendix, then the applicant shall submit a complete critical area checklist on a form provided by the City.
3. After receipt of a project application and a complete critical area checklist, the Shoreline Administrator shall conduct a site inspection to review critical area conditions on site.
4. Based on the critical areas checklist, site inspection, and other information available pertaining to the site and proposal, the Shoreline Administrator shall make a determination as to whether any critical areas may be affected by the proposal.
5. If the Shoreline Administrator's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area or buffer, then the Shoreline Administrator shall conclude critical area review pursuant to this appendix and

document the reasons that no further review is required in any staff report or decision on the shoreline permit.

6. If the Shoreline Administrator determines that there are critical areas or buffers within or adjacent to the project area, but that the proposed activity is unlikely to degrade the functions or values of the critical area or buffer, the Shoreline Administrator may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met. A summary of this analysis and the findings shall be included in any staff report or decision on the shoreline permit.
   a. There will be no alteration of the critical area or buffer.
   b. The development proposal will not impact the critical area or buffer in a manner contrary to the purposes, intent, and requirements of the City's Shoreline Master Program.
7. If the Shoreline Administrator determines that a critical area or buffer may be affected by the proposal, then the Shoreline Administrator shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.
8. The City's determination regarding critical areas pursuant to this appendix shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

C. Exemptions from critical area review

1. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this appendix does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.
2. The following developments, activities, and associated uses shall be exempt from the provisions of this appendix, provided they are otherwise consistent with the applicable provisions of other local, state, and federal requirements:
   a. Emergencies. Emergencies are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this appendix.

i. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer.

ii. The person or agency undertaking such action shall notify the Shoreline Administrator within one working day following commencement of the emergency activity. Following such notification, the Shoreline Administrator shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Shoreline Administrator determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of IMC 15.18.010.T, Unauthorized Alterations and Enforcement, shall apply.

iii. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan must be reviewed by the Shoreline Administrator. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner.

b. Operation, Maintenance, or Repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private highways and other roads, dikes, levees, drainage systems, or agricultural improvements that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species.

c. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of

excavation. In every case, impacts to the critical area shall be minimized, and disturbed areas shall be immediately restored.

d. Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Title 222 WAC, provided that forest practice conversions are not exempt.

e. Navigation Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers.

f. Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, such as fishing and hiking. Trails must be constructed pursuant to regulation 1.D.3.d of this appendix, Public and Private Pedestrian Trails.

D. Partial exemptions from critical area review

1. Activities allowed under this subsection are subject to review and approval by the City, but do not require submittal of a critical area checklist or critical area report. The Shoreline Administrator may apply conditions to the shoreline permit or authorization to ensure consistency with the provisions of this appendix.

2. Activities allowed under this subsection must be conducted using the best management practices that result in the least amount of impact to the critical area or buffer. Any incidental damage to, or alteration of, a critical area or buffer shall be restored, rehabilitated, or replaced at the responsible party's expense.

3. The following developments, activities, and associated uses shall be partially exempt from the provisions of this appendix, provided they are otherwise consistent with the applicable provisions of the City's Shoreline Master Program and other local, state, and federal requirements:

   a. Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement.

   b. Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a City-authorized private roadway, except those activities that alter a wetland or watercourse,

such as culverts or bridges, or result in the transport of sediment or increased stormwater.

c. Minor Utility Projects. Utility projects which have minor or short-duration impacts to critical areas, as determined by the Shoreline Administrator in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s), provided that such projects are constructed using best management practices and additional restoration measures are provided. Minor activities must not result in the transport of sediment or increased stormwater. Such allowed minor utility projects must meet the following criteria:

   i. The activity involves the placement of a utility pole, street signs, anchor, vault or other small component of a utility facility; and

   ii. There is no practical alternative to the proposed activity with less impact on critical areas.

d. Public and Private Pedestrian Trails. Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:

   i. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas.

   ii. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

e. Select Vegetation Removal Activities. The following vegetation removal activities, provided that no vegetation shall be removed from a critical area or its buffer without approval from the Shoreline Administrator:

   i. The removal of invasive and noxious weeds designated in Chapter 17.10 RCW with hand labor and light equipment.

   ii. The enhancement of a buffer by planting indigenous vegetation.

   iii. The removal of trees or portions of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, provided that:

      (a) It is demonstrated to the satisfaction of the Shoreline Administrator or his or her designee(s) that an imminent threat exists to public safety, or an imminent risk of damage to private or public property. Landowner shall provide to the Shoreline Administrator with a written statement describing the tree

location, danger it poses, and proposed mitigation.

(b) Should the imminent threat or risk not be apparent to the Shoreline Administrator (as danger trees are defined in Chapter 2 of the main body of the City's Shoreline Master Program, Definitions), the Shoreline Administrator may require the landowner to submit a report from a professional forester, certified arborist, or registered landscape architect that documents the hazard and provides a replanting schedule, if tree removal is proposed.

(c) Before a danger tree may be felled or removed, with the exception of an emergency pursuant to WAC 173-27-040(2)(d), the landowner shall obtain written approval from the Shoreline Administrator. This approval shall be processed promptly and may not be unreasonably withheld.

(d) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified.

(e) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods for removal that will minimize impacts.

(f) Trees felled as danger trees shall be counted towards any allowed vegetation clearing amounts.

(g) Mitigation measures are approved by the Shoreline Administrator, and may include, but not be limited to the following:

(i) Any trees that are removed must be replaced within one year with new trees at a ratio of six replacement native trees for each tree removed. Should a report be submitted under regulation 1.D.3.e.iii.(b) of this appendix, it shall contain recommendations for suitable replacement trees;

(ii) Felled trees shall be left within the critical area or buffer unless a submitted report warrants its removal to avoid spreading of disease or pests;

(iii) The trunk of the cut tree may be segmented, but should be left in as large of segments as possible to provide habitat;

(iv) The branches from the cut tree may be removed to control fire hazard; and

(v) Additional mitigation may be required if three or more trees are to be felled on one property with a 10-year period.

iv. Harvesting of wild crops which do not significantly affect the viability of the wild crop, the function of the critical area or its regulated buffer (does not include tilling of soil or alteration of the critical area or its regulated buffer area).

v. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act; Chapter 76.09 RCW, provided that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan.

E. General critical area protective measures

1. Buffers. When more than one critical area is present and multiple buffers are required, all required buffers shall be provided, unless otherwise specified in this appendix. Where buffers overlap, the most protective buffer shall apply.

2. Building Setbacks. Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required. The following may be allowed in the building setback area: landscaping; uncovered decks; building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and impervious ground surfaces, such as driveways and patios.

3. Critical Area Signs. The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site. These sign provisions may be modified or waived by the Shoreline Administrator based on critical area type and/or site conditions.

4. Notice on Title.

   a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the County Recording Department according to the direction of the City. The notice shall state the presence of the critical area or buffer on the property and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."

   b. This notice on title shall not be required for a development proposal by a public agency or public or private utility:

      i. Within a recorded easement or right-of-way;

ii. Where the agency or utility has the right to an easement or right-of-way; or

iii. On the site of a permanent public facility.

c. The applicant shall submit proof that the notice has been filed for public record before the City approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

5. Native Growth Protection Areas.

a. Native growth protection areas shall be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below:

i. All landslide hazard areas and buffers;

ii. All wetlands and buffers;

iii. All habitat conservation areas; and

iv. All other lands to be protected from alterations as conditioned by project approval.

b. Native growth protection areas shall be recorded on all documents of title of record for all affected lots.

c. Native growth protection areas shall be designated on the face of the plat or recorded drawing in a format approved by the City Attorney. The designation shall include the following restrictions:

i. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and

ii. The right of the City to enforce the terms of the restriction.

6. Critical Area Inspections. Reasonable access to the site shall be provided to the City, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

F. Critical area report

1. Minimum Report Contents. At a minimum, the report shall contain the following, as applicable:

   a. The name and contact information of the applicant, a description of the proposal, and identification of any permits known to be required;

   b. A site plan for the development proposal including a map to scale depicting critical areas, buffers, and the development proposal, including any areas to be cleared;

   c. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;

   d. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

   e. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;

   f. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

   g. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development;

   h. A description of reasonable efforts made to apply mitigation sequencing pursuant to regulation 1.G.2 of this appendix;

   i. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with regulation 1.G.3 of this appendix;

   j. A discussion of the performance standards applicable to the critical area and proposed activities;

   k. Financial guarantees to ensure compliance; and

   l. Any additional information required for a specific type of critical area as indicated by this appendix.

G. Mitigation

1. General Requirements.

   a. The applicant shall avoid all impacts that degrade the functions and values of critical areas. Unless otherwise provided in this appendix, if alteration to a critical area is unavoidable, all adverse impacts to or from critical areas and

buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific or technical information available in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.

b. Mitigation shall be in-kind and on-site, when possible or unless mitigation at a regional or watershed-based location provides greater environmental benefit, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

c. Mitigation shall not be implemented until after City approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

2. Mitigation Sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the below sequential order of preference. Mitigation for individual actions may include a combination of the below measures.

