July 2023

PREPARED FOR PEND OREILLE COUNTY, CITY OF NEWPORT, AND TOWNS OF CUSICK, IONE, METALINE, AND METALINE FALLS

Shoreline Master Program

Pend Oreille County Regional Partnership

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Pend Oreille County Regional Partnership
Updated Shoreline Master Program
July 2023

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	Town of Metaline
	Town of Metaline Falls
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This document is dedicated in honor of Pend Oreille Planning Commissioner Bill Lee who served his community with great passion and commitment.

Chapter 1: Introduction and Overview

A. Washington State Shoreline Management Act

The Washington State Shoreline Management Act (Revised Code of Washington 90.58) was passed by the State Legislature in 1971 and adopted through a public vote on a referendum to the people in 1972. The Act is based on legislative findings that:

> *"the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."*

Following the adoption of the Shoreline Management Act, Pend Oreille County, in partnership with the cities and towns in the county, prepared and adopted a Shoreline Master Program to guide the use and development activities within jurisdictional shorelines throughout the county in 1974. In general terms, this Master Program is applicable to all rivers and streams with a mean annual flow greater than 20 cubic feet per second (cfs), all lakes greater than 20 acres, and all lands within 200 feet of the ordinary high water mark (OHWM) of these bodies of water and associated wetlands. The Shoreline Master Program includes local goals and policies consistent with the state law at the time of adoption as well as criteria for the designation of shoreline environments, maps highlighting the shoreline designations, and regulations to govern the use and development of jurisdictional shoreline areas.

B. Pend Oreille County Regional Partnership

In 2003 the State Legislature amended the Shoreline Management Act to require all cities and counties to update their Shoreline Master Program to comply with the most recent provisions of state law. In 2007 Pend Oreille County received funding from the Department of Ecology to initiate a multi-year planning process to update the County's Shoreline Master Program, which had not been revised since its adoption in 1974. The County then established a regional partnership in

consultation with the Kalispel Tribe and the Pend Oreille Public Utility District (PUD) and supported by the five cities and towns as well as numerous state and federal natural resource agencies. The Shoreline Master Program was last updated in 2015. The Act requires each town, city, and county to review, and, if necessary, revise its Shoreline Master Program every eight years (Revised Code of Washington 90.58.80). This updated SMP will be adopted by the city and towns as a regional SMP.

With the support of the regional partnership, proposed updates to the Shoreline Master Program were prepared and revised with input from local planning staff, Planning Commissions, and the public. The Shoreline Management Act requires that local Shoreline Master Programs must be approved by the Department of Ecology before they go into effect.

Following final approval of this updated Shoreline Master Program by the Department of Ecology it will be integrated into local Comprehensive Plans and development regulations for implementation. The provisions contained in the updated Shoreline Master Program will be used to guide local decision making until the next periodic review.

C. No Net Loss of Ecological Function

The process for updating local Shoreline Master Programs is guided by the provisions of the Washington Administrative Code (WAC) 173-26. These guidelines include numerous principles that must be addressed including a provision that,

> *"Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions."* The code further provides that, "*The concept of ecological functions recognizes that any ecological system is composed of a wide variety of interacting physical, chemical and biological components, that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any time. Ecological functions are the work performed or role played individually or collectively within ecosystems by these components.*"

In other words, the state guidelines provide that the level of ecological functions performed by shorelines throughout the county at the time of adoption of this Shoreline Master Program as a whole should not decline over time. This implies that any loss of ecological function that may occur in the future is offset by improvements to ecological function so that there is no net loss. While this concept cannot readily be quantified, it is the intent of the regional partnership to monitor shoreline conditions and assess both improvements and impacts to the ecological functions performed by shorelines and make adjustments if necessary.

In order to achieve this concept of no net loss of ecological function this updated Shoreline Master Program includes clear policy direction as well as new shoreline designations and regulations

designed to avoid and minimize before mitigating potential adverse impacts. In addition, the updated Shoreline Master Program also includes a Restoration Plan to guide the restoration of previously degraded shorelines. As noted in the cumulative impact analysis this updated plan includes numerous programmatic provisions that will have a positive impact on the ecological functions of shorelines throughout the County.

Chapter 2: Goals and Policies

The following Goals and Policies will guide the implementation of the updated regional Shoreline Master Program and will be integrated into applicable Comprehensive Plans.

A. Shoreline Master Program Goals

The overall goal of the regional Shoreline Master Program is to support the preservation, use, and development of shoreline areas in accordance with the provisions of the Pend Oreille County Comprehensive Plan and the Comprehensive Plans of the cities and towns in Pend Oreille County, the Washington State Shoreline Management Act and Shoreline Master Program Guidelines, and the Washington State Growth Management Act. The specific Goals of the regional Shoreline Master Program include:

- Protect private property rights.
- Promote responsible and appropriate recreational uses of lakes, rivers, and streams.
- Plan and permit appropriate uses and development activities within jurisdictional shorelines.
- Promote an increased awareness of the function and value of shorelines.
- Ensure no net loss of ecological functions within jurisdictional shorelines in accordance with the provisions of RCW 90.58.
- Protect environmentally sensitive areas.
- Protect archaeological and cultural resources.
- Support the restoration and enhancement of the ecological functions of shorelines in accordance with locally determined priorities and opportunities identified in the Restoration Plan adopted with this SMP.
- Maintain a regional partnership to implement, periodically review, and update the Shoreline Master Program.
- Recognize the importance of Shorelines of Statewide Significance.
- Accommodate adaptive use of buildings identified by the State of Washington as historically significant and that are located within shoreline jurisdiction, providing there is no net loss of ecological function.

B. Shoreline Master Program Policies

The Goals of the regional Shoreline Master Program shall be achieved through the implementation of the following policies:

1. The goal of no net loss of ecological function should be achieved through the implementation of this updated Shoreline Master Program, by avoiding adverse impacts to shoreline resources, through the local development review process, and through the restoration of previously degraded shorelines.

    a. The shoreline ecological functions to be protected include, but are not limited to, fish and wildlife habitat and water temperature maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; erosion and accretion; infiltration; groundwater recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.

    b. The regional partnership, in consultation with other local governments, state and federal agencies, non-profit organizations, property owners, and other interested parties shall use the Characterization of Ecosystem-wide Processes Report, the Reach-based Analysis of Ecological Functions, and the cumulative impact analysis that were prepared in support of updating the Shoreline Master Program as a baseline to determine whether the no net loss of ecological function is achieved.

    c. In assessing the potential for net loss of ecological functions or processes, project specific and cumulative benefits and impacts should be considered.

2. The regional partnership may, to the greatest extent practical, and in accordance with the provisions of state law, use existing data, reports, and studies, to update its Shoreline Master Program and shall identify gaps in information and acquire additional information as necessary.

3. The regional partnership, in consultation with its regional partners and the Department of Ecology, shall maintain an inventory and supporting maps of shoreline areas under the jurisdiction of the Washington State Shoreline Management Act and the Shoreline Master Program.

4. It shall be the responsibility of sponsors of proposed development activities and property owners to be aware of areas within jurisdiction of this Shoreline Master Program on the properties, and to conform to all applicable federal, state, and local regulatory requirements on their shoreline property and adjacent surface waters.

5. The regional partnership shall integrate the Goals and Policies contained in the Shoreline Master Program into their Comprehensive Plans and shall integrate the updated shoreline regulations with their development regulations and critical area regulations in accordance with the provisions of state law.

6. The regulations to implement the updated Shoreline Master Program shall be based on the following sequence of actions when addressing potential adverse effects on the ecological functions of shorelines, provided that mitigating measures may include a combination of these 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 to avoid or reduce impacts;

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

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

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

    f. Monitoring the impact and the compensation project and taking appropriate corrective measures.

7. The development regulations to implement this updated Shoreline Master Program shall include provisions to protect critical areas that have been updated in accordance with the provisions of the laws of Washington State.

    a. The level of protection to critical areas within shoreline areas will be at least to the level of protection afforded to critical areas outside of jurisdictional shorelines.

8. The development regulations to implement the updated Shoreline Master Program shall be based on the shoreline environment designations as described in xx.34.030. Areas under the jurisdiction of the Kalispel Tribe (trust lands) shall be designated as Tribal and are not under the jurisdiction of this Shoreline Master Program.

9. Jurisdictional shorelines shall be protected by establishing buffers upland from the ordinary high water mark. No new structures, related development or disturbance activities shall be permitted in shoreline buffer areas, unless specifically authorized.

10. Development activities must be setback from the landward edge of any designated buffer in order to avoid any encroachments, adverse impacts, or unauthorized activities in required buffers.

11. New development activities may be permitted within jurisdictional shorelines if they are consistent with:

    a. The goals and policies of local Comprehensive Plans; and

    b. Local development regulations; and

    c. RCW 90.58 the Shoreline Management Act and the updated local Shoreline Master Program, whether or not a permit is required; and

    d. The provisions of state and federal laws and rules.

12. Applications for development activities in or near jurisdictional shorelines shall include an assessment of potential benefits and impacts on ecological functions.

    a. Development activities and uses proposed for jurisdictional shorelines must receive a shoreline authorization or permit from the Shoreline Administrator unless specifically exempted.

    b. Applications shall include a site plan in a format prescribed by the Shoreline Administrator with sufficient information to assess potential benefits and impacts on ecological functions.

13. Proposed development activities and uses must be consistent with the goals, policies and use regulations of this updated Shoreline Management Plan, and must receive all other permits or approvals that may be required.

14. The regional partnership members shall seek to streamline the local development review process to promote timely and coordinated agency review and comment.

    a. Phased projects or similar project activities may be consolidated into a single shoreline application.

15. The regional partnership members should adopt procedures to integrate shoreline reviews with required environmental assessments to avoid unnecessary duplication of efforts.

16. The Pend Oreille River, Sullivan Creek, Sullivan Lake, and Calispell Lake have been designated as Shorelines of Statewide Significance. As a result, priority consideration shall be given to the following uses in the following order of preference:

    a. Preserve the natural character of the shoreline;

    b. Result in the long-term over short-term benefit;

    c. Protect the resources and ecology of the shoreline;

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

    e. Increase recreational opportunities;

    f. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary; and

    g. Recognize and protect the statewide interest over local interest.

17. New development activities may be permitted below the ordinary high water mark when authorized in this updated Shoreline Master Program and authorized through the issuance of the appropriate permits and approvals. Specifically authorized activities may include, in certain shoreline designations and/or under certain terms and conditions:

    a. Docks;

    b. Marinas;

    c. Aquaculture;

    d. Bridges;

    e. Dams, levees, dikes, flood control, bank stabilization projects, and or stormwater management facilities;

    f. Structures, development activities, and/or uses required by federal licenses and associated settlement agreements; and

    g. Public utilities.

18. All proposed development activities shall comply with County, City, Town, state, and federal floodway and floodplain regulations.

19. New job generating, water-dependent activities should be encouraged in shoreline areas in accordance with the provisions of local plans and regulations.

20. Existing water-dependent and water-related uses located in shorelines may be retained in accordance with the provisions of local plans and regulations.

21. Local development regulations should be periodically reviewed and updated to more clearly encourage water-dependent uses in shoreline areas designated Rural/Urban Higher Intensity.

22. Residential development may be permitted in shoreline areas in accordance with the densities and standards contained in local development regulations, provided that:

    a. There is no net loss of ecological functions as a result of new residential development in accordance with the provisions of WAC 173-26-241(3)(j).

23. The preservation of native or beneficial vegetation within jurisdictional shorelines should be encouraged and the removal should only be permitted in accordance with approved County, City, and Town standards.

24. The regional partnership, in consultation with natural resource agencies, the Kalispel Tribe, property owners, and other interested parties, should provide guidelines to encourage the planting of shade trees along creeks and streams and beneficial native vegetation in and near all shoreline areas. For example, plant lists are available in the Pend Oreille County SMP User Guide and through local conservation district offices.

25. The regional partnership, in consultation with natural resource agencies, the Kalispel Tribe, property owners, and other interested parties, should continue to provide guidelines that will minimize the need for future bank stabilization activities, along with providing bank stabilization options identified in the Pend Oreille County Shoreline Stabilization Guide (2016), or subsequent updates.

26. The regional partnership, in consultation with other local governments, state and federal agencies, and non-profit organizations as appropriate shall maintain a list of improvements to be made to existing public accesses to the river, lakes, streams, and shoreline areas.

27. The regional partnership, in consultation with other local governments, state and federal agencies, and non-profit organizations should encourage the enhancement of existing public access facilities and the development of new public access facilities in accordance with the following criteria:

    a. Areas most suitable for recreational activities;

b. Areas underserved by recreational access;

c. Areas where facilities can reasonably be designed to avoid, minimize, or mitigate potential adverse impacts; and

d. Consistency with local plans and regulations.

28. The concentration of activities that can have an adverse impact on ecological functions should not be permitted.

    a. Keyholing or other land use practices that result in the inappropriate or excessive concentration of uses in shoreline areas shall not be permitted.

29. Local regulations should be reviewed and periodically updated to protect jurisdictional shorelines from potential adverse effects of wake restrictions, fueling, milfoil control, etc.

30. Guidance for the design, siting, and anchoring of docks shall include:

    a. Provisions that enable applications that are consistent with the approved standards to be processed in an expeditious manner; and

    b. Standards to avoid, minimize, or mitigate potential adverse environmental affects or the net loss of ecological functions.

31. The regional partnership, in consultation with other local governments, state and federal agencies, and non- profit organizations as appropriate, shall maintain a list of scenic viewpoints to be preserved and new viewpoints to be developed in accordance with the following criteria:

    a. Compliance with federal, state, and local scenic byways standards and requirements;

    b. Sites that do not adversely affect the public health and safety;

    c. Sites that do not interfere with private property rights; and

    d. Sites that do not adversely affect ecological functions or habitats.

32. Local regulations should be updated to include protocols to guide the inadvertent discovery of archaeological or cultural resources.

33. Support the location of new septic systems and the relocation or replacement of existing septic systems in areas that do not adversely affect shorelines or water quality.

34. The regional partnership may execute inter-local agreements to facilitate the implementation of the Shoreline Master Program. This may include, but is not limited to:

    a. The issuance of shoreline permits on behalf of cities and towns that do not have local planning staff;

    b. The identification of indicators that can be readily monitored to help determine whether the standard of no net loss of ecological function is being achieved;

    c. Design, construct, and or maintain shoreline restoration projects and public access facilities; and/or

    d. To support the full and timely compliance with the conditions of federal licenses and settlement agreements associated with the federally licensed dams.

35. The regional partnership will use education, development reviews, and enforcement to promote compliance with the Shoreline Master Program.

36. Clustering of new developments in or near jurisdictional shoreline areas may be permitted provided that:

    a. Shoreline areas are kept intact;

    b. Required open spaces, easements, dedications, and buffers are preserved in perpetuity; and

    c. The proposed development activity will not result in a net loss of ecological functions.

37. The regional partnership shall encourage private property owners to adopt voluntary measures to protect habitat and promote water quality such as alternatives to the use of pesticides, fertilizers, and products with phosphates.

38. The Pend Oreille River Water Trails Project is a high priority economic development project.

39. The restoration of the West Branch Little Spokane Wildlife Area is a high priority restoration project.

40. The implementation and ongoing compliance with the conditions of the licenses and associated settlement agreements for Box Canyon and Boundary Dams are a priority.

    a. The regional partnership may execute such inter-local agreements with the Pend Oreille Public Utility District and Seattle City Light as may be necessary to implement the

terms and conditions of Federal Energy Regulatory Commission licenses and associated settlement agreements for these facilities.

b. Proposed new development activities should be consistent with the provisions of approved federal licenses and associated development agreements.

41. The implementation and ongoing compliance with the adjudication of water rights and/or associated settlement agreements shall be a priority.

    a. The regional partnership may execute such inter-local agreements as may be necessary to implement the terms and conditions of any adjudications or associated settlement agreements.

42. Public agencies should include public access measures as a part of public development activities within jurisdictional shoreline areas unless such access is incompatible with public safety, security, or environmental protection, or results in a net loss of ecological functions.

43. Buildings identified by the State of Washington as Historically Significant that are located within Shoreline Jurisdiction shall accommodate an adaptive use that does not result in a net loss of ecological function.

Chapter 3: Shoreline Environment Designations

A. Introduction and Overview

The Washington State Shoreline Management Act requires that the regional Shoreline Master Program include a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in the Shoreline Management Act. The Act gives the regional partnership the option of adopting the classification system presented in guidelines provided by the Department of Ecology or of developing a customized classification system. In an effort to more effectively integrate planning activities mandated by the Shoreline Management Act with planning activities mandated through the Washington State Growth Management Act, the regional partnership has elected to adopt a customized system that features nine categories including:

1. Natural;
2. Rural Conservancy;
3. Urban Conservancy;
4. Rural Residential;
5. Urban Residential;
6. Rural Higher Intensity;
7. Urban Higher Intensity;
8. Aquatic; and
9. Tribal.

B. Shoreline Designations

The following is a description of the purpose, the classification criteria, and the management policies for each shoreline designation:

1. Natural

   a. Purpose: Preserve and protect shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions largely intolerant of human use.

   b. Designation Criteria:

      (1) The Natural Environment designation may be assigned to property that is relatively free of human influence if any of the following criteria are met:

         (a) The shoreline is publicly owned and is not suitable for active use or development.

         (b) The shoreline is performing an important function or ecosystem wide activity, which could be damaged by human activity;

         (c) The shoreline represents an ecosystem or geological type that is of particular scientific, educational, historical, or cultural interest; or

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

   c. Management Policies:

      (1) Scientific, historical, cultural, and educational research uses and low intensity water-oriented recreation uses may be permitted subject to conditions.

         (a) Seasonal or frequency of use limitations may be imposed.

         (b) Legal or jurisdictional limitations may apply.

      (2) Any use or development activity that would significantly degrade the ecological function or natural character of the shoreline should not be permitted.

         (a) Measures necessary to protect recreation sites, cultural and historic resources, and fish and wildlife habitat may be permitted, provided that it does not result in the net loss of ecological function.

(3) Activities and uses required as conditions of federal licenses and associated settlement agreements for dams may be permitted subject to the provisions of federal, state, and local laws.

2. Conservancy

a. Purpose: Preserve and enhance high priority ecological functions, conserve designated natural resource lands and designated environmentally sensitive areas, conserve public lands and resources, and protect valuable historic and cultural areas, while providing appropriate recreational opportunities.

b. Designation Criteria:

(1) A Rural Conservancy designation may be assigned to shorelines outside of designated Urban Growth Areas that do not meet the criteria for a Natural Designation, if any of the following apply:

(a) The shoreline area has been designated in the Pend Oreille County Comprehensive Plan as a Natural Resource Area, or is zoned NR-40 or NR-20;

(b) The shoreline area has been zoned R-40; or

(c) The shoreline area is publicly owned and under the management or jurisdiction of a federal, state, or local agency or district; or

(d) The shoreline is supporting lesser intensity human uses but is subject to environmental limitations, such as steep banks, feeder bluffs, floodplains, or other flood prone areas; or

(e) The shoreline includes areas of significant cultural value; or

(f) The shoreline includes areas of significant recreational value.

(2) An Urban Conservancy designation may be assigned to shorelines within an Urban Growth Area that do not meet the criteria for a Natural Designation, if any of the following apply:

(a) The area has been designated in a local comprehensive plan as open space, a public park, a conservancy area, or comparable designation and/or contains environmentally sensitive areas;

(b) The shoreline is publicly owned and under the management or jurisdiction of a federal, state, or local agency or district; or

(c) The shoreline is supporting lesser intensity human uses but is subject to environmental limitations, such as steep banks, feeder bluffs, floodplains, or other flood prone areas: or

(d) The shoreline includes areas of significant cultural value; or

(e) The shoreline includes areas of significant recreational value.

(3) The County is in the process of reviewing and updating Urban Growth Area (UGA) boundaries with each city and town. Through this process minor adjustments may be made so that UGA boundaries follow property lines and parcels inadvertently included or excluded from a UGA due to mapping errors are correctly designated. This may result in the minor re-designation of shoreline areas from Rural Conservancy to Urban Conservancy or vice versa so that shoreline maps remain consistent with GMA maps. No changes in the underlying designation will be made through this administrative adjustment process.

c. Management Policies:

(1) Proposed development activities outside of Urban Growth Areas must be consistent with the rural character of the County and the provisions of the County Comprehensive Plan and development regulations.