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 to wetlands, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;

d. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

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

f. Compensating for the impact to wetlands, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

g. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

3. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval a mitigation plan as part of the critical area report. The mitigation plan shall include:

    a. A description of the anticipated impacts to critical areas and the mitigating actions proposed, including compensation goals and objectives, mitigation site selection, and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area.

    b. The mitigation plan shall include performance standards for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this appendix have been met.

    c. Detailed construction plans.

    d. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

    e. The mitigation plan shall include a contingency plan, identifying potential courses of action and corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

    f. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with IMC 15.02.030, Applicability. In the event that a permit applicant does not provide adequate security for the mitigation required as a condition of its approval, then the Shoreline Administrator shall have the discretion of requiring that the mitigation be completed prior to the issuance of the final approval.

4. Innovative Mitigation. The City may encourage, facilitate, and approve innovative mitigation projects that are based on the most current, accurate, and complete scientific or technical information available.

H. Nonconforming uses & structures

1. Nonconforming uses and structures shall be subject to Section 8.3 of the main body of the City's Shoreline Master Program, Nonconforming uses, structures, and lots, and the following provision. In the event of any conflict, the following provision shall apply.

2. Expansion of an existing non-conforming use or structure into the buffer and associated building setback of a fish and wildlife habitat conservation area or wetland may be allowed, where expansion outside of the buffer and associated building setback is not feasible and where the purpose of the expansion is to serve a function that is an essential component of the use or structure. Expansion into an actual critical area is prohibited. Decreasing the distance between the critical area and the existing use or structure requires a shoreline variance as prescribed in the main body of the City's Shoreline Master Program. Any expansion must comply with all other applicable requirements of the City code.

    a. For purposes of this provision, expansion outside of the buffer and associated building setback shall be considered not feasible only when, considering the function to be served by the expansion and the existing structure or use's layout and infrastructure (e.g. plumbing, drainage and electrical systems):

        i. Expansion away from the buffer and associated building setback within the buildable area of the site will not realize the intended functions of the expansion; and

        ii. Expansion away from the buffer and associated building setback, including into non-critical area setbacks, will not realize the intended functions of the expansion; and

        iii. Expansion upwards to the maximum building height of the underlying land use district, within the existing footprint, or together with expansions permitted under regulations 1.H.2.a and 1.H.2.b of this appendix, will not realize the intended functions of the expansion.

    b. Where allowed, expansions into the buffer and associated building setback shall be limited as follows:

        i. The expansion shall be along or behind the existing building line parallel to the edge of the critical area, unless such expansion is not feasible. When such expansion is not feasible expansion may only encroach further into the buffer or associated building setback subject to a shoreline variance.

ii. Expansions shall be the minimum necessary to achieve the intended functions of the expansion, but in no event may the footprint expansion within the buffer and associated building setback exceed 1,000 square feet over the life of the structure.

iii. Areas of new permanent disturbance and all areas of temporary disturbance within the buffer shall be mitigated and/or restored pursuant to a mitigation plan.

2 WETLANDS

A. Purpose

1. The purpose of this section is to recognize and protect the beneficial functions performed by wetlands.
2. This section regulates land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout the City.
3. This section establishes review procedures for development proposals in and adjacent to wetlands.

B. Identification & rating

1. Identification of wetlands and delineation of their boundaries pursuant to this section shall be done by a qualified professional in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City meeting the wetland designation criteria in that procedure are designated critical areas and are subject to this appendix.
2. If the City has reason to believe that a wetland may exist within 315 feet of a proposed development activity, a written determination by a qualified professional, in accordance with the methods in regulation 2.B.1 of this appendix, regarding the existence or nonexistence of wetlands within 315 feet of the proposed development activity must be submitted.
3. If it is determined under regulation 2.B.2 of this appendix that wetlands exist, a wetland delineation must be obtained when an activity regulated under the City's Shoreline Master Program is proposed within 315 feet of the wetland boundary. A written wetland report shall be prepared by a qualified professional pursuant to subsection 2.G of this appendix, Critical area report for wetlands. Wetland delineations are valid for five years; after such date, the City shall determine whether a revision or additional assessment is necessary.

4. Rating. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington (Ecology Publication #14-06-029, or as revised and approved by Ecology).

5. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

C. Regulated activities

1. The following activities are regulated if they occur in a regulated wetland or its buffer:

    a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.

    b. The dumping of, discharging of, or filling with any material.

    c. The draining, flooding, or disturbing of the water level or water table.

    d. Pile driving.

    e. The placing of obstructions.

    f. The construction, reconstruction, demolition, or expansion of any structure.

    g. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.

    h. "Class IV - General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222-12-030, or as thereafter amended.

    i. Activities that result in:

        i. A significant change of water temperature.

        ii. A significant change of physical or chemical characteristics of the sources of water to the wetland.

        iii. A significant change in the quantity, timing, or duration of the water entering the wetland.

        iv. The introduction of pollutants.

2. Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:

a. Land that is located wholly within a wetland or its buffer may not be subdivided.

b. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:

   i. Located outside of the wetland and its buffer; and

   ii. Meets the minimum lot size requirements of IMC Title 15, Part 3, Zoning.

D. Partial exemptions for wetlands & wetland buffers

In addition to the partial exemptions identified in subsection 1.D of this appendix, Partial exemptions, the activities listed below are allowed in wetlands and wetland buffers and do not require submission of a critical area report, except where such activities would result in a loss of the functions and values of a wetland or wetland buffer.

1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.

2. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

3. Drilling for utilities/utility corridors under a wetland or buffer, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the groundwater connection to the wetland or percolation of surface water down through the soil column will be disturbed.

4. Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

E. Additional partial exemptions for wetland buffers

In addition to the activities identified in subsection 2.D of this appendix, Partial exemptions for wetlands and wetland buffers, the following uses may be allowed within a wetland buffer, but not within a wetland, in accordance with the review procedures of this appendix, provided they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Passive recreation facilities designed and in accordance with an approved critical area report, including:
    a. Walkways and trails, provided that pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25 percent of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks with non-treated pilings may be acceptable.
    b. Wildlife-viewing structures.
2. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only, provided that:
    a. No other location is feasible; and
    b. The location of such facilities will not degrade the functions or values of the wetland.

F. Wetland buffers

1. Buffer Requirements. Wetland buffer zones shall be required for all regulated activities adjacent to regulated wetlands.
2. Standard Buffer Widths. The standard buffer widths in the table below have been established in accordance with the most current, accurate, and complete scientific or technical information available. They are based on the category of wetland, the intensity of the adjacent land use, and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.
    a. In determining wetland buffer widths, land use intensity shall be defined are as follows:

i. High-intensity land uses include commercial, institutional, dense residential (>1 unit/acre), and high-intensity recreation, such as ball fields.

ii. Moderate-intensity land uses include residential (≤1 unit/acre), moderate-intensity open space, paved trails, and maintained utility corridors.

iii. Low-intensity uses include forestry, open space, unpaved trails, and low-maintenance utility corridors.

b. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Table B2-1. Standard wetland buffer widths

Wetland Category	Habitat Score (2014 Rating System)	Land Use Impact		
		Low	Moderate	High
Category I: Bogs	NA	125 ft	190 ft	250 ft
Category I: Wetlands with a High Conservation Value	NA	125 ft	190 ft	250 ft
Category I: Estuarine	NA	100 ft	150 ft	200 ft
Category I: Coastal Lagoons	NA	100 ft	150 ft	200 ft
Category I: Forested	Base buffer width on habitat function			
Category I (other than above)	8-9	150 ft	225 ft	300 ft
	6-7	75 ft	110 ft	150 ft
	< 6	50 ft	75 ft	100 ft
Category II: Interdunal	NA	75 ft	110 ft	150 ft
Category II: Estuarine	NA	75 ft	110 ft	150 ft
Category II (other than above)	8-9	150 ft	225 ft	300 ft
	6-7	75 ft	110 ft	150 ft
	< 6	50 ft	75 ft	100 ft
Category III	6-7	75 ft	110 ft	150 ft
	< 6	40 ft	60 ft	80 ft
Category IV	N/A	25 ft	40 ft	50 ft

3. Increased Wetland Buffer Widths. Buffer widths shall be increased on a case-by-case basis as determined by the City when a larger buffer is necessary to protect

wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include, but not be limited to, the following criteria:

a. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees;

b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

4. Buffer Averaging. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

a. The wetland has significant differences in characteristics that affect its habitat functions.

b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical area report from a qualified wetland professional.

c. The total area of the buffer after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

5. Measurement of Wetland Buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

6. Buffers on Mitigation Sites. All mitigation sites shall have buffers consistent with the buffer requirements of this section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

7. Signs and Fencing of Wetlands and Buffers:

a. Permanent Signs. As a condition of any permit or authorization issued pursuant to this section, the City may require the applicant to install permanent signs along the boundary of a wetland or buffer.

i. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the City:

Do Not Disturb
Protected Wetland Area
Contact City of Ilwaco
Regarding Uses, Restrictions, and Opportunities for Stewardship

b. Fencing.

i. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

ii. Fencing installed as part of a proposed activity or as required in this subsection shall be designed to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

8. Buffer Maintenance. Except as otherwise specified or allowed in accordance with the City's Shoreline Master Program, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond.

G. Critical area report for wetlands

1. When Required. If the City determines that a wetland exists within 315 feet of the site of a proposed development activity, a wetland report prepared by a qualified professional shall be required. The expense of preparing the wetland report shall be borne by the applicant.