(2) Agriculture and commercial forestry are permitted uses.

(3) Mining may be permitted as a conditional use in accordance with the provisions of the local comprehensive plan and development regulations provided that there shall be no net loss of ecological function.

(4) Public access and water-dependent recreation uses should be permitted where feasible and where ecological impacts can be mitigated.

(5) Low impact resorts and public parks may be permitted.

(6) The sites of previous commercial and industrial uses may be redeveloped, provided that there is no net loss of ecological function and the proposed use or activity complies with all provisions of the County Comprehensive Plan and development regulations.

(a) Low intensity, water-oriented commercial and industrial uses are limited to areas where those uses have occurred in the past or at sites that possess conditions and services to support the development.

(7) Activities and uses required as conditions of federal licenses and associated settlement agreements for dams may be permitted subject to the provisions of federal, state, and local laws.

(8) The hydrological functions of shorelines shall be maintained. As a general matter, this may be accomplished by limiting the impervious surface area of new development to a maximum of 10% of the lot or parcel.

3. Residential

a. Purpose: Support residential uses at appropriate densities in accordance with local Comprehensive Plans. Provide public access and appropriate types and levels of recreational uses.

b. Designation Criteria:

(1) Shorelines within Urban Growth Areas may be designated Urban Residential if they have been targeted in local comprehensive plans and/or zoning codes for residential development and they do not meet the criteria for a Natural or Conservancy Designation.

(2) Shorelines outside of Urban Growth Areas may be designated as Rural Residential if they have been zoned R-20, R-10, or R-5, and they do not meet the criteria for a Natural or Conservancy Designation.

(3) The County is in the process of reviewing and updating Urban Growth Area (UGA) boundaries with each city and town. Through this process minor adjustments may be made so that UGA boundaries follow property lines and parcels inadvertently included or excluded from a UGA due to mapping errors are correctly designated. This may result in the minor re-designation of shoreline areas from Rural Residential to Urban Residential or vice versa. No changes in the underlying designation will be made through this administrative adjustment process.

c. Management Policies:

(1) Standards shall be developed to limit vegetation removal, protect native vegetation and habitat, promote the appropriate design of docks, appropriately locate and maintain septic systems, bank stabilization, and to discourage inappropriate uses of fertilizers and pesticides.

(2) In order to protect the public health and safety and to limit the potential for over concentration of recreational uses, proposed new residential developments in rural areas must submit management plans in accordance with the provisions of County development regulations.

(3) Certain nonresidential uses may be permitted as a conditional use.

(4) Master Planned Resorts may be permitted in accordance with state and local requirements.

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

4. Higher Intensity

a. Purpose: Provide for water-oriented commercial, industrial, and related uses.

b. Designation Criteria:

(1) The Urban Higher Intensity designation is appropriate for shorelines within Urban Growth Areas zoned for commercial or industrial uses that do not meet the criteria for a Natural, Conservancy, or Residential Designation.

(2) The Rural Higher Intensity designation is appropriate for areas outside of Urban Growth Areas that are being used or have been targeted for commercial, industrial, higher intensity recreation or tourism; uses that do not meet the criteria for a Natural, Conservancy, or Residential Designation.

c. Management Policies:

(1) Priority shall be given to water-dependent uses, then water-related uses, and then water-enjoyment uses. Non-water-related uses may be permitted as a part of a mixed-use development.

(2) New development activities shall not result in a net loss of shoreline ecological functions.

(3) Where applicable, new development activities shall include environmental cleanup and the restoration of shorelines to comply with relevant state and federal laws and licenses and associated settlement agreements.

(4) Urban shorelines designated for higher intensity uses should be fully utilized before additional urban shoreline areas are designated for higher intensity uses.

(5) Activities and uses required as conditions of federal licenses and associated settlement agreements for dams may be permitted subject to the provisions of federal, state, and local laws.

5. Aquatic

a. Purpose: To protect jurisdictional bodies of water and the underlying lands that are waterward of the ordinary high water mark from uses or development activities that interfere with public rights of navigation and to protect the ecological functions.

b. Designation Criteria:

(1) Rivers, lakes, and streams and associated wetlands that are under the jurisdiction of the Shoreline Management Act and the underlying lands that are waterward of the ordinary high water mark.

c. Management Policies:

(1) Priority shall be given to navigation and recreational uses.

(2) Activities and uses required as conditions of federal licenses and associated settlement agreements for dams may be permitted subject to the provisions of federal, state, and local laws.

(3) Aquatic noxious weeds or invasive species may be removed or controlled in accordance with the provisions of this plan.

(4) New overwater structures shall be permitted only for water-dependent uses, public access, or ecological restoration and shall be the minimum size necessary to support the structure's intended use.

(5) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of overwater facilities are encouraged.

(6) Shoreline uses and modifications should be designed and managed to prevent the degradation of water quality, the alteration of natural hydrographic conditions, and harmful impacts to public access.

(7) New developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation; consider impacts to public views; allow for the safe, unobstructed passage of fish and wildlife,

particularly those species dependent on migration; and to avoid or minimize impacts to shoreline vegetation.

(8) New public accesses should:

(a) Be directed to areas that comply with local zoning, shoreline regulations, and development regulations;

(b) Avoid impacts to fish spawning areas and riparian vegetation;

(c) Feature low impact development measures and avoid hardening of the access site and adjacent shoreline;

(d) Should showcase appropriate shoreline restoration techniques and should include education about the value of the river's resources; and

(e) Should be based on a long-term access management strategy for developing and restoring access to the site.

6. Kalispel Tribe

a. Purpose: To identify shoreline areas under the jurisdiction of the Kalispel Tribe.

b. Designation Criteria: Shorelines located within the boundaries of the Kalispel Indian Reservation or held in trust by the U.S. Government for the Kalispel Tribe or a member of the Tribe.

c. Management Policies: Shorelines under the jurisdiction of the Kalispel Tribe are not subject to the provisions of the Washington State Shoreline Management Act or the regional Shoreline Master Program. Please contact the Kalispel Tribe to discuss potential development activities.

d. Please note that some parcels owned by the Tribe or Tribal members may not be under the planning jurisdiction of the Tribe and may be subject to the provisions of this Master Program. For more information about the jurisdictional status of a parcel, please contact the Kalispel Tribe and/or the Shoreline Administrator.

Chapter 4A: Shoreline Regulations

Sections:

xx.34.010 Purpose.
xx.34.020 Applicability.
xx.34.030 Shoreline Designations.
xx.34.040 Shoreline Permits and Authorizations.
xx.34.050 Table of Permitted Shoreline Uses and Activities.
xx.34.060 Development Standards.

xx.34.010 Purpose.

The purpose of this Chapter is to establish the regulations necessary to implement the updated regional Shoreline Master Program and to comply with the provisions of the Washington State Shoreline Management Act (RCW 90.58 as amended), the Washington State Growth Management Act (RCW 36.70, as amended), and the Washington State Environmental Policy Act, (RCW 43.21C, as amended).

A. It is the further purpose of these regulations to:

1. Recognize and protect property rights consistent with the public interest; and

2. Provide for the management of the shorelines within the County by planning for and fostering all reasonable and appropriate uses of the shorelines;

3. Ensure the development of the shorelines in a manner that, while allowing for the limited reduction of the rights of the public, will promote and enhance the public interests;

4. Provide protection against adverse effects to the public health and welfare while protecting, generally, public rights of navigation;

5. Preserve, to the greatest extent feasible, consistent with the overall best interest of the State and its people, the public's opportunity to enjoy the physical and aesthetic qualities of the shorelines of the state;

6. Preserve and protect the ecological functions of the shoreline to assure maintenance of water quality and fish and wildlife habitat; and

7. Maintain and enhance the aesthetic characteristics and values of the shoreline.

xx.34.020 Applicability.

A. This SMP applies to all development, including the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, minerals, or vegetation; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. Development does not include the following activities:

1. Interior building improvements;

2. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;

3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding;

4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections;

5. Dismantling or removing structures if there is no other associated development or redevelopment;

6. 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 RCW 70.305, or to Ecology when it conducts a remedial action under RCW 70.305;

7. Pursuant to RCW 90.58.355, any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system stormwater general permit;

8. Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356;

9. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045 and RCW 43.21K;

10. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to RCW 80.50; and

11. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of RCW 90.58.

B. The regulations set forth in this Chapter shall apply to:

1. All bodies of water together with the land underneath them located in Pend Oreille County that meet the jurisdictional criteria for Shorelines of the State, specified in RCW 90.58.030, which in general terms includes:

    a. Segments of rivers and streams with a mean annual flow of 20 cubic feet per second or more; and

    b. Lakes greater than 20 acres in size.

2. All upland areas, also known as "shorelands," that extend 200 feet landward in all directions on a horizontal plane from the edge of the ordinary-high-water mark of Shorelines of the State.

3. All wetlands associated with Shorelines of the State.

4. All designated floodways as depicted on the most current FEMA Flood Insurance Rate Maps, as adopted by the regional partnership, and contiguous floodplain areas landward 200 feet from such floodways.

5. All required buffers including environmentally sensitive area buffers located within jurisdictional shoreline areas. In these instances, the jurisdictional boundary will move upland to encompass the land necessary for the buffer.

C. Certain Shorelines of the State have been designated by the State as Shorelines of Statewide Significance in accordance with the provisions of RCW 90.58.030 and as a result, may be subject to a higher degree of protection. In Pend Oreille County, these include the Pend Oreille River, Sullivan Creek, Sullivan Lake, and Calispell Lake.

1. Priority consideration shall be given to the following uses of these shorelines, in the following order of preference:

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

    b. Preserve the natural character of the shoreline;

    c. Result in the 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; and

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

2. The review of project specific development proposals proposed for Shorelines of Statewide Significance shall consider incremental and cumulative benefit and impacts and shall not result in the net loss of shoreline ecosystems and ecosystem-wide processes.

D. The regional partnership shall maintain an Official Shoreline Jurisdiction Map illustrating the shorelines of the state, their associated wetlands, and shorelands that fall under the jurisdiction of this Chapter. In general terms, the bodies of water in Pend Oreille County that meet the jurisdictional criteria of the Washington State Shoreline Management Act include:

1. Rivers:

a. Little Spokane-East Branch;
b. Little Spokane-West Branch;
c. Pend Oreille (Shoreline of Statewide Significance);
d. Priest-Upper West Branch; and
e. South Salmo.

2. Creeks and Streams (greater than 20 cfs mean annual flow):

a. Big Muddy;
b. Buck;
c. Calispell;
d. Calispell-North Fork;
e. Calispell-South Fork;
f. Calispell-Middle Fork;
g. Cedar (North County);
h. Cusick;
i. Davis;
j. Goose;
k. Granite-North Fork;
l. Granite-South Fork;
m. Harvey;
n. LeClerc;
o. LeClerc-East Branch;

p. LeClerc-West Branch;
q. McCloud;
r. Mill;
s. Moon;
t. Outlet;
u. Skookum;
v. Skookum-South Fork;
w. Slate;
x. Spring Heel;
y. Sullivan (Shoreline of Statewide Significance);
z. Tacoma; and
aa. Tacoma-South Fork.

3. Lakes (greater than 20 acres):

a. Bead;
b. Big Meadow/Heather;
c. Brownie;
d. Browns (middle county);
e. Browns (north county);
f. Calispell (Shoreline of Statewide Significance);
g. Chain;
h. Crescent;
i. Davis;
j. Diamond;
k. Fan;
l. Frater;
m. Horseshoe;
n. Ione Mill Pond;
o. Kings;
p. Ledbetter;
q. Lead King-Lower;
r. Lead King-Upper;
s. Leo;
t. Lost;
u. Mallard Marsh;
v. Marshall;
w. Metcalf;
x. Mountain Meadows;
y. Nile;

z. Oldney's Pond;
aa. Panhandle;
bb. Parker;
cc. Petit Lake;
dd. Power;
ee. Sacheen;
ff. Scotchman;
gg. Shearer;
hh. Skookum-North;
ii. Skookum-South;
jj. Sullivan (Shoreline of Statewide Significance);
kk. Sullivan Mill Pond;
ll. Trask Pond;
mm. Trout;
nn. Unnamed Lake;
oo. Unnamed Slough;
pp. Unnamed Wetland;
qq. Wilderness; and
rr. Yocum.

E. In the event that any of the boundaries on the Official Shoreline Jurisdiction Map conflict with the criteria of WAC 173-22-040 as amended, the criteria shall control.

F. The Official Shoreline Jurisdiction Map generally depicts the shoreline areas that are under the jurisdiction of the Shoreline Management Act, but the extent of jurisdictional shorelines on an individual lot, parcel, or tract is to be determined by field investigations and a survey and is the responsibility of the project applicant/owner. Said investigation/survey shall be included in shoreline permit application submittals to determine the extent of shoreline jurisdiction.

1. Substantive changes to the Official Shoreline Map must be approved by the Department of Ecology in accordance with the provisions of RCW 90.58.

G. The Shoreline Administrator is authorized to make such administrative interpretations as may be necessary to determine the extent or applicability of the Washington State Shoreline Management Act or the provisions of this Chapter, in accordance with the provisions of RCW 90.58.

1. The Shoreline Administrator shall consult with the Department of Ecology, as appropriate, to ensure that formal written interpretations are consistent with the purpose and intent of RCW 90.58 and applicable guidelines.

xx.34.030 Shoreline Designations.

A. For purposes of administering the regional Shoreline Master Program, all jurisdictional shoreline areas shall receive one of the following shoreline designations:

1. Natural;
2. Rural Conservancy;
3. Rural Residential;
4. Rural Higher Intensity;
5. Urban Conservancy;
6. Urban Residential;
7. Urban Higher Intensity;
8. Aquatic; or
9. Tribal.

B. In the event that a jurisdictional shoreline area has not been designated or has been erroneously designated, the Shoreline Administrator in accordance with the provisions of state law is authorized to make the appropriate designation.

1. In the event that an amendment to the Shoreline Master Program is required, the area in question shall, as an interim measure, be designated as Urban Conservancy if it is in a designated Urban Growth Area, or Rural Conservancy, if it is not.

2. The County is in the process of reviewing and updating Urban Growth Area boundaries with each city and town. Through this process minor adjustments may be made so that UGA boundaries follow property lines and parcels inadvertently included or excluded from a UGA due to mapping errors are correctly designated. This may result in the minor re-designation of shoreline areas from Rural Conservancy to Urban Conservancy or vice versa, or from Rural Residential to Urban Residential or vice versa. No changes in the underlying designation will be made through this administrative adjustment process.

C. The purpose of each shoreline designation is as follows:

1. Natural: To protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions largely 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.

2. Conservancy: Preserve and enhance high priority ecological functions, conserve designated natural resource lands and designated environmentally sensitive areas, conserve public lands and resources, and protect valuable historic and cultural areas, while providing appropriate recreational opportunities. Shorelines within designated Urban Growth Areas shall be designated as Urban Conservancy, and shorelines outside of designated Urban Growth Areas shall be designated as Rural Conservancy.

3. Residential: Support residential uses at appropriate densities in accordance with local comprehensive plans, while protecting shoreline natural character, resources, and ecology as required by RCW 90.58.020. Provide public access and appropriate types and levels of recreational uses. Shorelines within designated Urban Growth Areas shall be designated as Urban Residential, and shorelines outside of designated Urban Growth Areas shall be designated as Rural Residential.

4. Higher Intensity: Provide for high intensity, water-oriented commercial, transportation, and industrial uses. Shorelines within designated Urban Growth Areas shall be designated as Urban Higher Intensity, and shorelines outside of designated Urban Growth Areas shall be designated as Rural Higher Intensity.

5. Kalispel Tribe: Shorelines located within the boundaries of the Kalispel Indian Reservation, or held in trust by the U.S. Government for the Kalispel Tribe or a member of the Tribe, are under the jurisdiction of the Kalispel Tribe and as a result, are not subject to the provisions of the regional Shoreline Master Program.

6. Aquatic: To protect jurisdictional bodies of water and the underlying lands that are waterward of the ordinary high water mark from uses or development activities that interfere with public rights of navigation and to protect the ecological functions.

xx.34.040 Shoreline Permits and Authorizations.

All proposed development activities and new uses within jurisdictional shorelines, as determined by the regional partnership, must conform to the provisions of this Chapter and must be reviewed for consistency with the goals, policies, and use regulations of the regional Shoreline Master Program, and may proceed only after receipt of appropriate authorizations, permits, and approvals.

Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and this Master Program, whether a permit is required or not. Pend Oreille County Code Chapter XX.14 describes permit classifications and processing procedures.

A. In addition to such permits and approvals that may be required by state and federal agencies, all development activities and uses proposed for jurisdictional shorelines must receive authorization from the Shoreline Administrator. This may include, but is not limited to the following authorizations or permits:

1. Shoreline Authorization (SA). Shoreline Authorizations shall be processed as a Class 1 Permit and shall be required for proposed uses and development activities, as indicated on the Table of Permitted Shoreline Uses, and/or for any proposed development activity or use that is exempt from the requirements for a Shoreline Substantial Development Permit or a Shoreline Conditional Use Permit, provided that:

    a. Proposed development activities and uses must comply with all applicable provisions of the regional Shoreline Master Program and all applicable provisions of this Title; and

    b. If any part of the proposed development activity or use requires a Shoreline Substantial Development Permit (SSDP), then the entire activity must receive a SSDP.

    c. The following uses are exempt from the requirements for a Shoreline Substantial Development Permit and may be permitted through the issuance of a Shoreline Authorization by the Shoreline Administrator. Please note that the exemptions to the SSDP shall be narrowly construed. Only those proposed developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the SSDP process and allowed through the issuance of an SA.

        (1) Any use, modification, or development of which the total cost or fair market value, whichever is higher, does not exceed eight thousand five hundred and four dollars ($8,504) or an amount subsequently established by the State of Washington, if such use, modification, or development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the use, modification, or development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

        (2) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. “Normal maintenance” means those usual acts to prevent a decline, lapse, or cessation from a lawfully established state

comparable to its original condition, including but not limited to its size, shape, configuration, location, and external appearance, within 12 months after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resources or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

(3) When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the State Department of Fish and Wildlife;

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

(5) Construction and practices normal or necessary to maintain existing farming and irrigation activities, including agricultural service roads and utilities;

(6) Construction or modification, by or under the authority of the Coast Guard, of navigational aids such as channel markers and anchor buoys;

(7) Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of 35 feet above average grade level, and which meets all requirements of the state agency and/or local government with jurisdiction, other than requirements imposed pursuant to Chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership that are normal appurtenances. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, and grading, which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

(8) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. The fair market value of the dock shall not exceed:

(a) Twenty-two thousand five hundred dollars ($22,500) for docks that are constructed to replace existing docks, and are of equal or lesser square footage than the existing dock being replaced; or

(b) Eleven thousand two hundred ($11,200) dollars for all other docks constructed in fresh waters.

(c) However, if subsequent construction occurs within 5 years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development.

(9) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters,

including return flow and artificially stored groundwater for the irrigation of lands;

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

(11) Operation and maintenance of any system of dikes, ditches, drains, or other public facilities existing on September 8, 1975, which were created, developed, or used primarily as a part of an agricultural drainage or diking system;

(12) Any project with a certification from the Governor pursuant to Chapter 80.50 RCW;

(13) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under these shoreline regulations, if:

(a) The activity does not interfere with the normal public use of the surface waters; and

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

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

(d) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the applicable local government to ensure that the site will be restored to preexisting conditions.

(14) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.10.010, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under Chapter 43.21C RCW;

(15) Watershed restoration projects as defined in WAC 173-27-040.

(16) A public or private project that is designed to improve fish or wildlife habitat or fish passage, consistent with RCW 90.58.147 and approved by the Washington Department of Fish and Wildlife.

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

(18) All other uses, modifications, and developments exempted by WAC 173-27-040.

2. SSDP. Shoreline Substantial Development Permits shall be processed as a Class 2 Permit and shall be required for proposed uses and development activities as indicated on the Table of Permitted Shoreline Uses, provided that:

   a. Proposed development activities and uses must comply with all applicable provisions of the Shoreline Master Program and all applicable provisions of this Title; and

   b. If the proposed development activity is certified to cost less than $8,504 as determined by the Shoreline Administrator, then the proposed activity may be permitted through the issuance of a Shoreline Authorization.

3. Shoreline Conditional Use Permit (SCUP). Shoreline Conditional Use Permits shall be processed as a Class 2 Permit and shall be required for proposed uses and development activities as indicated on the Table of Permitted Shoreline Uses, provided that:

   a. Proposed development activities and uses must comply with all applicable provisions of the Shoreline Master Program and all applicable provisions of this Title; and

   b. Shoreline Condition Use Permits must also be reviewed and approved by the Washington State Department of Ecology in accordance with the provisions of WAC 173-27.

B. The purpose of a conditional use permit is to provide a system within the Master Program that allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020 and 90.58.140. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local Master Program.

   1. Uses that are classified or set forth in the applicable Master Program as 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 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 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

2. That the public interest suffers no substantial detrimental effect. In the granting of all conditional use permits, consideration shall be given to the cumulative benefits and 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.

3. Other uses which are not classified or set forth in the applicable Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the Master Program.

4. Uses which are specifically prohibited by the Master Program may not be authorized.

C. The requirements of this Chapter shall be considered as an overlay to the requirements of the applicable local zoning controls and development regulations. All proposed uses or development activities must comply with the requirements of this Chapter and all provisions of the underlying zoning district, as well as with the provisions of any applicable local, state, or federal law or requirement, provided that:

1. All proposed development activities or uses must comply with the Goals and Policies of the local Comprehensive Plans and the regional Shoreline Master Program.

2. It is the intent of the regional partnership to continue to update regulations protecting environmentally sensitive areas in phases in accordance with the provisions of the Washington State Growth Management Act.

a. If a portion of a wetland or floodplain is determined to be associated with a jurisdictional shoreline, then the entire wetland or floodplain shall be subject to the provisions of this Chapter.

b. In the event of a conflict between the requirements of these shoreline regulations and the provisions of other applicable laws or requirements, the provisions that implement the shoreline regulations shall apply.

3. Development activities or uses proposed for areas that fall within the boundaries of designated Project Areas for the Box Canyon or Boundary Dams may also be subject to the provisions of inter-local agreements with the Pend Oreille Public Utility District or Seattle City Light as well as subject to review and approval by the Federal Energy Regulatory Commission (FERC) and/or their designated licensee.

4. All proposed development activities or uses that require approval through the issuance of a SSDP or SCUP must include with their application a SEPA checklist and shall be subject to a SEPA Threshold Determination unless specifically exempted by the applicable local government.

D. The Shoreline Administrator may approve, approve subject to conditions, or disapprove an application for a SA, SSDP, or SCUP. It is the goal of the regional partnership to integrate the processing of required permits or approvals for development activities or uses proposed for jurisdictional shorelines with other permits and approvals that may be required.

1. This may be accomplished in part through the Joint Aquatic Resources Permit Application (JARPA) process adopted by the local government.

2. Prior to submitting a Class 2 or Class 3 application involving jurisdictional shorelines, prospective applicants shall make an appointment for and attend a pre-application meeting with the Shoreline Administrator. The purpose of this meeting is to identify and discuss the proposed project or development activities, permit procedures, processing requirements, permit fees, schedules, and information that will be necessary for project review. The Shoreline Administrator may invite representatives from County, city, or town, departments, other affected jurisdictions, agencies, or other entities to attend.

3. New development activities and uses should be designed and constructed to avoid the net loss of shoreline ecological functions. Applications should highlight proposed measures to avoid, minimize, and/or mitigate measures that may have an adverse environmental impact or an adverse effect on ecological functions. The Shoreline Administrator may propose revisions that have less impact and/or require on- or off-site mitigation.

4. Applicants intending to implement programmatic or phased projects are encouraged to include in their application all elements of the project that are known at the time of application.

5. Revisions to permits must comply with the provisions of WAC 173-27-100.

E. The regional partnership shall maintain a Table of Permitted Shoreline Uses and Activities that highlights development activities and uses that may be permitted through the issuance of a Shoreline Authorization, a Shoreline Substantial Development Permit, or a Shoreline Conditional Use Permit, as well as activities and uses that may not be permitted.

1. The Shoreline Administrator is authorized to make such interpretations as may be necessary to administer this Chapter and to implement the provisions of the updated Shoreline Master Program. Such interpretations may be made in consultation with the Washington State Department of Ecology in order to ensure consistency with other interpretations of the provisions of the Shoreline Management Act. Interpretations made by the Shoreline Administrator may include, but are not limited to:

   a. Clarification of shoreline environment designations;

   b. Determinations of activities that are exempt from the requirement to obtain a Shoreline Substantial Development Permit in accordance with the provisions of WAC 173-27-040;

   c. Resolution of conflicting code requirements or conflicting provisions of law; and/or

   d. Determinations of complete applications.

2. Any proposed development activity or use not specifically identified on the Table of Permitted Uses shall only be permitted through the issuance of a Shoreline Conditional Use Permit.

3. The Shoreline Administrator shall, when determining allowable uses and resolving use conflicts within jurisdictional shorelines, apply the following preferences and priorities in the order listed below:

   a. Avoid actions that unreasonably restrict private property rights, result in a taking of private property without just compensation, and/or deny the reasonable use of private property.

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

   c. Reserve shoreline areas for water-dependent and associated water-related uses, provided that mixed-use developments that include and support water-dependent uses may be permitted.

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

e. 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.

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

g. Preserve the ability of the federally licensed dams to operate consistent with the terms of the federal licenses and associated settlement agreements.

4. Legally established residential and appurtenant structures in place on the date of adoption of this updated Shoreline Master Program shall be considered legal conforming uses and structures for purposes of implementing these shoreline regulations.

F. Variances. Variances from bulk and dimension standards and associated performance standards shall be requested in writing and will be processed by the County as a Class 2 Permit in accordance with the provisions of this Title.

1. Variances must be consistent with the policies of the Shoreline Management Act and the Goals and Policies of this Shoreline Master Program;

2. Variances for development activities and/or uses that will be located landward of the ordinary high water mark (OHWM), may be authorized provided the Applicant can demonstrate that:

a. The strict application of the bulk, dimensional, or performance standards precludes, or significantly interferes with, reasonable use of the property;

b. The hardship described in (a) of this subsection is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features, special considerations associated with in-fill development, and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;

c. The design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Master Program and will not cause adverse impacts to the shoreline environment;

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

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

f. The variance will not interfere with the operation of any federally licensed dams; and

g. The public interest as determined by the County will suffer no substantial detrimental effects.

3. Variances for development activities and/or uses that will be located waterward of the ordinary high water mark (OHWM), or within any jurisdictional wetland, may be authorized provided the Applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional, or performance standards precludes all reasonable use of the property;

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

   c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Master Program and will not cause adverse impacts to the shoreline environment;

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

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

   f. That the public interest as determined by the County will suffer no substantial detrimental effects; and

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

4. In the granting of all variance permits, consideration shall be given to the cumulative benefits and impact of additional requests for like actions in the area, when applicable. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of the Shoreline Management Act and the Goals and Policies of this Shoreline

Master Program and shall not cause substantial adverse effects to the shoreline environment.

5. Variances from the use regulations of the Shoreline Master Program are prohibited.

G. Appeals. Class 1 and Class 2 decisions made by the County to implement the provisions of this Chapter may be appealed in accordance with the provisions of this Title. Further appeals of decisions made to implement the Shoreline Master Program shall be filed in accordance with the procedures contained within the Laws of Washington State.

xx.34.050 Table of Permitted Shoreline Uses and Activities.

A. Legend. The Table of Permitted Shoreline Uses and Activities contains the following acronyms to highlight the uses and activities that may be permitted and the permit or approval that is required. Activities permitted through a Shoreline Authorization, Shoreline Substantial Development Permit, or Shoreline Conditional Use Permit must comply with all applicable provisions of the Shoreline Master Program and all applicable development regulations. Additional permits and approvals may be required.

X: The proposed development activity or use is prohibited within jurisdictional shoreline areas.

SA: Development activity or use that may be permitted through the issuance of a written Shoreline Authorization by the Shoreline Administrator. This includes activities that are exempt from the requirements for a Shoreline Substantial Development Permit (SSDP) in accordance with the provisions of state law, provided that if any part of a proposed activity or use requires a SSDP, then the entire use or activity must receive a SSDP. Exemptions are listed in xx.34.040(A). Shoreline Authorizations should be filed with Ecology; Shoreline Authorizations requiring a federal Clean Water Act Section 404 permit must be filed with Ecology.

SSDP: May be permitted through the issuance of a Shoreline Substantial Development Permit by the Shoreline Administrator.

SCUP: Development activity or use that may be permitted through the issuance of a Shoreline Conditional Use Permit. Shoreline Conditional Use Permits must be approved by the Shoreline Administrator and the Washington State Department of Ecology.

B. Table of Permitted Uses and Footnotes.

	Residential		Conservancy		Higher Intensity		Natural	Aquatic
	Rural	Urban	Rural	Urban	Rural	Urban		
Activity/Use (1)		(2)		(2)		(2)		(3)
Advertising Signs and Billboards: Off site	X	X	X	X	X	X	X	X
Advertising Signs and Billboards: On site (18)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	X
Agricultural, Farming, and Ranching Activities (23)	SA	SA	SA	SA	SA	SA	X	X
Agricultural Buildings and Structures	SA	SA	SA	SA	SA	SA	X	X
Agricultural Drainage/Diking System (24)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	X
Aquaculture (29)	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP
Bank Stabilization Measures (4)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SCUP	SSDP
Bed and Breakfast Inn	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	X
Boat Ramp-Private	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP
Boat Ramp-Public/Community	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Boating Facility (11)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Bulkheads (New)	X	X	X	X	X	X	X	X
Camping Facilities (26)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X
Camp: Non-Profit	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	X
Clearing and Grading (5)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X
Commercial Development: Non-water Dependent	X	X	SCUP	SCUP	SSDP	SSDP	X	X
Commercial Development: Water Dependent, Water-Oriented or Water-related	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	SCUP
Commercial Timber Harvesting/Related Activities (6)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SCUP	SCUP
Conforming Structures: Normal maintenance or repair (30)	SA	SA	SA	SA	SA	SA	SA	SA
Cultural and Historic Resource Protection	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Dock: Commercial Facility (7)	SCUP	SCUP	X	X	SCUP	SCUP	X	SCUP

	Residential		Conservancy		Higher Intensity		Natural	Aquatic
	Rural	Urban	Rural	Urban	Rural	Urban		
Activity/Use (1)		(2)		(2)		(2)		(3)
Dock: Community (7)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	SSDP
Dock: Private Non-commercial (7)	SA	SA	SA	SA	SA	SA	X	SA
Dock: Public Facility (7)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Dredging (8)	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP
Essential Public Facilities	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SCUP	SCUP
Fill (9)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SCUP
Conservation, Restoration, and/or Habitat Improvement (10)	SA	SA	SA	SA	SA	SA	SA	SA
Flood Hazard Reduction Measures (22)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Historical Buildings Adaptive Use (31)	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP
Home Business	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	X
Hotel/Motel	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	X
House Boats (Single-Family Residence)	X	X	X	X	X	X	X	X
Hydroelectric Facility	X	X	X	X	SCUP	SCUP	SCUP	SCUP
Industrial Development: Water Dependent, Water-Oriented or Water-related	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	X
Irrigation System Facilities	SA	SA	SA	SA	SA	SA	X	X
Livestock Grazing	SA	SA	SA	SA	SA	SA	X	X
Mining: Commercial (12)	SCUP	X	SCUP	X	SCUP	SCUP	X	X
Multi-family Residences	SSDP	SSDP	SSDP	SSDP	X	SSDP	X	X
Navigational Aids and Moorage Buoys (20)	SA	SA	SA	SA	SA	SA	SA	SA
Non-classified Uses (13)	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP	SCUP
Nonconforming Structures: Maintenance, Repair, or Expansion (14)	SA	SA	SA	SA	SA	SA	SA	SA
Noxious Weed/Nuisance Plant Management (15)	SA	SA	SA	SA	SA	SA	SA	SA
Parking Areas (16)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SCUP	X
Public Access Facilities	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Recreation: Water Dependent, Water-Oriented or Water-related (25) (26)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Resorts: Master Planned	SSDP	SSDP	SCUP	SCUP	SSDP	SSDP	X	X

	Residential		Conservancy		Higher Intensity		Natural	Aquatic
	Rural	Urban	Rural	Urban	Rural	Urban		
Activity/Use (1)		(2)		(2)		(2)		(3)
Resorts: Other	SSDP	SSDP	X	X	SSDP	SSDP	X	X
Roads and Bridges (16)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
RV Parks	SSDP	SSDP	X	X	SSDP	SSDP	X	X
RV Resorts	SSDP	SSDP	X	X	SSDP	SSDP	X	X
Scientific, historical, cultural, educational research uses, and low intensity water-oriented recreation uses.	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP (21)	SSDP
Sewage Treatment Facilities	SSDP	SSDP	SCUP	SCUP	SSDP	SSDP	X	X
Signs (18)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Single-Family Residence/Accessory Structures (17)(28)	SA	SA	SA	SA	SA	SA	SCUP	X
Solid Waste Facilities	X	X	X	X	X	X	X	X
Telecommunication Facilities	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	X
Tram/Funicular	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SCUP	SCUP
Utilities (27)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	SCUP	SCUP
Vacation Rentals (19)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP	X	X
Vegetation Management (15)	SA	SA	SA	SA	SA	SA	SA	SA
Watershed Restoration Projects (10)	SA	SA	SA	SA	SA	SA	SA	SA

Footnotes:

(1) Please consult with the Kalispel Tribe regarding uses and activities on lands under the jurisdiction of the Tribe.

(2) Only if permitted by local zoning codes. Must also conform to the development regulations of the City, Town, and County as appropriate.

(3) Any uses or activities that may be permitted within shoreline areas designated as Aquatic must be authorized by the underlying property owner and/or all agencies with jurisdiction as well as comply with all provisions of the applicable local development regulations.

(4) Please see xx.34.060(K) Shoreline Stabilization Measures for more details. Bank stabilization measures that do not meet the thresholds for a Shoreline Substantial

Development Permit, as determined by the Shoreline Administrator, may be permitted through a Shoreline Authorization.

(a) Structural bank stabilization measures should only be permitted to protect a legally existing structure or use that is in danger of loss or substantial damage and no other alternatives are available. New developments in these shoreline designations should be designed and located to preclude the need for such work.

(b) Biotechnical erosion control measures may be permitted in the Natural Shoreline Environment.

(5) No clearing and grading activities shall occur in jurisdictional shorelines unless specifically authorized through the issuance of a Clearing and Grading Permit by the applicable local jurisdiction. Please see xx.34.060(I) Clearing and Grading for more details.

(a) Clearing and grading activities in the Natural Shoreline Environment may only be permitted in conjunction with an approved development activity.

(6) All commercial timber harvesting must conform to Washington State Department of Natural Resource standards and applicable local codes.

(a) Commercial timber harvesting within Shorelines of Statewide Significance may only be approved through the issuance of a SCUP in accordance with the provisions of the Shoreline Management Act, RCW 90.58.

(7) Standards for new dock construction and dock expansion, replacement, and repair are detailed in xx.34.060(E) Piers and Docks. The types of permits and approvals shown in this table for docks apply only when these standards are met.

(8) Dredging may only be permitted in accordance with Washington State Department of Natural Resources and with U.S. Army Corps of Engineers' Standards and /or FERC license or associated settlement conditions.

(9) May be permitted only in conjunction with an approved flood proofing activity or bank stabilization project or with the conditions of approval of a federally licensed dam.

(a) Fill waterward of the ordinary high water mark may only be allowed when necessary to support the uses identified in WAC 173-26-231(3)(c).

(10) Must be designated as a conservation, restoration, and/or habitat improvement activity by the Shoreline Administrator, the Federal Energy Regulatory Commission, the Washington

State Department of Fish and Wildlife, or other state or federal natural resource agency in accordance with the provisions of WAC 173-27-040(2)o.

(11) Please see xx.34.060(F) Boating Facilities for more details.

(12) All mining activities must comply with Washington State Department of Natural Resources' standards. Please see xx.34.060(M) Mining for more details.

(13) May be permitted through an administrative code interpretation if found to be consistent with other uses identified in this table. Other uses may be permitted though the issuance of a SCUP in conformance with the standards applicable in the Conservancy designation or through an amendment to the SMP.

(14) Please see Chapter 7 Nonconforming Uses, Structures, and Lots for more details.

(15) Please see xx.34.060(G) Vegetation Management and (H) Aquatic Plant Management for more details.

(16) Please see xx.34.060(Y) Transportation: Trails, Roads, and Parking for more details.

(17) Single-family residences shall include associated on-site utilities such as sanitary sewers, septic systems, wells and domestic water hook-ups, propane, electrical service, telephone lines, internet, and/or cable TV.

(a) For purposes of this Chapter, "appurtenant structures" means garages, sheds, and other legally established accessory structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or overwater structures.

(b) Septic drainfields must comply with all requirements of the Tri-County Health District and should not be located in required buffers unless no other feasible alternative exists as determined by the Health District.

(18) Please see xx.34.060(N) Signs for more details.

(19) All vacation rentals must also comply with the provisions of Chapter xx.70 of the County's development regulations.

(a) The construction of a new vacation rental must be approved through the issuance of a SSDP.

(b) The conversion of an existing single-family residence to a vacation rental may be approved through the issuance of a SA.

(20) Must comply with all applicable local, state, and federal regulations, including but not limited to U.S. Coast Guard rules.

(21) May be permitted subject to conditions and may be denied based on a finding that the proposed use would degrade ecological functions or the natural character of the shoreline.

(22) New structural flood hazard reduction measures may be permitted in jurisdictional shorelines only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with the provisions of the Washington Administrative Code.

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

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

(24) Development activities associated with the operation and maintenance of any system of dikes, ditches, drains, or other public facilities existing on September 8, 1975, that were created, developed, or used primarily as a part of an agricultural drainage or diking system may be permitted through a Shoreline Authorization.

(25) Includes commercial and public recreation facilities.

(26) Only public camping and recreation facilities may be permitted in Natural Shoreline Areas, subject to a determination by the Shoreline Administrator that the proposed project is a low impact design that will result in no net loss of ecological function.

(27) Please see xx.34.060(V) Utilities for more details.

(28) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet current standards for setbacks, buffers, height, or density shall be considered conforming structures.

(a) The redevelopment, expansion, or replacement of a residential structure may be permitted if it is otherwise consistent with the provisions of the applicable local development regulations and this Master Program, including the requirement for no net loss of shoreline ecological functions.

(29) Sponsors of proposed new aquaculture activities are encouraged to consult with the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources before submitting an application. In addition to permits from the County, Town, or City, an HPA from WDFW may be required, as well as other permits and approvals from agencies with jurisdiction.

(30) Legally established residential and appurtenant structures in place on the date of adoption of this updated Shoreline Master Program shall be considered legal conforming uses and structures for purposes of implementing these shoreline regulations.

(31) Buildings must be identified on the State Historic Register.

xx.34.060 Development Standards.

The following standards apply to all development activities and uses proposed for jurisdictional shoreline areas unless otherwise noted:

A. Shoreline Buffers. In an effort to avoid or minimize potential adverse impacts on the ecological functions performed in shorelines, buffers may be established so that new development activities are setback from the ordinary high water mark. In general terms, the size of a buffer for a given site is best determined on a case-by-case basis taking into account the typography and condition of the shoreline area, the nature of the ecological functions, the intensity of the proposed new development activity, and the reasonably foreseeable cumulative effects. While a customized approach to setting buffers may be preferable, not all situations may warrant or support what is typically a more costly and time-consuming approach. As a result, a series of standard buffers are provided for property owners seeking a less costly and more streamlined approach for the review and approval of their development plans.

   Sponsors of proposed new development activities may choose to incorporate the following standard buffers into their plans, or may, with the assistance of a qualified professional such as a wetlands biologist, submit plans for customized buffers for review and approval, in accordance with the following provisions:

   1. Standard Shoreline Buffers.

      a. Natural Shoreline Designation — 200 feet from OHWM

      b. Rural Conservancy Shoreline Designation — 150 feet from OHWM.

      c. Rural Residential Shoreline Designation — 100 feet from OHWM.

      d. Rural Higher Intensity Shoreline Designation — 50 feet from OHWM.

      e. Urban Conservancy Shoreline Designation — 100 feet from OHWM.

      f. Urban Residential Shoreline Designation — 50 feet from OHWM.

      g. Urban Higher Intensity Shoreline Designation — 50 feet from OHWM.