2. Minimum Standards for Wetland Reports. In addition to the general critical area report requirements of subsection 1.F of this appendix, Critical area report, critical area reports for wetlands must meet the following requirements.

a. The written report shall include at a minimum:

   i. A description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses, including references.

   ii. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 315 feet of the project boundaries using the best available information.

   iii. For each wetland identified on site and within 315 feet of the project site provide: the wetland rating, including a description of and score for each function; required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g. algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

   iv. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative.

   v. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.

   vi. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

   vii. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

b. A copy of the site plan for the project must be included with the written report and must include, at a minimum:

i. Maps (to scale) depicting delineated and surveyed wetland and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates).

ii. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

H. Compensatory mitigation

1. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate compliance with regulation 1.G.2 of this appendix.

2. Requirements for Compensatory Mitigation:

   a. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06- 011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009).

   b. Mitigation ratios shall be consistent with this section.

   c. Mitigation requirements may also be determined using the credit/debit tool described in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised) consistent with regulation 2.H.8 of this appendix.

3. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

   a. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide

functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or

b. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.

4. Preference of Mitigation Actions. Mitigation for lost or diminished wetland and buffer functions shall rely on the types below in the following order of preference:

a. Restoration (re-establishment and rehabilitation) of wetlands:

i. The goal of re-establishment is returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

ii. The goal of rehabilitation is repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

b. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. Establishment results in a gain in wetland acres. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.

i. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the approval authority may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland scientist that:

(a) The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;

(b) The proposed mitigation site does not contain invasive plants or noxious weeds or that such vegetation will be completely eradicated at the site;

(c) Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g. due to the presence of invasive plants or noxious weeds, stormwater runoff,

noise, light, or other impacts); and

(d) The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

c. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Applicants proposing to enhance wetlands or associated buffers shall demonstrate:

i. How the proposed enhancement will increase wetland and/or buffer functions;

ii. How this increase in function will adequately compensate for the impacts; and

iii. How all other existing wetland functions at the mitigation site will be protected.

d. Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, provided that a minimum of 1:1 acreage replacement is provided by re-establishment or creation. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being altered and the quality of the wetlands being preserved. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

i. The area proposed for preservation is of high quality. The following features may be indicative of high-quality sites:

(a) Category I or II wetland rating (using the wetland rating system for western Washington).

(b) Rare wetland type (for example, bogs, mature forested wetlands, estuarine wetlands).

(c) The presence of habitat for priority or locally important wildlife species.

(d) Priority sites in an adopted watershed plan.

ii. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other listed species.

iii. There is no net loss of habitat functions within the watershed or basin.

iv. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.

v. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by a land trust.

vi. The impact area is small (generally <½ acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

vii. The preservation site includes buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

5. Location of Compensatory Mitigation. Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of paragraphs below apply. In that case, mitigation may be allowed off-site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to alternative mitigation, such as a mitigation bank, an in-lieu fee program, or advanced mitigation.

a. There are no reasonable opportunities on site or within the sub-drainage basin (e.g. on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity).

b. On-site mitigation would require elimination of high-quality upland habitat.

c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

d. Off-site locations shall be in the same sub-drainage basin unless:

i. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site;

ii. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument; or

iii. Fees are paid to an approved in-lieu fee program to compensate for the impacts.

e. The design for the compensatory mitigation project needs to be appropriate for its location (i.e. position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g. created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e. the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

6. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

a. The City may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g. project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental

constraints that preclude implementation of the compensatory mitigation plan.

7. Wetland Mitigation Ratios.[1]

Table B2-2. Wetland mitigation ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I: Bog, Natural Heritage site	Not considered possible	Case by case	Case by case
Category I: Estuarine	Case by case	6:1 rehabilitation of an estuarine wetland	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II: Estuarine	Case by case	4:1 rehabilitation of an estuarine wetland	Case by case
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

[1] Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment. See Table 1a, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance--Version 1, (Ecology Publication #06-06-011a, Olympia, WA, March 2006 or as revised). See also regulation I.4.d for more information on using preservation as compensation.

8. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the Shoreline Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report," (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised).

9. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

   a. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan.

b. Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in Washington State– Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).

i. The written report must contain, at a minimum:

(a) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

(b) Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.

(c) Description of the existing wetland and buffer areas proposed to be altered. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating.

(d) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession?).

(e) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.

(f) A description of the proposed mitigation construction activities and timing of activities.

(g) A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

(h) A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

(i) Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

ii. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

(a) Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.

(b) Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be altered, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.

(c) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

(d) Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

(e) Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this section.

(f) A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation.

(g) Performance standards (measurable standards reflective of years

post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions.

10. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

11. Protection of the Mitigation Site. The area where the mitigation occurred and any associated buffer shall be included in a notice on title consistent with regulation 1.E.4 of this appendix.

12. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

13. Wetland Mitigation Banks.

    a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

        i. The bank is certified under state rules;

        ii. The City determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

        iii. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

    b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.

    c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument.

14. In-Lieu Fee. To aid in the implementation of off-site mitigation, the City may develop an in-lieu fee program. Credits from an approved in-lieu-fee program may be used when the following apply:

    a. The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts.

    b. The mitigation will occur on a site identified using the site selection and prioritization process in the approved in-lieu-fee program instrument.

c. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu-fee program instrument.

d. Land acquisition and initial physical and biological improvements of the mitigation site must be completed within three years of the credit sale.

e. Projects using in-lieu-fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland scientist using the method consistent with the credit assessment method specified in the approved instrument for the in-lieu-fee program.

f. Credits from an approved in-lieu-fee program may be used to compensate for impacts located within the service area specified in the approved in- lieu-fee instrument.

15. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.

16. Alternative Mitigation Plans. The City may approve alternative critical areas mitigation plans that are based on the most current, accurate, and complete scientific or technical information available. Alternative mitigation proposals must provide an equivalent or better level of protection of critical area functions and values than would be provided by the strict application of this chapter.

The Administrator shall consider the following for approval of an alternative mitigation proposal:

a. The proposal uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Ecology Publication #09-06-32, Olympia, WA, December 2009).

b. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.

c. Mitigation according to subsection of this section is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.

d. There is clear potential for success of the proposed mitigation at the proposed mitigation site.

e. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in regulation 2.H.12 of this appendix.

f. The plan shall be reviewed and approved as part of overall approval of the proposed use.

g. A wetland of a different type is justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.

h. Mitigation guarantees shall meet the minimum requirements as outlined in regulation 2.H.9.b.i(h) of this appendix.

i. Qualified professionals in each of the critical areas addressed shall prepare the plan.

j. The City may consult with agencies with expertise and jurisdiction over the resources during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

I. Unauthorized alterations & enforcement

1. Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of a wetland, provided that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:

   a. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions.

   b. The historic soil types and configuration shall be restored to the extent practicable.

   c. The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration.

   d. Compliance with other applicable provisions of this chapter shall be demonstrated.

3 FISH & WILDLIFE HABITAT CONSERVATION AREAS

A. Purpose

1. The purpose of this section is to protect fish and wildlife habitats in the City by regulating land use to avoid adverse effects on, and maintain the functions and values of, such habitats.

B. Designation

1. All areas within the City meeting one or more of the following criteria are designated as fish and wildlife habitat conservation areas and are subject to the provisions of this appendix.

   a. Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species have a Primary Association.

      i. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered.

      ii. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington State Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats.

   b. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are identified by the Washington State Department of Fish and Wildlife.

   c. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

   d. Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or bedlands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.

   e. Kelp and Eelgrass Beds and Herring and Smelt Spawning Areas.

   f. Naturally Occurring Ponds under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites,

such as canals, detention facilities, wastewater treatment facilities, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

g. Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16.

h. Lakes, Ponds, Streams, and Rivers Planted with Game Fish by a Governmental or Tribal Entity.

i. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.

j. Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

k. Land Useful or Essential for Preserving Connections Between Habitat Blocks and Open Spaces.

2. The approximate locations and extents of habitat conservation areas may be shown on, but shall not be limited to, the following list of maps. The maps are for reference only and do not provide a final critical area designation.

a. Washington State Department of Fish and Wildlife Priority Habitat and Species maps.

b. Washington State Department of Natural Resources water type maps.

c. Washington State Department of Natural Resources ShoreZone Inventory.

d. Washington State Department of Health shellfish maps.

e. Washington State Department of Natural Resources Natural Heritage Program maps.

f. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission.

g. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps.

3. Designation of Habitats and Species of Local Importance. The City shall accept and consider nominations for habitat areas and species to be designated as locally important.

   a. Process.

      i. Habitats and species may be nominated by any person.

         (a) The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries) or whether the habitat or ecosystem is being nominated in its entirety.