   2. Customized Buffers.

      a. Buffer Averaging. The Shoreline Administrator may permit a proposal to reduce the standard buffer on a portion of a site if the buffer is increased on another portion of the

site, so that the total buffer area has not been reduced, based on a written finding that there will be no net loss of ecological function, provided that:

(1) Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;

(2) Supporting documentation may be required from a qualified professional;

(3) The site has not applied buffer width reduction or modification by any prior action administered by the Shoreline Administrator. Sites that utilize this provision are not eligible for any future buffer width modifications, under any provision of this program, except as part of an approved variance.

(4) Additional conditions of approval and/or mitigation measures may be required, including but not limited to, increasing native vegetation, limiting native vegetation removal, limiting the use of fertilizers and pesticides, further protecting steep slopes, and/or paying a mitigation fee; and

(5) At no point along the shoreline may the buffer be reduced by more than 35% of the standard buffer for the applicable designation, provided that:

(a) On lots less than 300 feet in depth, which are encumbered by a public transportation corridor, the buffer may be reduced through averaging up to 50% of the applicable standard buffer: and

(b) All structures are located as far landward as practical, and not closer than 50 feet from the ordinary high water mark.

b. In-fill Development. In an effort to facilitate in-fill development in approved plats, the Shoreline Administrator may approve requests to reduce the standard shoreline buffers for a new single-family residence and appurtenant structures in accordance with the following criteria:

(1) Where there are single-family residences within 150 feet on either side of the proposed residence in an existing plat, the buffer shall be determined as the greater of either a common line drawn between the nearest corners of the nearest residence, or a common line calculated by the average of the nearest residences' existing buffers.

(2) Where there is only a residence located within 150 feet on one side of the proposed residence in an existing plat, the standard buffer shall be determined as the greater of either a common line drawn between nearest corner of the nearest residence

and the nearest point of the standard buffer on the adjacent vacant lot, or a common line calculated by the average of the nearest residence's setback and the standard buffer for the adjacent vacant lot.

c. New single-family residences may be permitted without a variance on lots whose dimensions do not allow a residence to be constructed outside of the standard shoreline buffer, provided that:

(1) The lot was in existence at the time that this updated Shoreline Master Program went into effect;

(2) Appropriate measures are taken to avoid, minimize, or mitigate potential adverse impacts to the shoreline;

(3) The residence is located in the least environmentally damaging location relative to the shoreline and any critical areas;

(4) All structures are located as far landward as practical and not closer than 50 feet from the ordinary high water mark; and

(5) The proposed development conforms to all other requirements of the Shoreline Master Program and the Shoreline Management Act.

d. Variance. Standards shoreline buffers may also be reduced through the issuance of a variance approved by the Shoreline Administrator and the Department of Ecology, provided that:

(1) The strict application of the bulk, dimensional, or performance standards precludes or significantly interferes with the reasonable use of the property;

(2) The need for the variance is the result unique conditions, natural features, and/or the requirements of this Master Program and is not the result of intentional actions of the property owner to create the need for the variance;

(3) The proposed activity is compatible with other uses in the area;

(4) The variance will not constitute a grant of special privilege;

(5) The variance requested is the minimum necessary to afford relief; and

(6) The public interest will suffer no substantial detrimental effect.

(7) In the granting of all variance permits, consideration shall be given to the cumulative benefits and impact of additional requests for like actions in the area, when applicable. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of the Shoreline Management Act and the Goals and Policies of this Shoreline Master Program and shall not cause substantial adverse effects to the shoreline environment.

(8) Variances from the use regulations of the Shoreline Master Program are prohibited.

3. Property owners, prospective new property owners, and the sponsors of new development activities are strongly encouraged to schedule a pre-application meeting with the Shoreline Administrator to discuss their development goals before applications are prepared to discuss options for complying with these buffer requirements.

4. All buffers shall be measured from the ordinary high water mark (OHWM);

5. Approved uses, structures, and development activities may not encroach upon required buffers unless specifically authorized in this Chapter.

6. Clearing, grading, and removal of native vegetation, may be permitted within the required shoreline buffers if specifically authorized in these regulations.

   a. Property owners are encouraged to consult with the Shoreline Administrator regarding appropriate standards for the maintenance of native vegetation.

7. Existing structures or uses within required shoreline buffers may not be expanded unless specifically authorized in this Chapter.

8. Approved reductions in standard buffers shall not be in effect until a notice to title documenting the conditions of approval has been recorded in a format prescribed by the Shoreline Administrator.

9. Property owners are encouraged to review Washington State Department of Natural Resources guidelines for defensible space around buildings before finalizing site plans. The Department recommends that there be at least 30 feet of fire-safe defensible space around all homes.

B. General Provisions. All development activities and uses within jurisdictional shoreline areas shall be subject to the following general standards applicable in all shoreline designations.

1. All development activities and uses shall be located, designed, constructed, and managed to achieve no net loss of ecological functions.

    a. Hydrological connections between water bodies, water courses, and associated wetlands shall be protected.

2. All development activities and uses shall be subject to the following mitigation sequencing:

    a. Avoidance of potential adverse impacts by not taking a certain action or parts of an action;

    b. Minimizing potential impacts by limiting the degree or magnitude of a proposed action through the use of appropriate technology or by taking affirmative steps to reduce potential impacts;

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

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

    e. Monitoring the direct impacts, mitigation, and compensation projects and taking appropriate corrective measures for adequate multi-year periods.

3. Within the jurisdictional shorelines, property waterward of the OHWM shall not be counted in calculating lot area for purposes of minimum lot area requirements of single-family zones or density standards of other zones.

4. New buildings or structures built within jurisdictional shorelines shall not exceed 35 feet in height above the average grade unless a finding is made that the proposed height is in the public interest through the issuance of a variance.

5. All discharges of effluent or drainage from developments in shoreline areas shall meet current requirements of federal, state, and local health laws and regulations on water quality and pollution prevention.

C. Environmentally Sensitive Areas. The provisions of Chapter 4B shall apply to all critical areas within jurisdictional shoreline areas.

D. Creation of new lots. The creation of five or more new lots that are created through a subdivision, Master Planned Resort, RV Park, RV Resort, or Binding Site Plan from a parcel that contains jurisdictional shorelines or required buffers shall meet the following standards:

1. Land shall be dedicated to provide appropriate public access to shoreline areas, provided that:

    a. Such access shall not be required if demonstrated to be incompatible due to reasons of safety, security, or impact to the shoreline;

    b. Required access should be designed and improved in accordance with the provisions of state and federal law and local development regulations; and

    c. The provision of required public access should not result in a net loss of ecological functions.

E. Piers and Docks. In addition to local jurisdictions, several state and federal agencies including, but not limited to, the U.S. Army Corps of Engineers, the Washington Department of Natural Resources, the Washington Department of Ecology, and the Washington Department of Fish and Wildlife, have standards and requirements that may affect the design and placement of docks. It is the intent of the regional partnership to coordinate and integrate the requirements of these agencies and to provide a streamlined permitting process for docks that do not contribute to the net loss of ecological functions. In general terms, the smaller the dock, and the more it is designed to comply with the letter and intent of the various regulations that apply, the greater the likelihood it can be approved in a timely manner. **In all instances, prospective applicants are encouraged to consult with the Shoreline Administrator prior to submitting an application for a new dock.**

1. Applicability. Docks and piers with four or fewer berths or any number of mooring buoys are regulated under this section. Shared moorage serving single-family use consisting of docks and piers with more than four berths, commercial moorage available to the general public, and moorage related to clubs or other groups not associated with a particular residential development are regulated as marinas under xx.34.060(F).

2. General. The following requirements apply to all new, expanded, or replaced docks and all dock repair and maintenance activities.

    a. All boating uses, development, and facilities shall protect the rights of navigation and demonstrate no net loss of ecological functions.

    b. Applications for new docks should highlight proposed measures to avoid, minimize, and/or mitigate measures that may have an adverse environmental impact or an adverse

effect on ecological functions. The Shoreline Administrator may require revisions that have less impact and/or require mitigation.

c. Shared docks are strongly encouraged and preferred over new individual docks whenever feasible.

d. Permanent covers over docks or piers are prohibited.

e. Bulk storage (non-portable storage in fixed tanks) of gasoline, oil and other petroleum products for any use or purpose is prohibited on any dock or pier.

f. Project construction shall cease under high-flow conditions that could result in inundation of the project area, except for efforts to avoid or minimize resource damage.

g. Temporary moorages for vessels used in the construction of shoreline facilities shall be designed and constructed such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition.

h. Private moorage for float planes may be approved as accessory to existing or concurrently proposed moorage where construction and operation would not adversely affect shoreline functions or processes or interfere with navigation.

i. In the event of conflicting standards between agencies, the standards that provide the greatest protection to ecological functions of shorelines, as determined by the Shoreline Administrator, shall apply.

1. Location and Spacing. The following requirements apply to all new or expanded docks.

a. Private docks and watercraft lifts shall be spaced a minimum of 10 feet from the side property lines for individual properties.

b. Joint-use facilities (shared docks) may abut or overlap property lines provided the adjacent property owners have mutually agreed to the location.

c. Docks, swim floats, buoys, watercraft lifts, and moorage piles shall be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto including, but not limited to, fishing, swimming, and pleasure boating. The length of piers and docks shall be limited in constricted waterbodies to ensure navigability and public use. The Shoreline Administrator may require reconfiguration of pier and dock proposals where necessary to protect navigation, public use, or ecological functions.

2. Materials. The following requirements apply to all new, expanded, or replaced docks; they apply also to dock repair and maintenance activities that include replacing existing materials.

    a. Use of materials specified for freshwater use is required.

    b. The use of treated wood is prohibited. No new treated wood may be installed on existing docks. When existing treated wood or pilings need to be replaced, they should be replaced with alternative materials, such as untreated wood, metal, concrete, or plastic. Application of paint, stain, preservative or other protective coating is prohibited below the OHWM (i.e., while the structure is in or over the water body).

    c. The use of tires on docks, above or below water, is prohibited (e.g., flotation, fenders, decking, etc.). Tires may not be installed on existing docks. When repairs are performed to portions of the dock that include tires, they must be replaced with inert or encapsulated materials such as plastic or encased foam.

    d. Un-encapsulated flotation material is prohibited. No un-encapsulated flotation materials may be installed on existing docks. New flotation material must be encapsulated within a shell that prevents breakup or loss of the flotation material into the water and is not readily subject to damage by ultraviolet radiation or abrasion. When repairs are performed to portions of the dock that includes un-encapsulated flotation materials, it must be replaced with inert or encapsulated materials such as plastic or encased foam.

    e. Only low voltage solar or battery powered lighting may be permitted. Other forms of new permanent lighting including hard wired fixtures and high voltage lighting shall not be permitted on new or existing docks. Property owners are strongly encouraged to remove or replace existing lighting fixtures. When making repairs to or replacing existing lighting fixtures, the effects of artificial night lighting must be minimized by focusing the light on the dock surface, and using shades that avoid illumination of the surrounding environment.

    f. The dock shall be secured with pilings or soil anchor screws whenever feasible. If anchors or supporting lines/chains need to be replaced, soil screw anchors should be used whenever feasible. When replacing an anchor(s), the old anchor(s) should be removed.

    g. If a dock is provided with a safety railing, such railing shall meet Pend Oreille County, city, or town code requirements, as applicable.

h. Facilities shall be marked with reflectors or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night.

i. Exterior finish shall be generally non-reflective.

3. Dimensional Standards. The following dimensional standards shall apply to all new docks serving four or fewer residential dwellings. Deviations from the dimensional standards must be approved through a Shoreline Variance.

j. Width:

(1) Piers and floats shall not exceed 8 feet in width. Ramps shall not exceed 5 feet in width.

(2) Dock finger extensions shall not exceed 6 feet in width.

k. Length:

(1) The length of the dock shall not exceed the length necessary in order for the end of the dock to reach a minimum water depth of 4 feet measured at ordinary high water.

l. Area:

(1) The area of new docks shall be limited by the maximum width and length as described above.

(2) The maximum area for single-use docks is 450 square feet, excluding the ramp, pier, and all associated appurtenances.

(3) The maximum area for joint-use docks is 550 square feet, excluding the ramp, pier, and all associated appurtenances.

m. Height.

(1) The bottom of any piers or the landward edge of any ramp must be at least 1 foot above the OHWM (freeboard height on all floats must be at least 10 inches).

4. Dock Support Piles. The following standards apply to all new, replaced, and repaired dock support piles.

a. Piling shall be structurally sound and cured prior to placement in the water.

b. Pilings shall not be treated with pentachlorophenol, creosote, copper naphthalene, chromate copper arsenate, or comparably toxic compounds.

c. Pilings shall not extend beyond the end of the dock.

d. Use the smallest diameter and number of pilings required to construct a safe facility.

5. Shared Docks and Moorage

a. If moorage is to be provided or planned as part of a new residential development of two or more waterfront dwelling units or lots or as part of a subdivision or short subdivision occurring after the effective date of this SMP, joint-use or community dock facilities shall be required when feasible, rather than allowing individual docks for each residence.

b. In order to evaluate the feasibility of a joint community dock in a new residential development of two or more waterfront dwelling units, the applicant/proponent shall demonstrate the following:

(1) Existing marinas and shared moorage facilities in the vicinity are not adequate or feasible for use; and

(2) Abutting property owners are not willing, as documented in writing, to share an existing dock or develop a shared moorage.

c. Shared moorage to serve new development shall be limited to the amount of moorage needed to serve the development. The size of a dock must consider the use of mooring buoys for some or all moorage needs and the use of all or part of the dock to allow tender access to mooring buoys. If additional moorage is needed for the development, then buoys must be located in such a manner as to not block access to adjacent properties.

6. Replacement of Existing Docks.[1] Proposals involving replacement of the entire existing private dock or 75% or more of the dock support piles are considered a new moorage facility and must meet the dimensional, materials and mitigation standards for new private docks as described in this section, except the Shoreline Administrator may approve an alternative design if it meets all the following criteria:

a. The total square footage of the replacement dock is no larger than the existing dock;

b. The maximum width for the portion of the dock located within 30 feet of the OHWM shall not be greater than the width identified for new docks above;

c. Replacement piles shall meet the spacing and material specifications above; and

d. Decking and deck materials shall meet the specifications above.

[1] Nonconforming dock facilities are governed by regulations found in Chapter 7.

7. Additions to Private Docks. Proposals involving the modification and/or enlargement of existing private docks must comply with the following measures:

   a. The applicant must demonstrate there is a need for the enlargement of an existing dock. Proposals that demonstrate an enlargement is necessary due to safety concerns or inadequate depth of water will be considered.

   b. Enlarged portions of docks must comply with the dimensional, design, materials, and mitigation standards for new private docks described above. Dock additions that result in the completed facility exceeding the area limits may only be reviewed through a Shoreline Variance.

8. The routine repair or maintenance of existing docks, may be initiated without a Shoreline Authorization from the Shoreline Administrator provided that:

   (1) All of the pier and dock standards listed previously are met;

   (2) There are no unresolved code violations involving the dock;

   (3) There is no change in the size or footprint of the dock;

   (4) The proposed activities do not trigger the need for a permit or approval from any state or federal agencies; and

   (5) Additional standards in Chapter 7 are met for maintenance or repair of nonconforming docks.

9. Landing Pads. Applications for the construction of a new dock may include a proposal to construct a landing pad landward of the ordinary high water mark, provided that:

   (6) The size of the landing pad shall be the minimum necessary to secure the ramp and/or dock and to provide safe access.

   (7) The landing pad shall not result in the net loss of ecological function. This may require special conditions of approval or mitigating measures.

   (8) Only low voltage solar or battery powered lighting may be permitted. Other forms of permanent lighting including hard wired fixtures and high voltage lighting shall not be permitted.

   (9) The use of treated wood is prohibited waterward of the ordinary high water mark. Alternative materials, such as untreated wood, metal, pre-cast concrete, or plastic must be used.

(10) Permanent buildings, structures, or facilities, carpeting, and fueling facilities shall not be permitted.

10. Mitigation

a. Consistent with the mitigation sequencing steps outlined in XX.34.060(B), new or expanded overwater and in-water facilities should be designed consistent with mitigation sequencing.

b. Mitigation proposals shall provide mitigation at a 1:1 ratio, at a minimum, by area of overwater cover to mitigation action.

c. Applicants wishing to propose an alternate mitigation strategy to the mitigation ratio approach may submit a mitigation plan prepared by a qualified professional that describes the alternate approach for mitigating the lost ecological functions, demonstrating that the alternate approach is at least equivalent to the ratio approach. Potential adverse impacts may include substrate disturbance and alteration, vegetation disturbance or alteration, increases in sensitive species predation, increases in shoreline hardening, or reduction in presence or benefit of terrestrial vegetation adjacent to the water, among others. The proposed mitigation plan shall include a discussion of how the proposed mitigation adequately compensates for any lost or modified functions.

11. Additional Requirements for Pend Oreille River and Bead and Sullivan lakes. To provide additional protection for federally listed bull trout and for native freshwater salmonids in Bead and Sullivan lakes, new, expanded, and replaced docks and piers on the Pend Oreille River must comply with all standards listed previously in this section, plus the following additional requirements. Where there is overlap or conflict between the standards listed previously in this section and those listed below, the standard listed below specific to the Pend Oreille River shall apply:

a. Docks on the Pend Oreille River may require additional approval by the Pend Oreille PUD, Seattle City Light, or the Federal Energy Regulatory Commission.

b. Piers and/or floats shall not extend more than 55 feet waterward (toward the middle of the river) of the ordinary high water mark. A greater length may be authorized up to the minimum length necessary to reach water of sufficient depth for safe boat moorage at the waterward end of the structure.

c. Total deck area of piers, floats, ramps, and existing structures waterward of the ordinary high water mark shall not exceed 320 square feet for each single use structure. If it is necessary to have a single-use structure greater than 55 feet in length because of water depth limitations, the total area of the structures shall not exceed 450 square feet. Total

deck area of piers, floats, ramps, and existing structures waterward of the ordinary high water mark shall not exceed 450 square feet for joint-use piers and floats.

d. The width of any individual section of deck shall not exceed 8 feet for piers and floats and 4 feet for ramps.

e. Grating shall cover 100% of the surface area of piers, ramps, and floats. The open area of the grating shall be at least 60% as rated by the manufacturer. For floats, the functional grating will cover no less than 50% of the float.

f. Nothing shall be placed on the overwater facility that will reduce natural light penetration (for example, storage boxes, benches, planters, carpeting, furniture, boat cover, sheds).

g. Floats shall not be located in shallow-water habitat where they could ground or impede the passage or rearing of any salmonid life stage.

h. Piles shall not exceed 12 inches in diameter.

i. Only one uncovered watercraft lift may be installed at a single-use overwater structure. A maximum of two uncovered watercraft lifts may be installed at a joint-use overwater structure.

j. No new docks or piers shall be installed within 100 feet of the mouth of any river, stream or creek, or within 300 feet of the mouth of Slate, Indian, Sullivan, Mill, Cedar, Tacoma, Ruby, Calispell, and Le Clerk Creeks or in the SW ¼ of Section 29 and the NW ¼ of Section 32, Township 32N, Range 45E, in the Pend Oreille River.