         (b) The nomination may include management strategies for the species or habitats. Management strategies must be supported by the most current, accurate, and complete scientific or technical information available, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.

      ii. The Shoreline Administrator shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in regulation 3.B.3.b of this appendix and make a recommendation to the Planning Commission.

      iii. The Planning Commission shall hold a public hearing on the proposal and make a recommendation to the City Council based on the characteristics enumerated in regulation 3.B.3.b of this appendix.

      iv. After receiving the recommendation of the Planning Commission, the City Council shall vote on the nomination.

   b. Characteristics. Habitats and species to be designated must exhibit the following characteristics:

      i. Local populations of native species in danger of extirpation based on existing trends, including:

         (a) Local populations of native species that are likely to become endangered; or

         (b) Local populations of native species that are vulnerable or declining.

      ii. The species or habitat has recreation, commercial, game, tribal, or other special value;

      iii. Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat;

iv. Areas nominated to protect a particular habitat or species represent either high-quality native habitat or habitat that has a high potential to recover to a suitable condition and which is of limited availability, highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape;

v. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in Ilwaco; and

vi. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Critical area report

1. When Required. A critical area report for fish and wildlife habitat conservation areas shall be required when:

   a. For Type 1 (S) waters, a project area is located a distance equal to or less than the required critical area buffer width and building setback;

   b. A project area is located within 150 feet of the ordinary high water mark of other waterbody types subject to this chapter; or

   c. A project area is located a distance equal to or less than the potential critical area buffer width and building setback of other fish and wildlife habitat conservation areas meeting the criteria of regulation 3.B.1 of this appendix that are not located waterward of the ordinary high water mark of a waterbody subject to this section.

2. Additional Requirements. In addition to the general critical area report requirements of subsection 1.F of this appendix, Critical area report, critical area reports for fish and wildlife conservation areas must meet the requirements of this subsection.

   a. Preparation by a Qualified Professional. A critical area report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

   b. Areas Addressed. The following areas shall be addressed in a critical area report for fish and wildlife habitat conservation areas:

      i. The project area of the proposed activity;

      ii. All habitat conservation areas and buffers within 150 feet of the project area; and

iii. All shoreline areas, floodplains, other critical areas, and related buffers within 150 feet of the project area.

c. Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain a habitat assessment including, at a minimum, the following information:

i. A detailed description of vegetation on and adjacent to the project area and its associated buffer;

ii. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

iii. A discussion of any federal, state, or local special management recommendations, including Washington State Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

iv. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

v. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with mitigation sequencing pursuant to regulation 1.G.2 of this appendix; and

vi. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

3. Additional Information May Be Required. When appropriate due to the type of habitat or species present or the project area conditions, the Shoreline Administrator may also require the habitat assessment to include:

a. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; or

b. A request for consultation with the Washington State Department of Fish and Wildlife or other appropriate agency or tribe.

D. Performance standards

1. General Standards.

a. Alterations. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat.

b. Approvals of Activities. The City may condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions must be based on the most current, accurate, and complete scientific or technical information available and may include, but are not limited to, the following:

i. Establishment of buffer zones;

ii. Preservation of critically important vegetation and/or habitat features such as snags;

iii. Limitations on access to the habitat area; or

iv. Seasonal restriction of construction activities.

c. Buffers.

i. Establishment of Buffers. The City shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington State Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of notices on title and native growth protection areas in accordance with subsection 1.E of this appendix, General critical area protective measures.

ii. Habitat Buffer Averaging. The City may allow habitat area buffer widths to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific or technical information available, and

the management recommendations issued by the Washington State Department of Fish and Wildlife, if:

(a) It will not reduce stream or habitat functions;

(b) It will not adversely affect salmonid habitat;

(c) It will provide additional natural resource protection, such as buffer enhancement;

(d) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

(e) The buffer area width is not reduced by more than 25 percent in any location.

d. Signs and Fencing.

i. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of areas authorized to be disturbed shall be marked in the field to ensure that no unauthorized intrusion will occur and shall be verified by the Shoreline Administrator prior to the commencement of authorized activities. Temporary markers shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

ii. Permanent Signs. As a condition of any permit or authorization issued pursuant to this section, the City may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

(a) Permanent signs shall be made of a metal face and attached to a metal post or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows, or with alternative language approved by the City:

Habitat Conservation Area
Do Not Disturb
Contact City of Ilwaco Regarding Restrictions

iii. Fencing.

(a) The City shall determine if fencing is necessary to protect the function and values of the critical area. If found to be necessary,

the City shall condition any permit or authorization issued pursuant to this section to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer.

(b) Fencing installed as part of a proposed activity or as required by this subsection shall be designed to not interfere with species migration and shall be constructed in a manner that minimizes habitat impacts.

e. Subdivisions. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:

i. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

ii. Land that is located partially within a habitat conservation area or its buffer may be subdivided provided that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements of IMC Title 15, Part 3, Zoning.

iii. Access roads and utilities serving the proposed may be permitted within the habitat conservation area and associated buffers only if the City determines that no other feasible alternative exists and when consistent with the City's Shoreline Master Program.

f. Non-indigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

g. Mitigation and Contiguous Corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

h. Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

2. Specific Standards.

a. Riparian Habitat Areas.

i. Unless otherwise allowed by the City's Shoreline Master Program, all structures and activities must be located outside of a riparian habitat area.

ii. Standard riparian habitat area widths are shown in the table below and are based on the Washington State Department of Natural Resource Stream Typing Systems described in WAC 222-16-030 and WAC 222-16-031 as now or hereafter amended.

Table B3-1. Shoreline riparian habitat area widths

Water Type	Shoreline Environment Designation	Buffer[1]	Structure Setback[1,2]
Type S (1)	High-Intensity A	NA	50 feet or the waterward line of impervious surface parallel to the shoreline
	High-Intensity B	75 feet	15 feet
	Shoreline Residential A	100 feet	15 feet
	Shoreline Residential B	75 feet	15 feet
	Shoreline Residential C	50 feet	15 feet
	Urban Conservancy	200 feet	15 feet
	Natural	200 feet	15 feet

[1] Buffer and setback do not apply to water-dependent uses.
[2] Structure setback measured from edge of buffer or from the ordinary high water mark if no buffer is required.

Table B3-2. Other riparian habitat area widths

Water Type	Buffer	Structure Setback[1]
F (2,3)	100 feet	15 feet
Np (4)	50 feet	15 feet
Ns (5)	50 feet	15 feet

[1] Structure setback measured from edge of buffer.

iii. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank, if the ordinary high water mark cannot be identified.

iv. Standard riparian habitat area widths may be increased if the standard width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area.

v. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

vi. The performance standards set forth in this subsection may be modified at the City's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

vii. When clearing and grading in buffers is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:

(a) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1, provided that the City may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

(b) The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

(c) The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

(d) Erosion and sediment control that meets or exceeds City standards must be provided.

viii. For Type S shorelines only, limited removal of existing trees or vegetation located on the same property as a single-family residence may be allowed for maintenance of a pre-existing view from the primary structure, or to establish a view for a new primary structure provided that:

(a) The applicant submits a critical area report, including a mitigation plan;

(b) The applicant demonstrates to the satisfaction of the Shoreline Administrator that the vegetation removal is the minimum necessary to re-establish or establish a view of the water similar to that enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the area;

(c) Existing significant native trees are not removed from the buffer;

(d) In no instance, including accounting for other approved alterations, shall vegetation removal exceed 20 percent of the required shoreline buffer area or reduce the vegetation canopy coverage to less than 65 percent in the shoreline buffer;

(e) Vegetation removal occurring adjacent to the shoreline shall also be limited to 15 linear feet of the water frontage;

(f) The applicant shall address any potential impacts to geologically hazardous areas the critical area report;

(g) The Shoreline Administrator may deny a request or condition the approval if it is determined that the action will result in an adverse effect to any of the following:

(i) Slope stability;

(ii) Habitat value;

(iii) Health of surrounding vegetation;

(iv) Risk of wind damage to surrounding vegetation;

(v) Nearby surface or groundwater; or

(vi) Water quality of a nearby water body.

ix. A private access pathway constructed of pervious materials may be installed for shoreline residential access, a maximum of four feet wide, through the shoreline management buffer to the ordinary high water mark. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

b. Aquatic Habitat. The following activities may be permitted within a riparian habitat area, pond, lake, water of the state, or associated buffer.

i. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:

(a) There is no other feasible alternative route with less impact on the environment;

(b) The crossing minimizes interruption of downstream movement of

wood and gravel;

(c) Roads in riparian habitat areas or their buffers shall not run parallel to the water body;

(d) Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;

(e) Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;

(f) Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

(g) Trails and associated viewing platforms shall not be made of continuous impervious materials.

ii. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report, if they comply with the following standards:

(a) Fish and wildlife habitat areas shall be avoided to the maximum extent possible;

(b) Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;

(c) The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

(d) Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

(e) The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

(f) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

iii. Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

(a) No other feasible alternatives with less impact exist;

(b) Mitigation for impacts is provided;

(c) Stormwater conveyance facilities shall incorporate fish habitat features; and

(d) Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

c. Critical Saltwater Habitats.

i. Docks, piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:

(a) The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

(b) Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;

(c) The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat;

(d) The project is consistent with the state's interest in resource protection and species recovery;

ii. Over-water and near-shore developments in marine and estuarine waters must inventory the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The inventory shall be consistent with accepted research methodology. Inventories prepared for other agencies with jurisdiction may be submitted to satisfy this requirement.

4 GEOLOGICALLY HAZARDOUS AREAS

A. Purpose

The purpose of this section is to minimize hazards to the public from development activities on or adjacent to areas of geological hazard. Geologically hazardous areas include the following: erosion hazard areas, landslide hazard areas, seismic hazard areas, and tsunami hazard areas.