F. Boating Facilities. New boating facilities including marinas and boat ramps may be permitted in accordance with local land use regulations, provided that:

1. The proposed site does not require dredging;

2. The proposed site is not located near the confluence of tributaries to the Pend Oreille River such that it would affect the river and tributaries sediment, flow or other geomorphologic functions;

3. The proposed site is located to avoid impacts to priority habitat areas;

4. The proposed development will not result in the net loss of ecological function;

5. The facility is designed in a manner that minimizes the potential for adverse shoreline impacts in the future, as well as hazards to navigation, and water-oriented activities such as fishing, swimming, and the reasonable use of nearby properties;

6. The proposed facility complies with the rules and regulations of all other agencies with jurisdiction and the provisions of this Chapter;

7. The proposed development does not conflict with the operation or maintenance of federally licensed hydroelectric facilities;

8. Boating facilities on the Pend Oreille River are subject to review and approval by the Pend Oreille PUD, Seattle City Light, FERC, and/or state, federal, local, and tribal agencies;

9. Boating facilities may require a lease from the Washington Department of Natural Resources;

10. Boating facilities may require a land use permit(s) or approvals and will involve the preparation of a SEPA checklist; and

11. New marinas shall provide public access in accordance with WAC 173-26-221 (4).

12. Boat Ramps

    a. New boat ramp facilities are prohibited in areas where public launching opportunities with available capacity and safe launching conditions exist within close proximity of a site (within less than 2 miles distance by road).

    b. Design and construct boat ramp and haul-out facilities and minor accessory buildings in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation, and neighboring uses.

    c. Access and parking for public boat ramps shall not produce traffic hazards and shall minimize traffic impacts on nearby roads.

    d. Private boat ramps shall demonstrate that other public launch sites are not within 2 miles or less by road and open to the public, the launch site footprint has been reduced to the minimum area necessary, and impacts will be mitigated.

G. Vegetation Management. The removal of native vegetation from jurisdictional shoreline areas shall be minimized, and the planting of native species of vegetation shall be encouraged. Property owners shall minimize the use and presence of non-native species in jurisdictional shoreline areas and avoid the use of fertilizers and pesticides that can adversely affect water quality, provided that:

1. Species of plants that occur or historically occurred within Pend Oreille County before European contact based on the best available science and historic documentation (i.e., native vegetation) may not be removed from required shoreline buffers without a permit or authorization from the Shoreline Administrator.

2. Property owners are encouraged to consult with natural resource agencies regarding opportunities to plant non-invasive native vegetation in shoreline areas.

3. Property owners may propose the removal of native vegetation in order to provide access to shoreline areas, provided that:

    a. The amount of vegetation proposed for removal is the minimum amount necessary in order to provide safe and reasonable access;

    b. The access is designed to minimize adverse environmental effects and to avoid the net loss of ecological function;

    c. Applications for vegetation management shall highlight proposed measures to avoid, minimize, and/or mitigate measures that may have an adverse environmental impact or an adverse effect on ecological functions. The Shoreline Administrator may propose revisions that have less impact and/or require on- or off-site mitigation; and

    d. Property owners are encouraged to consult with local homeowners' associations and resource agencies to learn more about low impact property maintenance practices.

H. Aquatic Plant Management. In addition to local jurisdictions, several state and federal agencies, including but not limited to the U.S. Army Corps of Engineers, the Washington Department of Ecology, and the Washington Department of Natural Resources, have standards and requirements that may affect the management of aquatic plants. The Shoreline Administrator shall coordinate and integrate the requirements of these agencies and seek to provide a streamlined permitting process and to avoid the net loss of ecological functions. The removal of aquatic noxious weeds and nuisance plants may be permitted in accordance with the following provisions:

1. Herbicides may only be applied by licensed commercial applicators in accordance with state and local requirements and the conditions of NPDES permits in effect at the time of the proposed application.

2. Private property owners may remove or manage aquatic weeds in front of their property by hand (manual removal) provided that they have reviewed, have on site, and comply with the pamphlet issued by the Washington Department of Fish and Wildlife, *Aquatic Plants*

and Fish publication #APF-11-97 and have received guidance on how to identify plants appropriate for removal and appropriate removal techniques.

3. Property owners are encouraged to notify the County, Town, or City of the location of bottom barriers.

4. The mechanical removal of aquatic noxious weeds and nuisance plants by commercial operators may be permitted through a site-specific Shoreline Authorization and/or through an annual programmatic permit.

5. All other means of the removal of aquatic noxious weeds or nuisance plants may only be permitted through the issuance of required permit(s) and approvals, provided that the proposed actions must comply with the standards of the Washington Department of Fish and Wildlife, the U.S. Army Corps of Engineers, and the Washington Department of Natural Resources, and the provisions of this Chapter.

I. Clearing and Grading. Applications for Clearing and Grading permits shall include:

1. A proposed Temporary Erosion Control Plan prepared in accordance with the provisions of the Eastern Washington Stormwater Manual prepared by the Washington Department of Ecology as adopted by the applicable local jurisdiction;

2. A proposed site plan prepared in accordance with the applicable local standards specifying the total disturbance footprint to include all primary and appurtenant structures; access roads and drives; permanent parking; on-site wastewater treatment systems and all of their components including repair (replacement) sites for drainfields, electrical, natural gas, municipal sewage, and any other utility lines; and location of temporary storage and staging of construction materials and equipment including vehicular use and parking;

3. A proposed Revegetation Plan that features no net loss of ecological function; and

4. Clearing and grading activities proposed for or near environmentally sensitive areas must comply with all provisions of Chapter 4B. Additional state and federal permits may be required. Applicants are strongly encouraged to contact the Shoreline Administrator to discuss their conceptual plans before detailed plans and application materials are prepared.

J. Impervious Surfaces. No new impervious surfaces may be approved or constructed in required shoreline buffers unless specifically authorized in this Chapter.

1. New impervious surfaces may be permitted within jurisdictional shoreline areas outside of the required buffers provided that a Stormwater Management Plan has been submitted for Shoreline Administrator review and approval in accordance with the provisions of the

Eastern Washington Storm Water Manual prepared by the Washington State Department of Ecology (current version) as adopted by the local jurisdiction.

2. Impervious surfaces that may be required to comply with the provisions of applicable federal, state, or local laws, such as the Americans with Disabilities Act, may be permitted.

K. Shoreline Stabilization Measures. Proposed development activities or uses intended to stabilize banks and prevent erosion for primary structures or a legally existing shoreline uses in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes may only be permitted by the Shoreline Administrator based on a finding that the proposal will not result in a net loss of ecological function, provided that:

1. Stabilization may not occur in undeveloped channel migration zones.

2. Biotechnical bank protection measures, which may include vegetation enhancement, upland drainage controls, or planting anchor trees, are preferred. "Hard" solutions such as the placement of riprap may only be permitted upon a finding that no other less environmentally intrusive option is feasible.

   a. New bulkheads are prohibited.

   b. The use of gabions is prohibited.

3. Project Sponsors shall design bank stabilization measures proposed for the Pend Oreille River in compliance with provisions of the SMP, state and federal requirements, and with consideration of the latest version of the County's shoreline stabilization guide.

   a. Project Sponsors are also encouraged to request a pre-application meeting with the Shoreline Administrator regarding local requirements and to consult with the U.S. Army Corps of Engineers on federal requirements and the Washington State Department of Fish and Wildlife's *Integrated Streambank Protection Guidelines,* prepared in consultation with several natural resource agencies.

4. New bank stabilization measures and the enlargement of existing structures should be designed and constructed to avoid the net loss of ecological function. Applications for bank stabilization projects should highlight proposed measures to avoid, minimize, and/or mitigate measures that may have an adverse environmental impact or an adverse effect on ecological functions. The Shoreline Administrator may require revisions that have less impact and/or require on- or off-site mitigation.

a. The Shoreline Administrator may require that the Project Sponsor prepare, at no cost to the local jurisdiction, a geotechnical report to address the necessity for shoreline stabilization by estimating time frames and rates of erosion and to report on the urgency associated with the specific situation.

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

c. Publicly financed or subsidized shoreline erosion control measures should not restrict public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.

d. Adverse impacts to sediment conveyance systems should be avoided. Unavoidable impacts must be mitigated.

e. The Shoreline Administrator may require that proposed plans be prepared and/or reviewed by a professional qualified in biotechnical bank protection (see the latest version of the County Shoreline Stabilization Guide for bank stabilization options).

5. New developments that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas should not be approved.

6. An existing shoreline stabilization structure may be replaced with a similar structure provided that:

a. There is a demonstrated need to protect the principal use or structure from erosion;

b. The replacement structure is designed, located, sized, and constructed to assure no net loss of ecological functions; and

c. The replacement wall or bulkhead 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.

L. Flood Hazard Reduction. All proposed uses and development activities must comply with local development regulations governing Frequently Flooded Areas and the following provisions:

1. All proposed actions must result in no net loss of ecological functions.

2. Where feasible, preference shall be given to nonstructural flood hazard reduction measures over structural measures.

3. Proposed flood hazard reduction measures should be based on applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent the Shoreline Management Act and the provisions of WAC 173-26.

4. No new development activities or uses shall be permitted in areas designated by the County or other local jurisdiction as having a High Probability of Channel Migration, provided that:

    a. All development and uses, including emergency actions, proposed within the Channel Migration Zone shall be reviewed by a licensed geologist or licensed professional engineer with a demonstrated minimum of 5 years of field experience in fluvial geomorphology and evaluating channel response. This review shall be documented in a report prepared by the consulting professional. The review and report shall include a detailed assessment of the reach's channel migration zone and potential for erosion or flooding and shall include a determination regarding the use or development's potential to result in interference with the long-term natural channel migration processes of streams and rivers in Pend Oreille County or to affect adjacent and across stream properties or infrastructure. The review shall also document that the use or development will not need future structural flood and erosion protection.

5. Removal of gravel for flood control purposes may be approved only if biological and geomorphological studies demonstrate a long-term benefit to flood hazard reduction, no net loss of ecological functions, and that extraction is part of a comprehensive flood management solution.

M. Mining.

1. Commercial mining activities will be permitted in shoreline areas in accordance with the following provisions:

    a. Mining should not be approved where it could interfere with shoreline ecological functions or processes or cause irreparable damage to shoreline resources or features. Application of this policy shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation. Evaluating potential for net loss of ecological function shall be based on a review of the reclamation plan required for the site and presence of intact shoreland plant communities and shall consider impacts on ecological functions during operation. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species;

b. No mining activities will occur in shoreline buffers or waterward of the ordinary high water mark;

c. Subsurface mining may be permitted below jurisdictional shorelines in accordance with the provisions of federal, state, and local laws and no-mining areas designated in association with federally licensed dams, provided that the proposed activity will not result in a net loss of ecological functions;

d. Dredging within the Aquatic Shoreline Environment may only be permitted in accordance with state regulations and may not adversely affect fish or animal habitat and may not result in a net loss of ecological function;

e. Mining should not be permitted in channel migration zones of streams and rivers in Pend Oreille County;

f. Applications for new mining activities should highlight proposed measures to avoid, minimize, and/or mitigate measures that may have an adverse environmental impact or an adverse effect on ecological functions. The Shoreline Administrator may propose revisions that have less impact and/or require on- or off-site mitigation;

g. Mining should not interfere with public recreation on the shoreline;

h. Mining operations shall be located, designed, and managed so that other appropriate uses are not subjected to substantial or unnecessary adverse impacts from noise, vibration, odor, dust or other effects of the operation. The operator may be required to implement measures such as buffers, limited hours, or other mitigating measures to minimize adverse impacts; and

i. Mining should only be permitted in accordance with the provisions of local comprehensive plans and development regulations and where appropriate studies and detailed operation plans demonstrate that:

    (1) Fish habitat, upland habitat, and water quality will not be significantly harmed;

    (2) Mining should be located and operated to provide long-term protection of water quality, and fish and wildlife habitats; and

    (3) The operation will not adversely affect geologic or hydrologic processes, channel alignment, nor increase bank erosion or flood damage.

2. Personal mining may be allowed in accordance with the provisions of the publication Washington State publication, *Gold and Fish Rules for Mineral Prospecting and Placer Mining*, 2nd edition, April 2009, or as subsequently amended.

N. Signs may be permitted within jurisdictional shorelines only when the following standards can be met:

1. New signs must comply with local development regulations;

2. Signs located within designated scenic byways must comply with applicable federal, state, and local requirements; and

3. Permitted signs in the Residential, Conservancy, and Higher Intensity Shoreline Environments shall be limited to include:

   a. Interpretive, historical, informational, or directional signs approved and maintained by public agencies, as well as public signage necessary to protect the public health and safety;

   b. On-site advertising in accordance with local regulations; and

   c. Signs that constitute constitutionally protected forms of free speech as determined by the Pend Oreille County Prosecuting Attorney.

4. Permitted signs in the Natural and Aquatic Shoreline Environments shall be limited to include:

   a. Interpretive, historical, informational, or directional signs approved and maintained by public agencies, as well as public signage necessary to protect the public health and safety;

O. Public Access Facilities. New public access facilities may be approved on public or private land in accordance with the following standards:

1. The proposed access may not result in a net loss of ecological function;

2. The proposed use must comply with the rules and regulations of all agencies with jurisdiction and the provisions of this Chapter;

3. New public accesses should:

   a. Be directed to areas that comply with local zoning, shoreline regulations, and development regulations;

b. Avoid impacts to fish spawning areas and riparian vegetation;

c. Feature low impact and avoid hardening of the access site and adjacent shoreline;

d. Should showcase appropriate shoreline restoration techniques and should include education about the values of the river's resources; and

e. Should be based on a long-term access management strategy for developing and restoring access to the site.

(1) Applications must include a site plan and supporting narrative to document the design and location of the site including adequate provisions for site access, parking, restrooms, boat launching, picnic, and camping facilities if applicable.

f. A management plan shall also be submitted that identifies proposed measures for maintaining the facility in a safe and sanitary condition, controlling the hours of use, regulating activities, and minimizing adverse impacts on neighboring properties.

4. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, shall include public access measures as a part of each development project, unless such is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. This includes new publicly funded dikes or levees, as described in WAC 173-26-221(3)(C)(4).

P. Archaeological and Cultural Resources. Upon discovery of any artifacts or evidence of potential archaeological or cultural resources within a jurisdictional shoreline area all authorized construction activities or uses shall be suspended pending authorization to proceed from the Shoreline Administrator, the Colville, Kalispel and Spokane tribes, and the Washington State Office of Archaeology and Historic Preservation (DAHP), as appropriate.

1. Permits issued in areas documented to contain archaeological resources shall require a site inspection or evaluation by a qualified archaeologist in consultation with DAHP, Colville, Kalispel and Spokane tribes.

Q. Commercial Harvest of Timber.

1. A forest practice that only involves timber cutting is not a development under the Shoreline Management Act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities that require a substantial development permit or other SMP authorization, as required by WAC 222-50-020, would be reviewed through this SMP. See also xx.34.060(G) Vegetation Management.

2. All activities associated with the commercial harvest of timber must strictly comply with the provisions of the Washington State Forest Practices Act (RCW 76.09) and all applicable provisions of the Washington Administrative Code.

3. All activities must comply with the rules and regulations of other agencies with jurisdiction including the provisions of this Chapter.

4. Activities associated with the proposed conversion of timber lands to non-forestry uses shall not be considered a forest practice and must strictly comply with all provisions of this Chapter.

R. Agriculture.

1. Existing agricultural uses and activities may be exempt from the provisions of this Chapter in accordance with the provisions of RCW 90.58.065.

   a. Property owners are strongly encouraged to adopt voluntary measures to minimize adverse environmental consequences associated with farming activities, particularly measures to limit the access of livestock to jurisdictional shorelines and associated wetlands.

2. New farming activities must comply with the provisions of this Chapter and the required setbacks and buffers. New agricultural activities and uses in jurisdictional shorelines should be permitted only when:

   a. Fencing is installed in accordance with applicable standards in order to prevent livestock from entering jurisdictional wetlands and associated buffers;

   b. Appropriate native riparian and upland vegetation conservation practices are used to avoid adverse water quality impacts; and

   c. A buffer of permanent vegetation is proposed between tilled areas and associated water bodies that will restrict surface runoff, protect water quality, improve habitat, and reduce siltation.

S. Higher Intensity Uses. Uses proposed for shorelines designated as Urban or Rural Higher Intensity shall:

1. Not cause a net loss of shoreline ecological function.

2. Include visual and/or public access where feasible and appropriate.

3. Include sign control measures, appropriate development siting, screening and architectural standards, and maintenance of natural buffers to achieve aesthetic objectives.

T. Commercial Development. Commercial uses and development activities in jurisdictional shoreline areas must comply with all provisions of the local comprehensive plan and development regulations and all provisions of this Chapter including but not limited to:

1. The proposed use or development activity shall not result in a net loss of ecological functions or adversely impact navigation, recreation, and public access.

2. Public access and ecological restoration measures should be considered as conditions of approval unless demonstrated to be infeasible or inappropriate. Where commercial use is proposed for location on land in public ownership, public access in accordance with the provisions of WAC 173-26-221(4) should be required.

3. Unless specifically authorized, non-water-dependent commercial uses may only be approved when they are auxiliary to and/or necessary in support of water-dependent uses.

U. Industrial Development. Industrial uses and development activities in jurisdictional shoreline areas must comply with all provisions of the local comprehensive plan and development regulations and all provisions of this Chapter including but not limited to:

1. The proposed use or development activity shall not result in a net loss of ecological functions and should not have significant adverse impacts to other shoreline resources and values that cannot be reasonable mitigated.

2. Public access and ecological restoration measures should be considered as conditions of approval unless demonstrated to interfere with industrial uses or create a hazard to life or property.

3. The reuse of former industrial sites is encouraged.

V. Utilities.

1. When installing new utilities, shoreline areas should be avoided to the maximum extent possible;

   a. Whenever these facilities must be placed in a shoreline area, the location should be chosen to avoid the obstruction of scenic views and damage to shoreline riparian and upland native vegetation and marked to minimize potential adverse impacts to waterfowl.

2. Whenever feasible, these facilities should be placed underground or designed to do minimal damage to the aesthetic qualities of the shoreline area.

    a. Installation should be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible.

3. The utility installation should not increase or decrease the natural rate of shore migration or channel migration.

4. The utility route should avoid paralleling the stream or following a down-valley course near the channel;

5. The utilities should cross at an angle greater than sixty (60) degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

    a. Crossings should be contained within the footprint of an existing road or utility crossing where possible.

6. Upon completion of installations and maintenance projects on shorelines, banks should be restored to a condition that meets or exceeds pre-project conditions, replanted with native species, and provided maintenance care until the newly planted vegetation is established.

W. Dredging

1. Dredging may be permitted only through the issuance of a conditional use permit(s) from agencies with jurisdiction, provided that all of the following are applied, as applicable:

    a. The proposed dredging is necessary to implement the conditions of a federal license or associated settlement agreement, for the safe operation of the federally licensed dams in accordance with the terms of their approval, and/or for navigational purposes; and

    b. The proposed dredging is in the public interest; and

    c. The proposed dredging is the minimum amount necessary to achieve the stated objectives; and

    d. Dredging of bottom materials for the primary purpose of obtaining material for landfill, construction, or beach nourishment shall not be permitted; and

    e. Potential adverse impacts associated with the proposed dredging and the disposal of associated dredging materials can be reasonably avoided, minimized, mitigated, rectified, reduced, and/or compensated; and

f. The disposal of dredge material on land away from the shoreline and associated buffers is preferred over open water disposal; and

g. Proposed new developments that require or will create a need for new dredging should not be permitted; and

h. Long-term cooperative management programs that rely primarily on natural processes, and involve landowners and applicable local, state, and federal agencies and tribes should be encouraged to prevent conditions that make dredging necessary; and

i. Dredging may be permitted for water-dependent uses of economic importance to the region and/or essential public facilities only when necessary and when alternatives are infeasible or less consistent with this Shoreline Master Program; and

j. Dredging, as part of ecological restoration or enhancement project, public access or public recreation may be permitted if consistent with this Shoreline Master Program; and

k. Any dredging proposal should be evaluated for potential adverse impacts to benthic macro invertebrates and other aquatic, amphibian, and terrestrial wildlife, and aquatic, riparian and upland vegetation; and

l. Impacts to aquatic, amphibian, and terrestrial wildlife and native vegetation as noted above should be avoided and if unavoidable minimized and fully mitigated.

X. Aquaculture. New aquaculture activities should be permitted only in areas where they would not:

1. Adversely affect ecological functions of shoreline areas or water quality;

2. Conflict with approved resource management goals;

3. Unreasonably interfere with recreational activities and/or the public use and enjoyment of surface waters; or

4. Adversely affect the reasonable use and enjoyment of private property and the views of upland property owners.

Y. Transportation: Trails, Roads, and Parking

1. New routes for transportation, trails, and parking facilities shall be located outside of shoreline jurisdiction when other options are available and feasible; shall be planned, located, and designed to have the least possible adverse effect on unique or fragile shoreline

features; and shall not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

2. Where other options are available and feasible, road expansions should be located outside of shoreline jurisdiction.

3. Bridges and essential utility infrastructure may cross shoreline buffers perpendicularly.

4. New roads and trails, or road and trail expansions, within shoreline jurisdiction that require mitigation shall be planned, located, and designed to achieve the mitigation sequencing provisions of xx.34.060(B).

5. Transportation facilities and services for motor vehicles and rail shall use existing transportation corridors whenever possible.

6. Public pedestrian and bicycle transportation facilities and trails shall be designed, located, and constructed consistent with the standards for public access as provided in xx.34.060(O). Linkage among shoreline parks, recreation areas, and public access points is encouraged, when feasible.

7. Primary use parking facilities are prohibited within shoreline jurisdiction. Parking facilities do not include public rights-of-way. Accessory parking facilities shall be approved in the shoreline jurisdiction to:

    a. Provide public access; or

    b. As an accessory use to support an authorized primary use or structure where it can be demonstrated there are no feasible alternative locations away from the shoreline. Accessory parking facilities shall be subject to the same permit type as the primary use.

8. Accessory parking facilities shall be located upland of the principal structure, building, or development they serve, except:

    a. Where the proponent demonstrates that an alternate location would reduce adverse impacts on the shoreline and adjacent uses,

    b. Where another location is not feasible, and/or

    c. Except when ADA standards require otherwise.

    d. In such cases, the applicant shall demonstrate use of measures to reduce adverse impacts of accessory parking facilities in shoreline jurisdiction, through low-impact

development techniques, buffering, or other measures approved by the Shoreline Administrator.

9. Parking facilities shall be landscaped in a manner to minimize adverse visual and aesthetic impacts on adjacent shoreline and abutting properties. Minimized, unavoidable adverse impacts to shoreline resources and ecological function associated with developing ADA-compliant parking shall be fully mitigated under the provisions of this SMP.

10. Water crossing structures (such as bridges and culverts) shall be designed to minimize adverse impacts on upland, riparian, and aquatic habitat within shoreline jurisdiction, and shall be designed and constructed to maintain or re-establish fish passage.

Chapter 4B: Shoreline Regulations - Environmentally Sensitive Areas

xx.34.070 Purpose.
xx.34.080 Applicability.
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xx.34.100 Wetlands.
xx.34.110 Geologically Hazardous Areas.
xx.34.120 Fish and Wildlife Habitat Conservation Areas.
xx.34.130 Frequently Flooded Areas.
xx.34.140 Critical Aquifer Recharge Areas.

xx.34.070 Purpose.

The purpose of this Chapter is to identify and protect environmentally sensitive areas, also known as critical areas, and to supplement local development requirements by providing additional land use controls without violating the constitutional rights of property owners.

A. This Chapter is intended to meet the requirements of:

   1. The Washington State Growth Management Act, RCW 36.70A; and

   2. The Washington State Shoreline Management Act, RCW 90.58.

xx.34.080 Applicability.

All development activities including new uses of land and buildings and changes of use must comply with all provisions of this Chapter and this Title as well as all applicable provisions of local, state, and federal law.

A. Environmentally sensitive areas, or critical areas, subject to the provisions of this Chapter shall consist of:

   1. Wetlands;

   2. Geologically Hazardous Areas;

   3. Fish and Wildlife Habitat Conservation Areas;

   4. Frequently Flooded Areas; and

   5. Critical Aquifer Recharge Areas.

B. It is important to note that the shoreline areas within 200 feet of the ordinary high water mark of many of the rivers, streams, and lakes in the County and their associated wetlands are under the jurisdiction of the Washington State Shoreline Management Act. Proposed development activities involving these areas must comply with the provisions of this Chapter.

C. It shall be the responsibility of Property Owners and the sponsors of proposed development activities to know the location of environmentally sensitive areas and jurisdictional shoreline areas on and near their property and to comply with the provisions of this Chapter at all times.

1. Property Owners and Project Sponsors that may be proposing development activities in proximity of environmentally sensitive areas are strongly encouraged to schedule an appointment with the Shoreline Administrator to discuss the applicability of these regulations prior to preparing and submitting land use applications.

2. The regional partnership shall maintain public maps that may assist in the identification of environmentally sensitive areas. However, it shall be the responsibility of the Property Owner or Project Sponsor to identify and map all environmentally sensitive areas on their property.

   a. The presence of environmentally sensitive areas and jurisdictional shoreline areas or associated buffers on a parcel triggers the requirements of this Chapter, regardless of whether or not an environmentally sensitive area or buffer is depicted on an official map.

xx.34.090 General Provisions.

A. Mitigation Sequencing. Property Owners or Project Sponsors shall, when designing proposed new development activities that may potentially affect environmentally sensitive areas, use the following measures, listed in priority order, to avoid, minimize, and/or mitigate adverse impacts:

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

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

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

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

5. Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments; and/or

6. Monitoring the impact and taking appropriate corrective measures.

B. Environmentally Sensitive or Critical Areas Reports.

1. The cost of preparing any required environmentally sensitive areas report(s) shall be borne by the Applicant.

2. Environmentally sensitive areas reports shall be prepared by a qualified professional(s) as determined by the Shoreline Administrator.

3. The cost of a professional peer review of any required environmentally sensitive areas report, if required by the Shoreline Administrator, shall be borne by the Applicant.

4. Individual environmentally sensitive areas reports may be combined with other required environmentally sensitive areas or shoreline reports, in a format approved by the Shoreline Administrator.

C. Application Requirements.

1. It shall be the responsibility of Property Owners and the sponsors of proposed development activities to identify all environmentally sensitive areas and jurisdictional shoreline areas on their property and within 300 feet of their property lines on all application materials including required environmental checklists.

    a. If a proposed development activity that may have a potential adverse impact on an environmentally sensitive area(s) does not require a specific permit such as a building permit, short plat approval, etc., compliance with the provisions of this Chapter is still required.

    b. Project Sponsors are strongly encouraged to schedule an appointment and meet with the Shoreline Administrator to discuss development plans and other applicable permits that may be required from other agencies before application materials are prepared and submitted.

2. All land use applications submitted to the Shoreline Administrator involving environmentally sensitive areas must include a SEPA Checklist and at a minimum such information identified in WAC 173-27-180.

3. In order to fully assess the potential impact on environmentally sensitive areas and the effectiveness mitigation sequencing methods the Shoreline Administrator may require the preparation of an Environmentally Sensitive Areas Report(s) and supporting technical studies prepared by a qualified professional as determined by the Shoreline Administrator.

D. Overlapping Buffer Requirements. In the event that more than one buffer applies to a proposed development, the buffer affording the highest level of protection as determined by the Shoreline Administrator should apply where the buffers overlap, unless specifically authorized by the Shoreline Administrator.

1. For example, if a development proposal involves a parcel that includes a jurisdictional shoreline, a jurisdictional wetland, and a non-jurisdictional fish bearing stream there could be three different buffer requirements applicable to the site. Where the buffer areas overlap, the widest buffer area would apply, unless a lesser buffer area is approved in accordance with the provisions of this Title.

E. Emergency Measures to Protect the Public Health and Safety. Nothing in this Title shall prevent a public agency or a private property owner from taking emergency actions necessary to protect persons and property from immediate or urgent threats to the public health and safety.

1. Emergency measures should be limited to reasonable measures necessary to protect the public health and safety from the immediate or urgent threat.

2. The Shoreline Administrator, and state and federal agencies, such as the Washington State Department of Fish and Wildlife and U.S. Army Corps of Engineers, should be contacted as soon as practical after the emergency action to determine if any additional measures are required and what, if any, permits may be required.

3. Remediation may be required after the fact to restore the site to pre-emergency conditions. Once the immediate threat has been addressed, any adverse impacts on critical areas should be minimized and mitigated according to the provisions of this Chapter.

4. Property owners are advised that the failure to take appropriate preventative measures, the failure to secure required permits in advance, the failure to meet conditions of approval including the maintenance of erosion control measures, and/or the failure to act in a timely manner may not constitute an emergency and may result in the imposition of civil penalties and/or remediation measures.

F. Performance Bonds. In an effort to ensure the successful installation, operation, and maintenance of compensatory mitigation measures or other requirements under this Title, the Shoreline Administrator may require a performance bond(s) or comparable financial guarantee.

1. The performance bond or guarantee may be up to 150% of the estimated cost of the required improvement.

2. The duration and form of the financial guarantee shall be determined by the Shoreline Administrator in consultation with the applicable legal counsel.

xx.34.100 Wetlands.

A. The purposes of this section are to:

1. Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting, and/or rearing habitat for fish and wildlife; recharging and discharging groundwater; contributing to stream flow during low flow periods; stabilizing streambanks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through bio-filtration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.

2. Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands.

3. Establish review procedures for development proposals in and adjacent to wetlands.

B. Identification of wetlands and the delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within Pend Oreille County meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter.

1. Wetlands shall be delineated by a qualified wetland professional in accordance with the U.S. Army Corps of Engineers publication *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (WMVCR), Regional Supplement to the 1987 Wetland Delineation Manual* (Corps Publication # ERDC/ EL TR-10-03).

2. Wetland delineations are valid for 5 years; after 5 years the Shoreline Administrator shall determine whether a revision or additional assessment is necessary.

C. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication #04-06-015, or as revised and approved by Ecology), provided that the applicant may utilize the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Western Washington* (Ecology Publication #04-06-025, or as revised and approved by Ecology) if warranted by local conditions.

1. Category I wetlands include:

   a. Alkali wetlands;

   b. Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high-quality wetlands;

   c. Bogs;

   d. Mature and old-growth forested wetlands over ¼ acre with slow-growing trees;

   e. Forests with stands of aspen; and

   f. Wetlands with scores of 22 points or more for all functions or having "Special Characteristics" identified in the rating system.

   (Note: Category I Wetlands typically represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are difficult if not impossible to replace, or provide a high level of function).

2. Category II wetlands include:

   a. Forested wetlands in the floodplains of rivers;

   b. Mature and old-growth forested wetlands over ¼ acre with fast-growing trees;

   c. Vernal pools; and

   d. Wetlands with scores for all functions between 19 to 21 points or having "Special Characteristics" identified in the rating system.

3. Category III wetlands include:

   a. Vernal pools that are isolated; and

b. Wetlands with scores between 16-18 points or more for all functions identified in the rating system.

(Note: Category III wetlands oftentimes have been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands).

4. Category IV wetlands have the lowest level of functions, scoring less than 16 points for all functions identified in the rating system.

(Note: Category IV wetlands are typically heavily disturbed. These are wetlands that we should be able to replace and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected).

5. Wetland rating categories shall not change due to illegal modifications or unauthorized activities.

D. Applicability. In addition to the provisions of this Chapter, all development activities including new uses of land and buildings and changes of use must comply with the Table of Permitted Shoreline Uses and Activities and all provisions of this Title as well as all applicable provisions of local, state, and federal law, unless specifically exempted.

1. Development activities proposed for jurisdictional shoreline areas must also comply with the provisions of Chapter4A Shoreline Regulations.

a. This includes the Table of Permitted Shoreline Uses and Activities (xx.34.050).

2. In particular, the following activities are subject to the provisions of this section if they are proposed for a wetland or wetland buffer:

a. The construction, reconstruction, demolition, or expansion of any structure;

b. The creation of new lots through a subdivision, short plat, Master Planned Resort, RV Park, RV Resort, or binding site plan;

c. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

d. The dumping of, discharging of, or filling with any material;

e. The draining, flooding, or disturbing the water level or water table;

f. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland;

g. Pile driving;

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. Proposed uses or activities determined by the Shoreline Administrator to have a potential adverse impact on wetland values and functions; and/or

j. Activities that may result in:

(1) A significant change of water temperature.

(2) A significant change of physical or chemical characteristics of the sources of water to the wetland.

(3) A significant change in the quantity, timing, or duration of the water entering the wetland.

(4) The introduction of pollutants.

E. Prospective applicants are encouraged to contact the Department of Ecology Eastern Regional office and the U.S. Army Corps of Engineers to determine what state and federal permits and approvals may be required.

F. The sponsors of proposed development activities that involve or may impact designated wetlands or their buffers shall prepare and submit for Shoreline Administrator review and approval an environmentally sensitive areas report unless specifically exempted. The following activities may be determined by the Shoreline Administrator to be exempt from the buffer requirements, and/or other provisions of this section provided that appropriate measures are proposed to avoid or mitigate potential adverse impacts:

1. All isolated Category III and IV wetlands less than 1,000 square feet that:

a. Are not associated with riparian areas or buffers;

b. Are not part of a wetland mosaic;

c. Do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife or species of local importance;

d. Are not vernal pools;

e. Are not alkali wetlands; and

f. Do not contain aspen stands.

2. 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.

3. 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.

4. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the groundwater connection to the wetland or percolation of surface water down through the soil column will be disturbed.

5. 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. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

6. Educational and scientific research activities.

7. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way or easement, provided that the maintenance or repair does not expand the footprint or use of the facility, easement, or right-of-way.

8. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local

authority, except those developments requiring local approval for Class 4 – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.

G. Wetland Buffers. Unless specifically exempted, all regulated wetlands shall have a wetland buffer that shall not be disturbed unless specifically authorized.

1. All wetland buffers shall be measured from the wetland edge, as established by the approved wetland boundary survey.

2. The width of the required wetland buffer shall be based on a determination by the Shoreline Administrator of the intensity of the proposed use. For purposes of administering this section the following shall be used to determine low, medium, and high intensity activities:

a. High intensity activities may include:

(1) Commercial uses;

(2) Industrial uses;

(3) More than one dwelling unit per acre;

(4) Higher intensity recreational uses such as golf courses, ball fields, motorized vehicle facilities; and/or

(5) Other uses determined by the Shoreline Administrator to be of a higher intensity than the enumerated low or medium intensity uses.

b. Medium intensity activities may include:

(1) New residential development at a density not to exceed one (1) dwelling unit per acre;

(2) Moderate intensity open space and parks with recreation activities such as biking and jogging;

(3) Less intensive agricultural activities such as orchards and hay fields; and/or

(4) Building logging roads.

c. Low intensity activities may include:

(1) Forestry (cutting trees only);

(2) Less intensive recreation activities such as walking, bird watching, etc.; and/or

(3) Other uses determined by the Shoreline Administrator to be of lesser intensity than the enumerated high or medium intensity uses.

3. Unless otherwise authorized, the required wetland buffers, shall be based on the category of the wetland and the intensity of the proposed development activity as follows, irrespective of shoreline environment designation:

   a. Category I Wetland: 125 feet for low intensity uses, 190 feet for medium intensity uses, and 250 feet high intensity uses;

   b. Category II Wetland: 100 feet for low intensity uses, 150 feet for medium intensity uses, and 200 feet high intensity uses;

   c. Category III Wetland: 75 feet for low intensity uses, 110 feet for medium intensity uses, and 150 feet high intensity uses; and

   d. Category IV Wetland: 25 feet for low intensity uses, 40 feet for medium intensity uses, and 50 feet high intensity uses.

4. The width of a wetland buffer may be increased or decreased by the Shoreline Administrator on a case-by-case basis based on approval of a wetland report that documents that a larger buffer is needed to protect wetland functions or values or that a smaller buffer adequately protects wetlands without a net loss of functions or values.

   a. The standard buffer widths identified above 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. The proponent shall maintain the viability of the buffer in perpetuity as specified in the wetland report.

   b. Wetland buffers may be reduced by no more than 25% of the standard buffer width.

5. The Shoreline Administrator may approve proposals to average required buffers based on a finding that the averaging will result in greater than or equal wetland protection or is necessary to allow the reasonable use of property, provided that:

   a. The total area of the wetland buffer is not reduced; and

b. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

c. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.

d. The buffer at its narrowest point is never less than either three-quarters 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.

6. The following uses may be permitted in a wetland buffer provided that they are not prohibited by other applicable laws and are conducted in a manner that does not adversely affect wetland function and values:

a. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

b. Passive recreation facilities designed and in accordance with an approved critical area report, including:

(1) Walkways and trails; and

(2) Wildlife viewing structures.

c. Dispersed camping areas.

d. Educational and scientific research activities.

e. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

f. 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.

g. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, 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 is disturbed.

h. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

i. Stormwater management facilities are limited to stormwater dispersion outfalls and bio-swales in the outer 25% of the buffer of Category III or IV wetlands only, provided that the location of such facilities will not degrade the functions or values of the wetland.

j. Repair and maintenance of nonconforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

7. Signage and Fencing.

a. All buffers shall be temporarily fenced during construction activities in a manner approved by the Shoreline Administrator, which should include highly visible and durable protective barriers to prevent access and to protect the wetland and associated buffers.

b. As a condition of approval, the Shoreline Administrator may require temporary or permanent signs to clearly identify and protect wetlands and associated buffers.

c. As a condition of approval, the Shoreline Administrator may require or authorize the construction of a temporary or permanent fence to protect wetlands and associated buffers, provided that:

(1) Fences should be installed on the outside perimeter of required wetland buffers;

(2) The fence shall be designed and constructed so that it does not interfere with animal migration and does not adversely affect animal habitats.

(3) Permanent fencing may be required if domestic grazing animals are on site or may be introduced to the site in the future.

(4) Property owners are encouraged to consider the impacts of fencing on neighboring property owners.

H. Mitigation Sequencing. All proposed development activities that may impact wetlands and their associated buffers shall be designed and constructed in accordance with the following principles, listed in order of preference:

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

2. 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.

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

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

5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.

6. Monitor the required compensation and take remedial or corrective measures when necessary.

I. Compensatory Mitigation. In certain circumstances where impacts to wetlands or their associated buffers cannot be avoided or minimized, the Shoreline Administrator may approve compensatory mitigation to achieve equivalent or greater biologic functions.

1. Compensatory mitigation plans shall be consistent with Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10 *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans* (Version 1), Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised, *Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance* (Version 1). Washington State Department of Ecology Publication #06-06-011a. Olympia, Washington. *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 (Eastern Washington)* (Publication #10-06-07, November 2010).

2. At a minimum, the mitigation ratios shall be as follows:

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: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
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

Note: These ratios are based on the assumption the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, and less-effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

3. Increased Replacement Ratio. The standard replacement ratio may be increased under any of the following circumstances consistent with:

    a. High degree of uncertainty as to the success of the proposed restoration or creation;

    b. Significant period of time between destruction and replication of wetland functions;

    c. Projected losses in functions;

    d. Off-site compensation.

4. Decreased Replacement Ratio. The standard replacement ratio may be decreased under the following circumstances:

    a. Findings of special studies coordinated with agencies and/or a qualified professional, which demonstrate protection of wetland function or value is attained under the decreased ratio.

5. Advance Mitigation. The proposed actions for compensation are conducted in advance of the impact and are shown to be successful. 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.

6. In all cases, a minimum acreage replacement ratio of 1:1 shall be required.

7. Mitigation requirements may also be determined using the credit/debit tool described in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report (Ecology Publication #11-06-015, August 2012 or as later amended).

8. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

    a. Restoration (re-establishment and rehabilitation) of wetlands.

    b. Creation (establishment) of wetlands on disturbed upland sites, such as those with vegetative cover consisting primarily of non-native species. 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.

    c. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.

    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. 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:

        (1) Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA species.

        (2) There is no net loss of habitat functions within the watershed or basin.

        (3) The impact area is small (generally less than ½ acre) and/or impacts are occurring to a low functioning system (Category III or IV wetland).

(4) All preservation sites shall include buffer areas that are adequate to protect the habitat and its function from encroachment and degradation.

9. Compensatory mitigation actions shall be conducted on the site of the alteration except when all of the following apply, refer to the guidance document *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Publication #10-06-07, November 2010 or as revised):

   a. There are no reasonable opportunities on site (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site 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 hydro-geomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);

   b. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

   c. Off-site locations shall be in the same sub-drainage basin unless:

      (1) Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the Shoreline Administrator and strongly justify location of mitigation at another site; or

      (2) Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the bank's certification.

   d. 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 structure 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.

10. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora. Whenever practical, it is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands, but at a minimum compensatory mitigation shall be completed prior to the completion of the approved development activity and the issuance of a certificate of occupancy.