B. Designation

The Washington Geologic Information Portal (https://www.dnr.wa.gov/geologyportal) maintained by the Washington State Department of Natural Resources is a key source

for mapping related to geologically hazardous areas and may be useful in the designation of the following hazard areas.

1. Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shoreline and/or stream bank erosion, coastal wave erosion zones, and those areas within a river's channel migration zone.

2. Landslide Hazard Areas. Landslide hazard areas are those areas meeting any of the following criteria:

   a. Areas of historic failure, such as:

      i. Those areas mapped by the Washington State Department of Ecology (Coastal Zone Atlas) or the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5); or

      ii. Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published as the U.S. Geological Survey or the Washington State Department of Natural Resources.

   b. Areas with all of the following characteristics:

      i. A slope steeper than 15 percent;

      ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

      iii. Springs or groundwater seepage.

   c. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

   d. Slopes having gradients greater than 80 percent subject to rock fall during seismic shaking.

   e. Areas potentially unstable because of rapid stream incision and stream bank erosion; and undercutting by wave action.

   f. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.

   g. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of solid rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 20 feet of vertical relief.

3. Seismic Hazard Areas. The entire City constitutes a seismic hazard area.
4. Tsunami Hazard Areas. Tsunami hazard areas are shoreline or coastal areas susceptible to flooding and inundation as the result of excessive wave runup action derived from seismic or other geologic events.

C. Partial exemptions

The following activities are allowed in geologically hazardous areas, provided they are allowed pursuant to City's Shoreline Master Program, and do not require submission of a critical area report:

1. Erosion and Landslide Hazard Areas. Except as otherwise provided for in this appendix, only those activities approved and permitted consistent with an approved critical area report may be allowed.
2. Seismic and Tsunami Hazard Areas. All activities consistent with this appendix and other City regulations may be allowed.

D. Critical area report

1. When Required. A critical area report for geologically hazardous areas shall be required when an erosion or landslide hazard area is located within 200 feet of a project area, or if an erosion or landslide hazard area located farther than 200 feet from a project area may impact the proposal.
2. Additional Requirements. In addition to the general critical area report requirements of subsection 1.F of this appendix, Critical area report, critical area reports for geologically hazardous areas must meet the following requirements:
    a. Preparation by a Qualified Professional. A critical area report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems, and who has experience preparing reports for the relevant type of hazard.
    b. Areas Addressed. The following areas shall be addressed in a critical area report for geologically hazardous areas:
        i. The project area of the proposed activity; and
        ii. All geologically hazardous areas within 200 feet of the project area, or farther than 200 feet from the project area if such areas might impact the proposal.

c. Geological Hazards Assessment. A critical area report for a geologically hazardous area shall contain a geological hazards assessment, including, at a minimum, the following site- and proposal-related information:

i. Plans for the proposal showing, as applicable:

(a) The type and extent of geologic hazard areas and other critical areas, including their buffers, within 200 feet of the project area, or farther than 200 feet from the project area if such areas might impact the proposal.

(b) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available.

(c) The topography, in two-foot contours, of the project area and all hazard areas addressed in the report.

(d) Clearing limits.

ii. An assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems. The assessment shall include, but not be limited to:

(a) A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report.

(b) A detailed overview of field investigations; published data, and references; data and conclusions from past assessments of the site; and site-specific measurements, tests, investigations, or studies that support the identification of geologically hazardous areas.

(c) A description of the vulnerability of the site to seismic and other geologic events.

iii. A hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.

iv. A recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard.

d. Incorporation of Previous Study. Where a valid critical area report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a geological hazards assessment addendum detailing any changed environmental conditions associated with the site.

e. Mitigation of Long-Term Impacts. When hazard mitigation is required, a mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

E. Performance standards

1. General Standards.

a. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

i. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

ii. Will not adversely impact other critical areas;

iii. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

iv. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

b. Critical facilities shall not be sited within or below geologically hazardous areas unless there is no other practical alternative.

2. Erosion and Landslide Hazard Area Standards. Activities on sites containing erosion or landslide hazards shall meet the general standards in subsection 4.E.1 of this appendix and the following requirements.

a. Erosion Hazard Area Buffers. No new structures shall be located on a permanent foundation within a shoreline and/or stream bank erosion hazard

area unless the foundation is located at a distance landward of the ordinary high water mark that accommodates potential future erosion.

b. Landslide Hazard Area Buffers. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon a critical area report.

   i. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater.

   ii. The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrates that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area.

   iii. The buffer may be increased where a larger buffer is necessary to prevent risk of damage to proposed and existing development.

c. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geologic hazard assessment is submitted and certifies that:

   i. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

   ii. The development will not decrease slope stability on adjacent properties; and

   iii. Such alterations will not adversely impact other critical areas.

d. Design Standards. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of the City's Shoreline Master Program. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

   i. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas.

   ii. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography.

iii. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation.

iv. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties.

v. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes.

vi. Development shall be designed to minimize impervious lot coverage.

e. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.

f. Seasonal Restriction. Clearing shall be allowed only from May 1 to October 1 of each year provided that the City may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the City or the Washington State Department of Natural Resources.

g. Utility Lines and Pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

h. Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area are prohibited, except if:

i. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

ii. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

iii. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer is demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

i. Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to the following:

   i. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer.

   ii. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the City determines that no other feasible alternative exists.

3. Seismic and Tsunami Hazard Area Standards.

   a. All development within areas that meet the classification criteria for seismic or tsunami hazard areas shall comply with the model codes as approved and adopted by the State Building Code Council, together with any amendments or additions.

5 FREQUENTLY FLOODED AREAS

A. Purpose

The purpose of the frequently flooded areas section is to minimize public and private losses due to flood conditions in specific areas.

B. Designation

For the purpose of this section, frequently flooded areas within the City shall be classified using the following criteria:

1. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study (FIS) for Pacific County and Incorporated Areas" effective May 18, 2015, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The FIRM is on file at Ilwaco City Hall, 120 First Ave. N., Ilwaco, WA. The best available information for flood hazard area identification as outlined in IMC 15.16.060.B.2 shall be the basis for regulation until a new FIRM is issued that incorporates the data utilized under IMC 15.16.060.B.2.

2. When base flood elevation data have not been provided (A and V zones) the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source.

C. Development standards

All development within frequently flooded areas shall comply with IMC 15.16, Development in flood areas, as amended, and all other applicable regulations.

APPENDIX C: OCEAN USES & MODIFICATIONS

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1 OCEAN USES & MODIFICATIONS

1.1 Applicability

(A) The policies and regulations in this appendix apply to the Pacific Ocean shorelines of statewide significance and those associated shorelands located within the City of Ilwaco.

(B) Shoreline provisions throughout the City's Shoreline Master Program apply in addition to the ocean uses and modifications provisions in this appendix. In the case of a conflict between other provisions of the City's Shoreline Master Program and provisions in this appendix, the provisions in this appendix shall apply.

(C) The provisions of this appendix apply to associated on-shore facilities that directly support ocean uses.

(D) Applicability of the Marine Spatial Plan (MSP) new ocean use policies, regulations, and permitting procedures. All new ocean uses proposed within the MSP study area must be consistent with the protection standards for Important, Sensitive and Unique Areas (ISUs) and Fisheries set forth in regulation 1.3(B)17 of this appendix and reviewed using the additional process requirements for new ocean use proposals set forth in regulation 1.3(B)5 of this appendix. The MSP study area covers marine waters of the Pacific Ocean within state waters (from ordinary high water mark out to three nautical miles).

1. Applicability of ISU protection standards: The state has developed maps of the ISUs using the best available data at the time of the MSP development. These maps are intended to assist applicants in identifying where ISUs exist. As finer resolution or updated data becomes available, the state may update the ISU maps, which may include adding, deleting or updating the distribution of an ISU. However, ISU protection standards will apply to any ISU, wherever it is identified in state waters. It is the responsibility of applicants to verify whether ISUs exist in their proposed new ocean use project area and to demonstrate protection standards will be met.

1.2 Definitions

(A) **Important, Sensitive and Unique Areas (ISUs).** Specific areas in state waters that meet one or more of the following criteria:

1. Areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures (RCW 43.372.040(6)(c));

2. Areas with known sensitivity and where the best available science indicates the potential for offshore development to cause irreparable harm to the habitats, species or cultural resources;
3. Areas with features that have limited, fixed and known occurrence; and
4. Areas with inherent risk or infrastructure (e.g. buoys or cables) that are incompatible with new ocean uses.

(B) **Fixed structures.** Structures fixed to the seafloor, via anchor, piles, or other methods.

(C) **Marine Spatial Plan (MSP).** The Marine Spatial Plan for Washington's Pacific Coast is a planning document designed to address new ocean use development off Washington's Pacific coast that had not been previously permitted or approved prior to the adoption of the plan. The MSP uses a series of data, maps, and analyses in combination with a management framework to evaluate potential for impacts from new ocean use projects on existing uses and resources, based on the principles and criteria outlined in the Ocean Resources Management Act (ORMA). The MSP applies a coordinated decision-making process between various governments, tribes, and stakeholders and includes additional siting recommendations and fisheries protection standards. These principles have been incorporated into the City's Shoreline Master Program.