J. Wetland Mitigation Banks.

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

   a. The wetland bank is certified under state rules;

   b. The Shoreline Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

   c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

K. In Lieu Fee. To aid in the implementation of off-site mitigation, the Shoreline Administrator may develop a program that prioritizes wetland areas for use as mitigation and/or allows payment in lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with state and federal rules.

L. Wetlands Report. Unless specifically exempted by the Shoreline Administrator, all applications for proposed development activities in or near a wetland or wetland buffer shall include a wetlands report prepared by a qualified professional, as determined by the Shoreline Administrator. The Shoreline Administrator may provide more detailed guidelines for the preparation of a wetlands report. At a minimum a wetlands report and the accompanying plan sheets should contain the following information:

1. The name and contact information of the Applicant; authorization of the property owner if the owner is not the Applicant; the name, qualifications, and contact information for the primary author(s) of the wetland critical area report; a description of the proposal;

identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

2. A statement specifying the accuracy of the report and all assumptions made and relied upon.

3. Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, etc.

4. A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses including references.

5. 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 300 feet of the project boundaries using the best available information.

6. For each wetland identified on site and within 300 feet of the project site provide the following based on an assessment of the entire wetland complex, not just the portion present on the proposed project site:

    a. The wetland rating;

    b. Required buffers;

    c. Hydrogeomorphic classification;

    d. Wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions);

    e. Cowardin classification of vegetation communities; and

    f. 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.).

7. 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.

8. An assessment of the probable cumulative benefits and impacts to the wetlands and buffers resulting from the proposed development.

9. A description of reasonable efforts made to apply the required mitigation sequencing, xx.34.060(B), to avoid, minimize, and mitigate impacts to critical areas.

10. 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.

11. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

12. An evaluation of the functions of the wetland and adjacent buffer. Include references for the method used and data sheets.

13. A description of proposed compensatory mitigation measures, if any, to address adverse impacts to wetlands and their buffers that cannot be avoided through mitigation sequencing.

    a. Mitigation shall be described in accordance 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).

14. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:

    a. 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 and the location of proposed mitigation sequencing activities including proposed compensatory mitigation if applicable.)

    b. 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.

M. Unauthorized Alterations and Enforcement. Unless otherwise provided for in this Title, the following shall apply:

1. When a wetland or its buffer has been altered in violation of this Chapter, all ongoing development work shall stop and the critical area shall be restored.

    a. The Shoreline Administrator 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 this Chapter.

2. All development work shall remain stopped until a restoration plan is prepared and approved by Shoreline Administrator. Such a plan shall be prepared by a qualified professional using the currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described below. 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 re-submittal.

3. 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. Information demonstrating compliance with other applicable provisions of this Chapter shall be submitted to the Shoreline Administrator.

4. The Shoreline Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Chapter. Representatives of the Shoreline Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

5. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Chapter shall be guilty of a misdemeanor.

a. Each day, or portion of a day, during which a violation of this Chapter is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the State of Washington. The Shoreline Administrator may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Chapter.

6. If the wetland affected cannot be restored, monies collected as penalties shall be deposited in a dedicated account for the preservation or restoration of landscape processes and functions in the watershed in which the affected wetland is located. The Shoreline Administrator may coordinate its preservation or restoration activities with other communities in the watershed to optimize the effectiveness of the restoration action.

xx.34.110 Geologically Hazardous Areas.

A. The purposes of this section are to:

1. Identify and protect areas susceptible to erosion, sliding, earthquake, or other geological events.

2. Provide guidance to enable property owners to avoid activities that may cause or be susceptible to damage from significant hazards.

B. Geologically hazardous areas are those areas susceptible to one or more of the following types of hazards:

1. Erosion hazard;

2. Landslide hazard;

3. Seismic hazard;

4. Mine hazard;

5. Volcanic hazard; or

6. Other geological events such as mass wasting, debris flows, rock falls, and differential settlement.

C. Designation of Geological Hazard Areas. The following criteria shall be used to identify specific geological hazard areas, provided that the Shoreline Administrator may utilize updated or new information to identify these areas consistent with the principals of best available science:

1. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shore, land and/or streambank erosion and those areas within a river's channel migration zone.

2. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

   a. Areas of historic failures, such as:

      (1) Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;

      (2) 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

      (3) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington State Department of Natural Resources;

   b. Areas with all three of the following characteristics:

      (1) Slopes steeper than 15%;

      (2) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

      (3) Springs or groundwater seepage.

   c. Areas that have shown movement during the Holocene Epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch.

(1) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(2) Slopes having gradients steeper than 80% subject to rock fall during seismic shaking;

(3) Areas potentially unstable because of rapid stream incision, streambank erosion, and undercutting by wave action;

(4) Areas that show evidence of, or are at risk from, snow avalanches;

(5) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

(6) Any area with a slope of 40% or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

3. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow groundwater table. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

   a. The magnitude of an earthquake;

   b. The distance from the source of an earthquake;

   c. The type of thickness of geologic materials at the surface; and

   d. The type of subsurface geologic structure.

4. Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from ground surface to the mine working, and geologic material.

5. Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanches, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.

6. Geologically hazardous areas shall also include areas determined by the Shoreline Administrator to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.

D. The sponsors of proposed development activities that involve or may impact geologically hazardous areas or their buffers shall prepare and submit for Shoreline Administrator review and approval an environmentally sensitive areas report unless specifically exempted. The following activities may be determined by the Shoreline Administrator to be exempt from the requirements to prepare an environmentally sensitive areas report, the buffer requirements, and/or other provisions of this section provided that appropriate measures are proposed to avoid or mitigate potential adverse impacts:

1. The following activities may be exempt in Seismic Hazard Areas, Mine Hazard Areas, Volcanic Hazard Areas, and Other Hazard Areas based on a determination by the Shoreline Administrator that the proposed activity will not increase the risk of hazard.

   a. Additions to existing residences that are 250 square feet or less; and

   b. Installation of fences.

A. Performance Standards.

1. General Requirements. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

   a. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

   b. Will not adversely impact other critical areas;

   c. 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

   d. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the State of Washington.

2. In addition to the general requirements above, proposed development activities on sites that contain erosion or landslide hazard areas shall meet the following standards:

   a. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the Shoreline Administrator to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

      (1) The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater.

      (2) The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrates to the Shoreline Administrator's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area.

      (3) The buffer may be increased based on a finding by the Shoreline Administrator that a larger buffer is necessary to prevent risk of damage to proposed and existing development.

   b. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:

      (1) The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

      (2) The development will not decrease slope stability on adjacent properties; and

      (3) Such alterations will not adversely impact other critical areas.

   c. 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 this Title. 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:

      (1) The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum

horizontal acceleration as established by the current version of the Uniform Building Code;

(2) Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;

(3) 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;

(4) Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

(5) The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

(6) The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

(7) Development shall be designed to minimize impervious lot coverage.

d. 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;

e. Approved clearing activities should be allowed only from May 1 to October 1 of each year provided that the Shoreline Administrator may extend or shorten the 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 Washington State Department of Natural Resources;

f. 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;

g. Point discharges from surface water facilities and roof drains onto, or upstream from, an erosion or landslide hazard area shall be prohibited except when as follows:

(1) Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

(2) Discharged at flow durations matching pre-developed conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the pre-developed state; or

(3) Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer 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;

h. The division of land in landslide hazard areas and associated buffers is subject to the following:

(1) 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; and

(2) Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the Shoreline Administrator determines that no other feasible alternative exists.

i. On-site sewage disposal systems, including drainfields, shall be prohibited within erosion and landslide hazard areas and related buffers.

3. In addition to the general requirements above, proposed development activities on sites that contain mine hazard areas shall meet the following standards:

a. Alterations. Alterations of a mine hazard area and/or buffer are allowed, as follows:

(1) All alterations are permitted within a mine hazard area with a low potential for subsidence;

(2) Within a mine hazard area with a moderate potential for subsidence, all alterations are permitted subject to a mitigation plan to minimize risk of structural damage, as recommended in the hazard analysis;

(3) Within a mine hazard area with a severe potential for subsidence, only fences and nonresidential structures less than 200 square feet may be permitted.

b. The division of land in mine hazard areas and associated buffers is subject to the following:

(1) Land that is located within 200 feet of a mine hazard area with a severe potential for subsidence may not be subdivided. Land that is located partially within a mine hazard area may be divided provided that each resulting lot has sufficient buildable area that is 200 feet away from the mine hazard area with a severe potential for subsidence. Land that is located within a mine hazard area with a low or moderate potential for subsidence may be subdivided.

(2) Access roads and utilities may be permitted within 200 feet of a mine hazard area with a moderate or severe potential for subsidence if the Shoreline Administrator determines that no other feasible alternative exists.

c. Reclamation Activities. For all reclamation activities, including grading, filling, and stockpile removal, as-built drawings shall be submitted in a format specified by the Shoreline Administrator.

B. Geologically Hazardous Area Report. Unless specifically exempted by the Shoreline Administrator, all applications for proposed development activities in or near a geologically hazardous area or buffer shall include a report 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. The Shoreline Administrator may provide more detailed guidelines for the preparation of a geologically hazardous area report. At a minimum the report and the accompanying plan sheets should contain the following information:

1. The name and contact information of the Applicant; authorization of the property owner if the owner is not the Applicant; the name, qualifications, and contact information for the primary author(s) of the geologically hazardous area report; a description of the proposal; identification of all the local, state, and/or federal geologically related permit(s) required for the project; and a vicinity map for the project.

2. A statement specifying the accuracy of the report and all assumptions made and relied upon.

3. The report shall include a copy of the site plans for the proposal showing:

    a. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, within 300 feet of, or that are likely to impact the proposal;

    b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;

    c. The topography, in 2-foot contours, of the project area and all hazard areas addressed in the report; and

    d. Clearing limits.

4. The report shall include 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 in use in the region. The assessment shall include, but not be limited to:

    a. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;

    b. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site-specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and

    c. A description of the vulnerability of the site to seismic and other geologic events;

5. The report shall contain a hazards analysis including a detailed description of the proposed project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.

    a. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

6. When hazard mitigation is required, the 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.

7. In addition to the requirements listed above, critical area reports for erosion and landslide hazard areas should also include:

   a. A site plan depicting:

      (1) The height of slope, slope gradient, the top and toe of the slope, and cross-section of the project area;

      (2) The location of springs, seeps, or other surface expressions of groundwater on or within 300 feet of the project area or that have potential to be affected by the proposal; and

      (3) The location and description of surface water runoff features.

   b. An analysis of the site including:

      (1) A description of the extent and type of vegetative cover;

      (2) A description of subsurface conditions based on data from site-specific explorations;

      (3) Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;

      (4) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

      (5) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;

      (6) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties.

      (7) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;

      (8) Recommendations for building siting limitations; and

(9) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

c. A geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:

(1) Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;

(2) Recommendations for drainage and sub-drainage improvements;

(3) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary;

(4) A description of reasonable efforts made to apply the required mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas; and

(5) A description of proposed compensatory mitigation measures, if any, to mitigate adverse site impacts that cannot be avoided through mitigation sequencing.

d. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall conform to the requirements of the Washington State Department of Ecology Stormwater Management Manual for Eastern Washington as adopted by the local jurisdiction or alternative measures that meet or exceed these standards as determined by the Shoreline Administrator;

e. The technical information shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with the Washington State Department of Ecology Stormwater Management Manual for Eastern Washington as adopted by the local jurisdiction or alternative measures that meet or exceed these standards as determined by the Shoreline Administrator. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area;

f. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability; and

g. If the Shoreline Administrator determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the Shoreline Administrator.

8. In addition to the requirements listed above, critical area reports for seismic hazard areas shall also include:

   a. On the site map all known and mapped faults within 200 feet of the project area or that have potential to be affected by the proposal;

   b. In the analysis a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement); and

   c. A geotechnical engineering report shall evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented.

9. In addition to the requirements listed above, critical area reports for mine hazard areas shall also include:

   a. On the site plan site plan the delineation of any of the following features found within 300 feet of, or directly underlying, the project area or that have potential to be affected by the proposal:

      (1) The existence of mines, including all significant mine features, such as mine entries, portals, adits, mine shafts, air shafts, and timber shafts;

      (2) The location of any nearby mines that may impact or be affected by the proposed activities;

      (3) The location of any known sinkholes, significant surface depressions, trough subsidence features, coal mine spoil piles, and other mine-related surface features; and

      (4) The location of any prior site improvements that have been carried out to mitigate abandoned coal mine features; and

b. A discussion of the potential for subsidence on the site and classify all mine hazards areas within 300 feet of the project area, or that have potential to be affected by the proposal, as either low, moderate, or severe. The hazards analysis shall include a mitigation plan containing recommendations for mitigation of the potential for future trough subsidence, as appropriate, for the specific proposed alteration and recommendations for additional study, reports, and development standards if warranted.

xx.34.120 Fish and Wildlife Habitat Conservation Areas.

A. Areas within the County meeting one or more of the following criteria, may be designated as Fish and Wildlife Habitat Conservation Areas, subject to the provisions of this Chapter, and shall be managed consistent with the principles of best available science, such as the *Washington State Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species*.

1. Areas with which State and Federally Designated Endangered, Threatened, and Sensitive Species have a primary association.

   a. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered.

   b. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the State of Washington identified by the Washington 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.

   c. Habitats of Primary Association: "Habitats of primary association" means a critical component(s) of the habitats of federally or state-listed endangered, threatened, candidate, sensitive, and priority wildlife or plant species, which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Habitats of primary association include, but are not limited to: winter ranges, migration ranges, corridors, breeding sites, nesting sites, regular large concentrations, communal roosts, roosting sites, staging area, and "priority habitats" listed by the Washington State Department of Fish and Wildlife.

2. Priority habitats and species as identified by the Washington State Department of Fish and Wildlife, and as subsequently amended.

3. Habitats and species designated by the local jurisdiction as being of local importance and warranting protection, based on the provisions of best available science.

4. Natural area preserves and natural resource conservation areas as defined, established, and managed by the Washington State Department of Natural Resources.

5. Areas of rare plant species and high-quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

6. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish and wildlife habitat;

7. Land identified by the local jurisdiction as being essential for the preservation of connections between habitat areas and open spaces.

B. The following fish and wildlife habitat areas shall be considered priority habitat areas in Pend Oreille County and shall be afforded the highest level of protection:

1. Areas with which State and Federally Designated Endangered, Threatened, and Sensitive Species have a primary association.

2. Natural area preserves and natural resource conservation areas as defined, established, and managed by the Washington State Department of Natural Resources.

3. Areas of rare plant species and high-quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

C. While the regional partnership may maintain maps that highlight the potential location of fish and wildlife habitat conservation areas, it shall be the responsibility of the property owner and Project Sponsor to identify all fish and wildlife habitat conservation areas on their property and to comply with the provisions of this Chapter at all times.

1. Note: Information regarding Priority Habitat and Species in Pend Oreille County may be found on the Washington State Department of Fish and Wildlife website.

D. General Performance Standards.

1. It should be noted that properties that contain fish and wildlife habitat conservation areas may contain other environmentally sensitive areas and as a result, more than one critical area report may need to be prepared.

2. Development activities proposed for properties that contain fish and wildlife habitat conservation areas may also be under the jurisdiction of state and federal agencies and as

a result, numerous permits and approvals may be required. As a result, Project Sponsors are strongly encouraged to schedule a pre-application conference with the Shoreline Administrator to discuss potential permitting requirements and opportunities for integrating and streamlining the development review process.

3. Proposed development activities in or near fish and wildlife habitat conservation areas should follow the required mitigation sequencing outlined in xx.34.060(B) to avoid or minimize potential adverse impacts before considering any action that may require mitigation.

4. A fish and wildlife 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. All new structures and land alterations shall be prohibited from fish and wildlife habitat conservation areas, unless specifically authorized by the Shoreline Administrator.

    a. Any proposed alterations or impacts to a fish and wildlife habitat conservation area should be supported by the principles of best available science.

5. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a fish and wildlife habitat conservation area unless authorized by a state and/or federal permit or approval.

6. The Shoreline Administrator may deny, restrict, or condition approvals of a proposed use or development activity within or adjacent to a fish and wildlife habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the principles of best available science and may include, but are not limited to, the following:

    a. Establishment of buffer zones;

    b. Preservation of critically important vegetation and/or priority habitat features such as snags and downed wood;

    c. Limitation of access to the habitat area, including fencing to deter unauthorized access;

    d. Seasonal restriction of construction activities to protect priority fish and wildlife species;

    e. Establishment of a duration and timetable for periodic review of mitigation activities; and

f. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

7. Mitigation of alterations to fish and wildlife habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse off-site impacts. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

8. The Shoreline Administrator may require the establishment of buffer areas for activities adjacent to fish and wildlife 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.

   a. 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 Department of Fish and Wildlife.

   b. Fish and wildlife habitat conservation areas and their buffers should be preserved in perpetuity through the use of native growth protection areas, critical area tracts, or comparable methods as approved by the Shoreline Administrator.

9. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

10. The Shoreline Administrator may reduce fish and wildlife habitat area buffers in accordance with the provisions of the critical area report, the principles of best available science, and applicable management recommendations issued by the Washington Department of Fish and Wildlife, if:

    a. It will not reduce stream or habitat functions;

    b. It will not adversely affect fish 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.

11. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:

    a. Land that is located wholly within a habitat conservation area or its buffer should not be subdivided;

    b. Land that is located partially within a habitat conservation area or its buffer may be divided 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 and all applicable provisions of the applicable development regulations.

    c. Access roads and utilities serving the proposed subdivision may be permitted within the habitat conservation area and associated buffers, only if the Shoreline Administrator determines that no other feasible alternative exists and when consistent with this Title.

12. The outer perimeter of the fish and wildlife habitat conservation area or buffer, and the limits of those areas to be disturbed pursuant to an approved permit or authorization, 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 permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

13. As a condition of any permit or authorization issued pursuant to this Chapter, the Shoreline Administrator may require the Applicant to install permanent signs along the boundary of a fish and wildlife habitat conservation area or buffer.

    a. Signs should be designed and installed in a manner to assure protection of sensitive features or wildlife and shall be subject to Shoreline Administrator approval.

    b. Signs shall be maintained by the property owner unless otherwise approved by the Shoreline Administrator.

14. The Shoreline Administrator may require as a condition of approval of any permit or authorization issued pursuant to this Chapter to require the Applicant to install a permanent fence at the edge of the fish and wildlife habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.

    a. The Applicant should be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

b. Fencing installed as part of a proposed activity or as required in this subsection shall be design so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts and shall be subject to Shoreline Administrator approval.

E. Habitat Specific Performance Standards. In addition to the general performance standards listed above, the following habitat specific performance standards may also apply, as determined by the Shoreline Administrator.

1. No development shall be allowed within a fish and wildlife habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.

   a. Whenever activities are proposed adjacent to a fish and wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the Shoreline Administrator. Approval for alteration of land adjacent to the fish and wildlife habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.

   b. Project Sponsors are encouraged to contact the U.S. Fish and Wildlife Service and/or the Washington State Department of Fish and Wildlife to determine what, if any, state or local laws protecting bald or golden eagles may be applicable to their proposed development.

2. All activities, uses, and alterations proposed to be located in water bodies used by fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of fish habitat, including, but not limited to, adhering to the following standards:

   a. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;

   b. An alternative alignment or location for the activity is not feasible;

   c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;

d. Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report, and

e. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

3. Fills, if otherwise permitted by the local development regulations, shall not adversely impact fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water-dependent use.

4. Unless specifically authorized by the Shoreline Administrator, all structures and activities shall be located outside of designated riparian habitat areas and required riparian buffers.

   a. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs

   b. Riparian Habitat Area 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. Riparian habitat areas should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of in-stream fish habitat through control of temperature and sedimentation in streams, preservation of fish and wildlife habitat, and connection of riparian wildlife habitat to other habitats.

   c. Riparian habitat areas should retain their natural vegetative condition unless specifically authorized by the Shoreline Administrator.

5. Unless otherwise approved by the Shoreline Administrator, the recommended widths of Riparian Habitat Areas shall be as follows:

   a. Type S (Shorelines of the State): See xx.34.060(A));

   b. Type F (Fish bearing): 200 feet;

   c. Type NP (Non-fish bearing-perennial): 150 feet;

   d. Type NS (Non-fish bearing-seasonal): 150 feet; and

   e. Type U (Unknown, not typed): Must be evaluated with proposed type and Riparian Habitat Area width included in any development application.