(D) **Ocean disposal.** The deliberate deposition or release of material in the ocean.

(E) **Ocean energy production.** Production of energy in a usable form directly from the energy carried in or on ocean waves, tides, salinity, wind, and ocean temperature differences.

(F) **Ocean mining.** Mining of metal, mineral, sand, and gravel resources from the sea floor.

(G) **Ocean research.** Ocean research activities involve scientific investigation for the purpose of furthering knowledge and understanding. Investigation activities involving necessary and functionally related precursor activities to an ocean use or development may be considered exploration or part of the use or development. Since ocean research often involves activities and equipment, such as drilling and vessels that also occur in exploration and ocean uses or developments, a case by case determination of the applicable regulations may be necessary.

(H) **Ocean salvage.** Ocean salvage uses share characteristics of other ocean uses and involve relatively small sites occurring intermittently. Historic shipwreck salvage that combines aspects of recreation, exploration, research, and mining is an example of such a use.

(I) **Ocean transportation.** Ocean transportation includes such uses as: shipping (via vessel or pipeline), transferring between vessels, and off-shore storage of oil and gas; transport of other goods and commodities; and off-shore ports and airports. These activities may originate, conclude or pass through ocean waters in Washington's jurisdiction or are

transporting a nonrenewable resource extracted from the outer continental shelf off Washington.

(J) **Ocean uses.** Activities or developments involving renewable and/or nonrenewable resources that occur in waters of the Pacific Ocean and includes their associated off shore, near shore, inland marine, shoreland, and upland facilities and the supply, service, and distribution activities, such as crew ships, circulating to and between the activities and developments. Ocean uses involving nonrenewable resources include such activities as extraction of oil, gas and minerals, energy production, disposal of waste products, and salvage. Ocean uses that generally involve sustainable use of renewable resources include commercial, recreational, and tribal fishing, aquaculture, recreation, shellfish harvesting, and pleasure craft activity.

(K) **Ocean uses, new.** New ocean uses, as defined by the Marine Spatial Plan (MSP), are in-water uses, with potential adverse impacts to renewable resources or existing uses, and that have not been previously reviewed or permitted within the MSP study area prior to the adoption of the MSP in June 2018. The MSP anticipates new ocean use proposals for activities such as renewable energy, dredged material disposal, mining, marine product harvesting, and offshore aquaculture operations.

(L) **Oil and gas uses and activities.** The extraction of oil and gas resources from beneath the ocean.

1.3 General ocean uses

(A) Policies

1. Ocean uses and associated on-shore facilities should be located, designed and operated consistent with state guidelines, specifically WAC 173-26-360, as amended.
2. Support the continued study of complex, dynamic, and interrelated coastal and estuarine environments in Pacific County.
3. Encourage coordination amongst the array of agencies charged with the management and regulations of actions within coastal ocean areas within and beyond the boundaries of Pacific County.
4. Given the rise of unprecedented changes to the coastal environment including: continental/oceanic elevation changes, ocean acidification, species declines and introductions, and the potential for development of alternative energy production present the county with management challenges, and faced with the risk inherent to uncoordinated actions and resultant cumulative impacts, all federal actions, including management plans updates, should be consistent with the City's Shoreline Master Program, an element of the State of Washington's Coastal Zone Management

Program as recognized by the US Public laws: Coastal Zone Management Act (U.S. Code, Title 16, Chapter 33) and Coastal Zone Management Re-authorization Amendments.

5. Existing resource-based uses, ecological and ecosystem functions and processes in the coastal zone, and public access to ocean waters should be protected and preserved for current and future generations.

6. Supporting scientific documentation for conditional use permits should be available and fully considered before decisions are made. Documentation should adequately address seasonal, inter-annual, and spatial variability in ocean conditions and identify data gaps in studies that may affect project outcome approvals, disapprovals, or modifications including required mitigation.

7. Ocean resource-based uses and activities that depend on sustaining function of the ecosystem or will not adversely impact renewable biological resources, public access, or cause a net loss in ecosystem function or a loss of existing uses shall be given priority. Correspondingly, ocean uses that will have lesser adverse impacts on renewable resources should be given priority over uses that will have greater adverse impacts.

8. Ocean uses should not adversely affect coastal communities, including the health, safety, and economic welfare of the county. Ocean uses that will have lesser adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have greater such impacts.

9. When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster should be given priority.

10. In order to be more protective of existing ocean uses, including fishing, the City should adopt a broad prohibition on fixed structures in its coastal areas, including a strict prohibition on permanent fixed structures, to provide time for updated information regarding potential significant adverse impacts from new ocean uses on ecological functions and existing resource-based uses and recommendations for avoiding, minimizing and mitigating these impacts. Temporary fixed structures should be allowed for up to two years, with an option for a one year extension. Single anchor systems should be allowed.

11. The City will revisit policies and regulations regarding fixed structures to address new information and technology, including analyses and recommendations resulting from the marine spatial planning process per RCW 43.372, during scheduled periodic reviews of the City's Shoreline Master Program under RCW 90.58.080.

12. The state Marine Spatial Plan (MSP) provides a base of scientific information on ocean uses and resources, provides a framework for evaluating new ocean use proposals, and establishes protections for sensitive areas and fisheries. As such, the MSP should be referenced for these related proposals and protections.

(B) Regulations

1. All ocean uses and modifications subject to this appendix shall require a shoreline conditional use permit. All ocean use activities must comply with applicable general and specific ocean use and modification regulations.

2. On-shore facilities shall comply with not only the regulations applicable to their specific ocean use, but any other applicable regulations for the specific use or activity as found in Chapters 6 or 7 of the City's Shoreline Master Program.

3. Permit Review Criteria. The City shall only permit ocean and associated upland or coastal uses and activities if all of the criteria listed below are met or exceeded. The applicant shall provide the City with the most current, accurate, and complete scientific and technical information for its review, when needed. Public input shall also be considered.

    a. There is a demonstrated significant local, state, or national need for the proposed use or activity;

    b. There is no reasonable alternative to meet the public need for the proposed use or activity;

    c. There will be no likely significant long-term or cumulative adverse impacts to coastal or marine resources or uses, including consideration of cumulative adverse impacts from activities outside the City that cause local impacts;

    d. All reasonable steps are taken to avoid and minimize adverse environmental impacts, including impacts on migration routes and habitat areas of species listed as endangered or threatened, species of economic importance, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high productivity for marine biota such as upwelling, with special protection provided for the marine life and resources of the Aquatic environment designation. Special review and analysis consideration shall be given to renewable biological resources of local economic importance;

    e. All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

f. Compensation is provided to mitigate adverse impacts to coastal resources or uses that maintains health, safety, and economic welfare;

g. Plans and sufficient, realistic performance bonding for decommissioning and failure incidents are provided to ensure that the site will be rehabilitated after the use or activity is completed, terminated, or abandoned; and

h. The use or activity complies with all applicable local, state, and federal laws and regulations.

4. The proponent of an ocean use development or associated on-shore facility that could impact coastal ocean areas or shorelines in areas of the City subject to the ocean use requirements shall be required to submit the following information, and any other information deemed necessary by the Shoreline Administrator, in the final permit application package:

a. An overall development scheme discussing the site plan and proposed plans, operating procedures, and best management practices to be employed;

b. A phasing plan for the staging of development that utilizes a precautionary approach to ensure no net loss of ecological or ecosystem functions and protection and preservation of existing uses through avoidance, minimization, and compensatory mitigation for impacts;

c. Analysis of potential significant adverse impacts identified as required by SEPA environmental checklist;

d. Mitigation and monitoring plans to address unavoidable adverse environmental, social and economic uses and resources and the effectiveness of mitigation;

e. Analysis of the visibility of the proposed facilities from the shoreline and the effect on public access, aesthetics, and views and a plan to avoid and minimize or eliminate such impacts;

f. Plan for the transport, storage, disposal and clean-up of solid, liquid and hazardous wastes;

g. Analysis of the adequacy of and impact to the local infrastructure, including but not limited to transportation, utilities, and emergency services, to service the project. If the analysis shows that the infrastructure is inadequate to carry the added load on the community, compensatory mitigation that offsets any additional costs to the community shall be provided;

h. Analysis demonstrating that the facility will be able to comply with local air pollution control regulations;

i. Fire protection plan;

j. Oil spill contingency plan, if involved in petroleum exploration, production, storage or transportation;

k. An analysis demonstrating the proposed project's consistency with the City's Shoreline Master Program and Coastal Zone Management Act;

l. An analysis of designs and methods available to prevent, avoid and minimize adverse impacts including but not limited to noise, light, temperature changes, turbidity, water pollution and contaminated sediments on the marine, estuarine or upland environment, particularly during critical migration periods and life stages of marine species and critical oceanographic processes; and

m. An analysis of alternatives that are commensurate with the need for the proposed use (e.g. if there is a demonstrated national need for a proposed use, then national alternatives, including alternatives outside of Pacific County and Washington State, should be considered).

n. Pre-project environmental baseline inventories and assessments and monitoring of ocean uses to measure effects on marine and estuarine ecosystems, resource-based uses, and coastal communities.

o. Demonstrated consistency with regulation 1.3(B)6 and regulation 1.3(B)17.g through regulation 1.3(B)17.i of this appendix.

5. Additional procedural requirements for new ocean use proposals. In addition to the otherwise required shoreline substantial development, conditional use, or variance permit procedural requirement, Marine Spatial Plan (MSP) defined new ocean use proposals shall include the following:

a. Pre-application Meeting. Prior to submitting any applications for shoreline permits for new ocean uses or developments, the applicant will participate in at least one pre-application meeting which may be consolidated and coordinated with all local, state, and federal agencies. During the pre-application stage:

i. The applicant should use the MSP to understand potential use and resource conflicts, including review of the baseline data, maps, analyses, and management framework. This information can assist applicants in avoiding and minimizing impacts to resources and uses through project siting and design.

ii. The applicant should provide required data and information about the project and identify and coordinate with stakeholder groups as well as other governments, including state, tribal and federal government entities.

iii. The applicant should identify state and local policies, procedures, and requirements, including those referenced in the MSP.

b. Inventory. Review adequacy of site-specific inventory and respond to requests for additional data or studies.

c. Effect Analysis. Submit an effects evaluation (See Section 4.5 of the MSP) which includes proposed mitigation measures, and best management practices.

d. Plans. Submit proposed construction and operation plans, including adequacy of prevention, monitoring, and response plans.

e. Coordination. Continue to coordinate with government entities (local, state, tribal and federal agencies), stakeholders (representatives from fish, aquaculture, maritime commerce, conservation, tourism, recreation), and the Washington Coastal Marine Advisory Council (WCMAC), and the public in all aspects of project development and review.

6. All proposed ocean activities and uses with potential to significantly affect the coastal ocean areas under the jurisdiction of the City will require a socioeconomic assessment to analyze and describe the long and short term effects of the proposed action on the local economy. This assessment may include but not be limited to gains or losses of jobs and incomes, tourism, fisheries, agricultural impacts, increased governmental planning and management loads, effects on construction and commercial activity, community support facilities (such as schools, hospitals, health and social services), tax structure, social changes in crime, mental health, crowding, sense of autonomy and other quality of life indicators.

7. Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude or degree of impact on the resource, jurisdiction, and use. In determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses, impacts on commercial resources, noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of fishing season shall be weighed.

8. On-shore facilities associated with an ocean use shall be located in communities where there is adequate sewer, water, power, and streets. Within those communities, if space is available at existing marine terminals, the onshore facilities should be located there.

9. Ocean uses and their associated coastal or upland facilities shall be located, scheduled, designed, and operated to prevent, avoid, and minimize adverse impacts to migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery,

foraging areas and wetlands, commercial and recreational species, and areas of high productivity for marine biota such as upwelling and estuaries.

10. Ocean uses and their associated coastal or upland facilities shall be located, scheduled, designed, and operated to avoid and minimize adverse impacts to the following:

    a. Proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.

    b. Historic or culturally significant sites in compliance with Chapter 27.34 RCW. Permittees shall comply with Chapter 27.53 RCW if any archaeological sites or archaeological objects such as artifacts and shipwrecks are discovered.

    c. Fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.

    d. Existing water-dependent businesses and existing land transportation routes to the maximum extent feasible.

    e. Air and water quality.

    f. Economic stability and viability of coastal communities, as represented by tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, community culture, public access, aesthetics, and views.

    g. Shipping lanes or routes traditionally used by commercial and recreational fishermen to reach fishing areas, to the extent feasible.

11. The location, design, and operation of ocean uses and associated onshore facilities shall consider the environment, the characteristics of the use, and the impact of a probable disaster to assure adjacent uses, habitats, and communities' adequate protection from explosions, spills, and other disasters.

12. Discontinuance or shut-down of mining or energy producing ocean uses shall be done so that impacts to renewable resource ocean uses are minimized and the seabed is restored to a condition similar to its original state to the maximum extent feasible.

13. Ocean use distribution, service and supply vessels and aircraft shall be operated or routed such that they minimize impacts to renewable resources and activities, and avoid environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.

14. Construction plans shall consider scheduling and methods of construction, and locations for temporary construction facilities that minimize impacts on uses including, but not limited to, tourism, recreation, commercial fishing, local communities and the environment.

15. Bulk storage of hazardous materials in quantities greater than 25,000 gallons, including but not limited to oil, gas, and methanol, shall be prohibited.

16. Federal consistency determinations under the Coastal Zone Management Program for activities beyond the City's 3-mile jurisdictional limits shall be forwarded to the City by Ecology for consultation to ensure the health, safety, and economic welfare of the City and its citizens.

17. New Ocean Uses.

    a. Applications for new ocean uses shall comply with the requirements below and all other applicable requirements in this section and the City's Shoreline Master Program.

    b. Important Sensitive and Unique Areas (ISUs) Designation. The ISUs assign protection standards and definitions for adverse effects for a list of ecological, historic, cultural, and infrastructure areas. The MSP provides maps utilizing the best available data on ISU locations.

        i. Ecological ISUs

            (a) Biogenic Habitats: Aquatic vegetation, corals, and sponges

            (b) Rocky Reefs

            (c) Seabird colonies: islands and rocks used for foraging and nesting by seabirds

            (d) Pinniped haul-outs

            (e) Forage fish spawning areas: intertidal areas used for spawning by herring, smelt or other forage fish.

        ii. Historic, Cultural and Infrastructure ISUs

            (a) Historic and archaeological sites: Structures or sites over 45 years old that are listed or eligible for listing in local, state, or national preservation registers (e.g. shipwrecks or lighthouses); or Artifacts or other material evidence of tribal or historic use of occupation (e.g. burials, village sites, or middens).

            (b) Buoys and submarine cables: Fixed infrastructure such as navigation or monitoring buoys, fiber optic cables, electrical transmission

cables, other fixed monitoring equipment in the marine environment (e.g. hydrophones) and any associated mooring lines, anchors, or other equipment.

c. ISU Mapping and Location: The state has developed maps of ISUs intended to assist applicants in identifying where ISUs exist. https://www.msp.wa.gov/important-sensitive-and-unique-areas-isus/. However, ISU protection standards will apply to any ISU, wherever it is identified in state waters. It is the responsibility of applicants to verify whether ISUs exist in their proposed project area and to demonstrate protection standards will be met.

d. ISU Protection Standards: New ocean uses should only be allowed when the applicant can demonstrate consistency with the following ISU adverse effects and protection standards:

i. An applicant for proposed new ocean uses involving offshore development must demonstrate that the project will have no adverse effects on an ISU located at the project site and to off-site ISUs potentially affected by the project, using site-specific surveys, scientific data and analysis, which demonstrate either:

(a) The current ISU maps do not accurately characterize the resource or use or the project area (mapped or not mapped) does not contain an ISU resource or use; or

(b) The weight of scientific evidence indicates that the project will cause no adverse effects to the resources of the ISU.

(i) Adverse effects standards for Ecological ISUs means degradation of ecosystem function and integrity (direct habitat damage, burial of habitat, habitat erosion, and reduction in biological diversity) or degradation of living marine organisms (abundance, individual growth, density, species diversity, and species behavior).

(ii) Adverse effects standards for historic, cultural, or fixed infrastructure ISUs include the following:

(*a*) Direct impacts from dredging, dumping, or filling;

(*b*) Alteration, destruction, or defacement of historic, archaeological or cultural artifacts; and

(*c*) Direct impacts from placement or maintenance of new, temporary or permanent structures in areas with existing

infrastructure or historic, archaeological or cultural artifacts.

ii. Additional buffers may be appropriate to protect ISU resources from adverse effects. Project developers shall consult with the Washington Department of Fish and Wildlife on recommended buffers for Ecological ISUs associated with their proposed project prior to filing application materials with local or state agencies. Project developers shall consult with the Washington Department of Archaeological and Historical Preservation and tribal preservation officers on further identification and protection of cultural or historical artifacts.

e. Applicants for proposed new ocean uses involving offshore development must consult with WDFW, individuals participating in affected commercial and recreational fisheries, and each of the coastal tribes to identify and understand the proposed project's potential adverse effects to fisheries and tribal uses.

f. Fisheries Protection Standards: New ocean uses involving offshore development shall only be allowed when the applicant can demonstrate that their project meets all of the following standards to protect fisheries located at the project site and nearby from adverse effects:

i. There are no likely long-term significant adverse effects for commercial or recreational fisheries. Adverse effects can be direct, indirect, or cumulative.

(a) A significant reduction in the access of commercial or recreational fisheries to the resource used by any fishery or fishing community(s);

(b) A significant increase in the risk to entangle fishing gear;

(c) A significant reduction in navigation safety for commercial and recreational fisheries; and

(d) Environmental harm that significantly reduces quality or quantity of marine resources available for harvest.

ii. All reasonable steps are taken to avoid and minimize social and economic impacts to fishing:

(a) Avoid adverse social and economic impacts to fishing through proposed project location, design, construction, and operation such as avoiding heavily used fishing areas. Where adverse impacts to fishing cannot be reasonably avoided, demonstrate how project has minimized impacts;

(b) Minimize the number and size of anchors. Space structures for greater compatibility with existing uses and bury cables in the seafloor and through the shoreline;

(c) Minimize risk of entangling fishing gear from new structures installed in the seafloor or placed in the water. Minimize the displacement of fishers from traditional fishing areas, and the related impact on the travel distance, routing, and navigation safety in order to fish in alternative areas;

(d) Minimize the compression of fishing effort caused by the reduction in the areas normally accessible to fishers;

(e) Minimize the economic impact resulting from the reduction in area available for commercial and recreational fishing for the effected sectors and ports;

(f) Limit the number and size of projects located in an area to minimize the impact on a particular port, sector, or fishery;

(g) Consider the distribution of projects and their cumulative effects; and

(h) Other reasonable and relevant considerations as determined by the fisheries consultation process and specifics of the proposed project.

g. Rehabilitation plans shall be required prior to permitting new ocean uses. The plans shall address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, new technology, new information about environmental impacts to ensure state of the art technology and methods are used, and potential adverse impacts to commercial and noncommercial resources or coastal uses.

h. Bonds shall be required prior to permitting new ocean uses. The bond amounts shall be sufficient to assure the implementation of rehabilitation plans that fully mitigate adverse impacts to ecological functions and compensate adverse impacts to ongoing commercial and non-commercial resources and coastal uses including damaged and lost property and lost opportunity resulting from the ocean use activity. Bonding shall account for inflation and the timing of completion of the activity. If bonding proves inadequate to compensate for damages, permittees shall be held responsible.

i. For any new ocean use, the applicant shall demonstrate the financial and performance capabilities to carry out the proposed project as designed, including mitigation for failure or abandonment.

j. New ocean uses and associated transit zones shall be coordinated with existing uses, including fishing and navigation to avoid potential conflict to the greatest extent practicable. Existing shipping and towlanes shall be used for vessel transit to the maximum extent feasible.

18. Permanently anchored or fixed structures shall be prohibited, including submerged cables or pipelines. Buried transmission lines may be allowed. Temporary structures or single-point anchor systems, which support navigation aids such as buoys and scientific measurement or data-gathering structures, may be allowed.

1.4 Ocean disposal

(A) Policies

1. Ocean disposal uses should avoid, minimize, and mitigate for adverse impacts to ecological and ecosystem functions and processes, as well as existing uses, including navigation and fishing.
2. The location and implementation of ocean dredge disposal should be designed to supplement sediment transport processes to provide sand to areas including but not limited to the Long Beach Peninsula in sufficient quantities to maintain existing shoreline functions, current shoreline position, and protection of developed areas from shoreline erosion.
3. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the regulations should still be met.

(B) Regulations

1. Ocean disposal shall be permitted only at sites approved by Ecology, Washington Department of Natural Resources, the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers, and conforming with the City's Shoreline Master Program.
2. Storage, loading, transporting, and disposal of materials shall comply with all applicable local, state, and federal laws and regulations. Where conflicts arise, the more stringent regulations shall apply.
3. Ocean disposal sites shall be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, including fishing, or loss of opportunities for mineral resource development. If unavoidable adverse impacts are anticipated, applicants shall document ways those impacts will be avoided, minimized and mitigated, including compensation for adverse impacts to resources and uses.

4. Effects to navigation. The dynamic capacity of ocean disposal sites shall be monitored and maintained to ensure navigation hazards are not created by ocean disposal. Disposal should be consistent with the Regional Sediment Management Program.

5. Disposal of dredged material is permitted when it is specifically located and designed to restore habitat, maintain shoreline functions and sediment transport processes by directing sediment toward the Long Beach Peninsula to the maximum extent possible. The applicant shall demonstrate that the most current, accurate, and complete scientific and technical information supports the proposed disposal locations and application to maintain beach functions.

1.5 Ocean transportation

(A) Policies

1. When feasible, hazardous materials such as oil, gas, explosives, and chemicals should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.

(B) Regulations

1. Ocean uses involving the transport of petroleum products shall be reviewed in accordance with Chapter 8 of the City's Shoreline Master Program.

2. The transport of oil or gas or other mineral via pipeline, including to and from vessels, ports or on-shore facilities will require review under this appendix.

3. New port and industrial developments involved in the transfer of petroleum or other hazardous products in the waters and shorelands of the City shall utilize best available technology and procedures to prevent spills and develop and implement contingency plans, including use of escort tugs. Applicants shall also establish procedures for mitigating damages from spills or other malfunctions.

4. Transportation uses shall be located or routed to avoid impacts to habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries, and environmental or scientific preserves to the maximum extent feasible.

5. Applicants for new ocean transportation uses shall submit an assessment of the anticipated impacts of the proposed use on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves, and sanctuaries.

1.6 Oil & gas uses

(A) Policies

1. Consistent with RCW 43.143.010, which establishes a statewide moratorium on leasing of tidal or submerged lands for oil and gas exploration, development, and production, and given the inherent risk of such activities, oil and gas exploration, development, and production should be prohibited.
2. Because environmental damage and impact to activities or uses is a very probable impact of uses involving oil and gas transport, the City should give major consideration to the adequacy of plans, equipment, staffing, procedures, and demonstrated financial and performance capabilities for preventing, responding to, and mitigating the effects of accidents and disasters such as oil spills when reviewing permits for uses with oil and gas components.

(B) Regulations

1. Oil and gas exploration, development, production, storage, and pipelines are prohibited.

1.7 Ocean mining

(A) Policies

1. Locate and operate ocean mining activities to avoid detrimental effects on renewable resource-based uses and ecosystem processes, including beach erosion and accretion processes.

(B) Regulations

1. Ocean mining is prohibited in areas that would adversely impact biological communities, habitats, fishery resources and other renewable resources, or that would be detrimental to the natural beach processes such as erosion and littoral beach transport. Special attention shall be given to habitat recovery rates in the review of permits for seafloor mining and shall prohibit continued mining that does not substantially return to pre-mining conditions.
2. Applications for ocean mining permits shall include all plans for upland processing and transportation.

1.8 Ocean energy production

(A) Policies

1. Ocean energy facilities must be carefully evaluated to ensure that the potential impacts are fully understood. The City should ensure such ocean energy facilities are designed and located to protect and preserve ecological and ecosystem functions and shoreline and ocean natural resources and all existing sustainable uses including fishing.

(B) Regulations

1. Energy-producing uses shall be located, constructed, and operated in a manner that has no detrimental effects on beach accretion or erosion and wave processes.
2. Fixed structures associated with ocean energy production that interfere with existing ocean uses, including fishing or navigation, are prohibited, except that temporary structures may be permitted as a conditional use for a period of up to two years, with an option for a one year extension. Single anchor systems are permitted. Transmission lines may be permitted as a conditional use if buried such that they will not be re-exposed for the life of the use, as determined by a qualified professional.
3. In addition to requirements in regulation 1.3(B)17.g of this appendix, ocean energy production facilities shall not be permitted unless adverse impacts to oceanographic processes and ecosystem processes can be fully mitigated, that potential conflicts with existing uses in the area are avoided, minimized, and any unavoidable impacts are fully mitigated, that public benefits clearly outweigh the risks to the shoreline environment, and the applicant demonstrates the financial and performance capabilities to carry out the project as designed.
4. System components of ocean energy facilities that are not water-dependent shall be located outside shoreline jurisdiction unless alternative locations, including alternative technology, are demonstrated to be infeasible. Location of the system components shall not result in a net loss of shoreline ecological functions and processes or significant adverse impacts to other shoreline resources and values such as parks and recreation facilities, public access, or archaeological, historic, and cultural resources, or aesthetic resources.
5. Where a shoreline location is necessary for associated energy distribution facilities and lines, they shall be located in existing utility rights-of-way and corridors whenever feasible.

1.9 Ocean research

(A) Policies

1. Encourage ocean research uses to coordinate with other ocean uses occurring in the same area to minimize potential conflicts.
2. Encourage public dissemination of ocean research findings.
3. Ocean research, particularly reports that could help inform or are used to justify permits for ocean uses should be disseminated and produced in a manner accessible to the public.

(B) Regulations

1. Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of chapter 173-15 WAC, as amended: Permits for oil or natural gas exploration activities conducted from state marine waters.
2. Ocean research shall be located and operated in a manner that minimizes intrusion into or disturbance of coastal ocean areas consistent with the purposes of the research and the intent of the general ocean use guidelines in this appendix.
3. Ocean research shall be completed or discontinued in a manner that restores the environment to its original condition to the maximum extent feasible, consistent with the purposes of the research.

1.10 Ocean salvage

(A) Policies

1. Non-emergency marine salvage and historic shipwreck salvage activities should be conducted in a manner that minimizes adverse impacts to the coastal ocean environment, renewable resource uses, and cultural or historical resources.
2. Emergency marine salvage that has a strong potential to cause adverse impacts to the marine environment and uses if not completed immediately should be carried out as expeditiously as safety will allow.

(B) Regulations

1. Non-emergency marine salvage and historic shipwreck salvage activities shall be conducted in a manner that minimizes adverse impacts to the ocean environment and renewable resource uses.

2. Non-emergency marine salvage and historic shipwreck salvage activities shall not be conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.

3. Emergency Salvage.

    a. Damages shall be avoided, minimized, and mitigated through communication and cooperation with existing uses in the area of the emergency salvage operations.

    b. Adequate compensation shall be provided for any damages to commercial fishing gear and lost commercial fishing opportunity as a result of the salvage operation.