6. The recommended riparian habitat area widths may be increased by the Shoreline Administrator, as follows:

    a. Based on a finding that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;

    b. When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;

    c. When a channel migration zone is present and mapped, the riparian habitat area width shall be measured from the outer edge of the channel migration zone;

    d. When the habitat area is in an area of high blow down potential, the riparian habitat area width shall be expanded an additional 50 feet on the windward side; and/or

    e. When the habitat area is within an erosion or landslide hazard area or buffer the riparian habitat area width shall be the recommended distance or the erosion or landslide hazard area or buffer, whichever is greater.

7. The recommended riparian habitat area width may be reduced by the Shoreline Administrator in accordance with the recommendations of a critical area report only if:

    a. The width reduction will not reduce stream or habitat functions, including those of non-fish habitat;

    b. The width reduction will not degrade the habitat, including habitat for anadromous fish;

    c. The proposal will provide additional habitat protection;

    d. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;

    e. The width reduction will not be located within another critical area or associated buffer; and

    f. The reduced riparian habitat area width is supported by the best available science.

8. 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.

9. The performance standards set forth in this subsection may be modified at the Shoreline Administrator'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.

10. The following specific activities may be permitted within a riparian habitat area, when the activity complies with the applicable provisions set forth in Chapter 4A Shoreline Regulations and the standards of this subsection. The standards that provide the most protection to protected habitat and species shall apply.

    a. When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following should apply:

        (1) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year, provided that the Shoreline Administrator may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

        (2) Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.

        (3) 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.

        (4) 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.

        (5) Erosion and sediment control that meets or exceeds the local jurisdiction's standards shall be provided.

    b. New, replacement, or substantially improved shoreline erosion control measures may be permitted in accordance with an approved critical area report that demonstrates the following:

        (1) Natural shoreline processes will be maintained.

        (2) The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands.

(3) Adequate mitigation measures ensure that there is no net loss of the functions or values of in-stream habitat or riparian habitat as a result of the proposed shoreline erosion control measures.

c. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

d. New public boat launches that meet the applicable provisions of Chapter 4A Shoreline Regulations may be permitted in accordance with an approved critical area report that has demonstrated the following:

(1) The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate;

(2) The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands;

(3) Adequate mitigation measures ensure that there is no net loss of the functions or values of in-stream habitat or riparian habitat as a result of the ramp; and

e. Repair and maintenance of an existing dock or pier that otherwise meet all of the applicable provisions of Chapter 4A Shoreline Regulations may be permitted in accordance with an approved critical area report subject to the following:

(1) There is no increase in the use of materials creating shade for predator species;

(2) There is no expansion in overwater coverage;

(3) There is no new spanning of waters between 3 and 13 feet deep;

(4) There is no increase in the size and number of pilings; and

(5) There is no use of toxic materials (such as creosote) that come in contact with the water.

f. Construction of trails may be permitted in accordance with an approved critical area report subject to the following standards:

(1) There is no other feasible alternative route with less impact on the environment;

(2) Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;

(3) Trails and associated viewing platforms shall not be made of continuous impervious materials; and

(4) Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

g. Construction of roadways and minor road bridging may be permitted in accordance with an approved critical area report subject to the following standards:

(1) There is no other feasible alternative route with less impact on the environment;

(2) The crossing minimizes interruption of downstream movement of wood and gravel;

(3) Roads in riparian habitat areas or their buffers shall not run parallel to the water body;

(4) Crossings, where necessary, shall only occur as close to perpendicular with the water body as possible;

(5) Road bridges and culverts are designed and installed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, or as subsequently amended.

(6) Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report; and

h. 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:

(1) Fish and wildlife habitat areas shall be avoided to the maximum extent possible;

(2) Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;

(3) 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;

(4) Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

(5) The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

(6) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

i. New public flood protection measures and expansion of existing ones may be permitted, subject to the Shoreline Administrator's review and approval of a critical area report and the approval of a Biological Assessment by the federal agency responsible for reviewing actions related to a federally listed species.

j. In-stream structures, such as, but not limited to, high-flow bypasses, sediment ponds, in-stream ponds, retention and detention facilities, dams, and weirs shall only be allowed in conformance with the provisions of Chapter 90.58 RCW and this Master Program and upon acquisition of any required local, state, and federal permits.

k. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

(1) No other feasible alternatives with less impact exist;

(2) Mitigation for impacts is provided;

(3) Stormwater conveyance facilities shall incorporate fish habitat features; and

(4) 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.

l. New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area report only if accessory to an approved residential structure, for which it is not feasible to connect to a public sanitary sewer system.

m. Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that results in the least impact:

(1) Connection to an available public sanitary sewer system;

(2) Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the [local health district]; or

(3) Repair to the existing on-site septic system.

F. Fish and Wildlife Habitat Conservation Areas Report. Unless specifically exempted by the Shoreline Administrator, all applications for proposed development activities in or near a priority fish and wildlife habitat conservation area shall include a critical areas report prepared by a qualified professional, as determined by the Shoreline Administrator. The Shoreline Administrator may provide more detailed guidelines for the preparation of a wetlands report. At a minimum a critical areas report for a fish and wildlife habitat conservation area and accompanying plan sheets should contain the following information:

1. A description of the proposed development activity and a map(s) highlighting:

   a. The project area of the proposed activity;

   b. All habitat conservation areas and recommended buffers within 300 feet of the project area; and

   c. All shoreline areas, floodplains, other critical areas, and related buffers within 300 feet of the project area.

2. An assessment of the habitat area(s) evaluating the presence or absence of designated critical fish or wildlife species or habitat. This assessment shall also include:

   a. A detailed description of vegetation on and adjacent to the project area;

   b. 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;

   c. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife management recommendations, as amended, that have been developed for species or habitats located on or adjacent to the project area;

   d. A detailed discussion of the direct and indirect potential benefits and impacts on habitat by the project, including potential impacts to water quality;

   e. 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 the mitigation sequencing requirements of xx.34.060(B); and

f. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

3. In addition, the Shoreline Administrator may also require:

a. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

b. 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; and/or

c. That the Applicant consults with the Washington Department of Fish and Wildlife, the Kalispel Tribe, and/or other appropriate agencies prior to preparing and submitting the report.

xx.34.130 Frequently Flooded Areas.

A. Applicability. This section shall apply to all areas of special flood hazard within the jurisdiction of Pend Oreille County.

B. Purpose.

1. The purpose of this section is to:

a. Protect human life and health;

b. Minimize expenditure of public money and costly flood control and flood relief projects;

c. Minimize prolonged business interruptions;

d. Minimize damage to public facilities and utilities such as water mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

e. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood damages;

f. Ensure that potential buyers are notified that property is in an area of special flood hazard; and,

g. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

h. Administer the Washington State Floodplain Management Act (Chapter 86.16 RCW) and maintain Pend Oreille County's eligibility to participate in the National Flood Insurance Program.

2. This section includes methods and provisions for:

   a. Restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion or in flood heights or velocities;

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

3. Sewer and Water Services. The Project Sponsor shall provide sufficient documentation to verify, subject to Shoreline Administrator review and approval, that adequate provisions can be made to provide water and sewer service to the site, including but not limited to sufficient water rights, without adversely affecting existing levels of service.

   a. Controlling filling, grading, dredging, and other development that may increase flood damage; and

   b. Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or may increase flood hazards in other areas.

4. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

C. Classification. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study – Pend Oreille County, Washington and Incorporated Areas," dated March 4, 2002, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference. The Flood Insurance Study and the FIRM are on file at the County Courthouse.

1. Area of "special flood hazard" means the land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. Designation on maps always includes the letter A. Also referred to as "100-year floodplain" and "special flood hazard area."

2. "Base flood" means the flood having a 1% chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood."

D. Review Process.

1. A floodplain development permit shall be obtained before any construction or development activity is initiated within any special flood hazard area.

2. When base flood elevation data has not been established for areas of special flood hazard, the Shoreline Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source in accordance with accepted engineering practices.

3. The Shoreline Administrator shall:

   a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

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

   c. Administer and implement these regulations by granting or denying development applications in accordance with the provisions of this Chapter. This shall include but is not limited to the:

      (1) Review of all development permits to determine that the permit requirements of this ordinance have been satisfied.

      (2) Review of all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

      (3) Review of all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of this Chapter are met.

4. Information to be obtained and maintained.

   a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in section xx.34.090(C), obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or

substantially improved structures, and whether or not the structure contains a basement (CFR 60.3(b)(5)(i)). The elevation shall be recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official.

b. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM:

(1) Obtain and record the elevation (in relation to mean sea level to which the structure was floodproofed).

(2) Maintain the floodproofing certifications required in Section 4.1-2(3) (44 CFR 60.3 (b) (5) (iii)).

c. Maintain for public inspection all records pertaining to the provisions of this Chapter.

5. Subdivision proposals.

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

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

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments that contain at least 50 lots or 5 acres (whichever is less).

e. All subdivisions and short subdivisions shall establish an elevation monument on or adjacent to the subject property for future elevation certification purposes.

f. All subdivisions and short subdivisions shall show on the face of the final plat or short plat, the boundary of the 100-year floodplain and floodway.

g. All subdivision proposals involving lands within the 100- year floodplain shall provide elevations at each lot corner.

6. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at

least 2 feet above the highest adjacent grade in these zones may result in higher insurance rates.

7. Variances.

   a. Variances may be granted when the following conditions exist:

      (1) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. Variance requests in the designated floodway shall be accompanied by a professional engineering analysis of the resultant base flood discharge. Variances shall not be granted from the provisions of xx.34.130(F)(2).

      (2) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential and comply with all other variance criteria.

      (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

      (4) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

      (5) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation. As the lot size increases, the technical justification required for issuing the variance increases.

   b. Variances to the provisions of this section may be granted upon consideration of:

      (1) The danger that materials may be swept onto other lands to the injury of others;

      (2) The danger to life and property due to flooding or erosion damage;

      (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;

(7) The compatibility of the proposed use with existing and anticipated developments;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. General Regulations.

1. Requirements for below-grade crawlspaces.

a. The interior grade of a crawlspace below base flood elevation must not be more than 2 feet below the lowest adjacent exterior grade (LAG).

b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed 4 feet at any point unless the structure is designed by a licensed professional engineer. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed areas should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural

drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.

d. The velocity of floodwaters at the site should not exceed 5 feet per second for any crawlspace. For velocities in excess of 5 feet per second, other foundation types should be used.

e. Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements.

2. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

3. Construction Materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

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

4. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

d. New water wells shall be constructed in compliance with WAC 173-160-171;

e. Elevate or adequately anchor propane tanks if located below the regulatory flood elevation; and

f. Elevate or floodproof utilities below the regulatory flood elevation.

F. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30 and AE) the following provisions are required:

1. Residential Construction.

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated 1 foot or more above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than 1 foot above grade.

(3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Detached accessory buildings (garages). The following special provisions apply to detached accessory structures used as garages to single-family residences. When an accessory structure represents a minimal investment, the elevation or dry floodproofing standards need not be met. However, all other requirements applicable to structures will be applicable. A minimum investment shall be determined by the applicable guiding authority

or by appeal under the variance procedure and shall be determined, if necessary, on a case-by-case basis. However, as a general application, expenditure for the accessory structure of not more than 10% of the value of the main structure shall be considered a minimal investment.

a. Accessory structures shall not be used for human habitation and must be limited to parking and storage.

b. Accessory structures shall comply with the foundation opening requirements in xx.34.130(E).

c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

d. Accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure, which may result in damage to other structures.

e. Accessory structures must comply with floodplain encroachment provisions of this Chapter and the National Flood Insurance Program.

f. Service facilities such as electrical and heating equipment shall be elevated 1 foot or more above the base flood elevation.

g. Applicants that elect not to elevate the lowest floor of accessory structures under the provisions of this section shall be notified that flood insurance premiums will be based on rates that are 1 foot below the base flood elevation.

3. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structures, except detached accessory structures, shall either have the lowest floor, including basement, elevated 1 foot or more above the base flood elevation, or together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below 1 foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

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

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for

meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans.

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in this section.

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the floodproofed level.

4. Critical facility. Construction of new, critical facilities shall be located outside the limits of the special flood hazard area. However, new construction and substantial improvement of both new and existing critical facilities shall be permissible within the 100-year floodplain, provided no feasible alternative site is available, and provided the facility's nature is related to or necessitates a riverine location (such as municipal water and sewer pump stations and related treatment facilities).

   a. Critical facilities shall have the lowest floor elevated 3 feet or more above the base flood elevation;

   b. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters; and,

   c. Access routes to critical facilities shall be elevated to or above the base flood elevation to the extent possible.

5. Manufactured homes. All manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 1 foot or more above the base flood elevation and be securely anchored to an adequately designed and anchored foundation system to resist flotation, collapse, and lateral movement.

6. Recreational Vehicles. Recreational vehicles placed on sites are required to either be on a site for fewer than 180 days or be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached addition, or meet the requirements of this section and the elevation and anchoring requirements for manufactured homes.

G. Floodways. Areas designated as floodways are located within areas of special flood hazard established in xx.34.130(C). Because the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

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

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

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

    c. Any development that results in additional walled and roofed space at a floor elevation at or below the ground floor shall constitute an increase in the ground floor area.

3. If subsection 1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of xx.34.130.

4. Filling in the floodway is prohibited except for residential maintenance. Residential maintenance is considered the importing of bark or topsoil for flowerbeds and gardens. The total amount of material shall not exceed 10 cubic yards per calendar year.

5. Traditional agricultural practices are exempt.

xx.34.140 Critical Aquifer Recharge Areas

A. Classification

1. Aquifer recharge areas shall be rated and determined by the criteria established by Ecology (Publication #05-10-028, March 2005). The County hereby incorporates the ratings system as the first step in ranking the susceptibility of an aquifer to surface contamination. When applicable, the County will use wellhead protection areas developed for Class A water systems to further refine the degree of susceptibility.

2. Aquifer recharge areas shall be classified as following:

   a. Wellhead protection areas. Wellhead protection areas may be defined by the boundaries of the 10-year time of groundwater travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

   b. Sole-source aquifers. Sole-source aquifers are areas designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Water Drinking Act.

   c. Susceptible groundwater management areas. Susceptible groundwater management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to WAC 173-100.

   d. Special protection areas. Defined pursuant to WAC 173-200-090.

   e. Moderately, highly vulnerable, or highly susceptible aquifer recharge areas. Aquifer recharge areas that are moderately, highly vulnerable, or highly susceptible to degradation or depletion due to hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the Ecology guidelines or meeting the criteria established by Ecology.

B. Susceptibility Factors, Rating Systems, and Designations

1. Aquifer recharge areas designations include the wellhead protection areas for other Group A water systems within the County.

C. Protection Requirements

1. Regulations adopted under this section shall not affect any right to use or appropriate water as allowed under state or federal law.

2. The following uses require aquifer recharge areas review and a hydrogeologic site evaluation:

   a. Chemical manufacturing or reprocessing;

   b. Commercial, industrial, institutional, or other facilities or activities that include storage, use, handling, or production of hazardous substances or waste products as defined by WAC 173-303;

   c. Creosote and asphalt manufacture and treatment;

   d. Electroplating;

   e. Petroleum transmission facilities;

   f. Sawmills producing more than 10,000 board feet per day;

   g. Solid waste landfills;

   h. Any septic or sewage disposal system with design flows of more than 3,500 gallons per day;

   i. Surface mining operations requiring a permit from the State DNR; and

   j. Type II and Type V Injection Wells.

3. The following uses may require aquifer recharge areas review and a hydrogeologic site evaluation pursuant to this section. The Administrator shall waive this requirement if an applicant provides documentation showing compliance with federal, state, and local laws, along with BMPs designed for the specific project, are sufficient to protect potentially affected aquifers.

   a. Aircraft, automobile, and boat repair and servicing;

   b. Dry cleaners;

   c. Funeral services;

d. Furniture stripping;

e. Gas stations and petroleum storage tanks (underground or aboveground) regulated and inspected by the Ecology;

f. Golf courses;

g. Junkyards and auto wrecking;

h. Other projects or activities, including septic or sewage disposal systems serving commercial and industrial projects as determined by the Administrator on recommendation from the Stevens County PUD, the Tri-County Health District, or an affected water purveyor.

4. The Administrator shall impose conditions to avoid, reduce, mitigate, or remediate impacts to an aquifer, as appropriate for the project and may require monitoring and bonding or other security to ensure conditions of approval are met. An approval based on compliance with federal, state, or local, but non-County, regulations shall not shift the burden of enforcement from the federal, state, or other local agency to the County.

D. Hydrogeologic Site Evaluation

1. A hydrogeologic site evaluation is a report prepared by a qualified professional (hydrogeologist) with demonstrated experience in surface water and groundwater analysis.

2. The report shall address the impact the proposed land use will have on the quality and quantity of water transmitted to an aquifer and shall include the following:

a. A description of surficial soil types and the geologic and hydrogeologic setting including: soil texture, permeability, and contaminant attenuation properties; characteristics of the vadose zone and geologic material including permeability and attenuation properties; and depth to groundwater and/or an impermeable soil layer;

b. The location and identification of wells within 1,300 feet of the site;

c. The location and identification of surface waterbodies and springs with recharge potential within 1,300 feet of the site;

d. A description of underlying aquifers, including water level, gradients, and flow direction;

e. Any available data on surface water and groundwater quality;

f. An assessment of the effects of the proposed development on water quality, quantity, and on the long-term viability of the groundwater resource;

g. Alternatives to avoid, reduce, mitigate, or remediate any substantial impact to the groundwater resource;

h. Recommendations for appropriate BMPs, monitoring, or other mitigation;

i. Other information as required by the Administrator in consultation with the Northeast Tri-County Health District, or an affected water purveyor.

Chapter 5: Implementation

1. The County, in consultation with its regional partners, should periodically review the number and type of permits issued for new uses and development activities in jurisdictional shoreline areas, the terms and conditions of approval, and evaluate the cumulative effects, provided that:

    a. Project specific assessments or performance audits may be appropriate;

    b. This review may be conducted in conjunction with the annual Comprehensive Plan and Development Regulation review conducted by the Department of Community Development and the Pend Oreille Planning Commission; and

    c. This review may provide the basis for potential amendments to the Shoreline Master Program.

    d. The Department of Ecology has recommended that the County should track the following through the review of exempt and permitted shoreline activities:

        (1) The number and type of permits by shoreline designation;

        (2) Lineal feet of new shoreline bank stabilization;

        (3) Square footage of new impervious surfaces;

        (4) The number and square footage of new piers, docks, and floats; and

        (5) Acres of fill and the creation of new wetlands areas within jurisdictional shoreline areas.

2. The County, in consultation with the Pend Oreille Public Utility District and Seattle City Light, should periodically review the results of monitoring activities required as a condition of relicensing dams on the Pend Oreille River.

    a. This review may provide the basis for potential amendments to the Shoreline Master Program.

3. The County, in consultation with its regional partners and natural resource agencies shall periodically review the status and effectiveness of local restoration projects.

4. This review may provide the basis for potential amendments to the regional Shoreline Master Program.

Chapter 6: Definitions

Sections:

xx.10.010 Introduction.
xx.10.020 Definitions.

xx.10.010 Introduction.

For the purposes of this Title, words used in the present tense also include the future, words or phrases used in the singular also include the plural, and words in the plural also include the singular. The word "shall" is mandatory and not permissive, and "may" authorizes the exercise of discretion. The words "used" or "occupied" include within their meanings "intended," "arranged," or "designed to be used or occupied." The word "person" includes a corporation, partnership, or other entity.

xx.10.020 Definitions.

A. Any word not specifically defined in this Chapter shall have the meaning as defined by:

1. Webster's Dictionary, Eleventh Edition or subsequently updated;

2. The Revised Code of Washington;

3. The Washington Administrative Code; and

4. North American Industrial Classification System (NAICS), 2002 Edition or as subsequently updated.

B. The following definitions shall apply to this Title:

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 building" is a structure or greenhouse designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products and used in conjunction with a viable farming operation. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor shall it be used by the public. A viable farming operation is one meeting the requirements of WAC 458-30-210(4) Farm and Agricultural Land or RCW 84.34.020(2).

3. "Accessory use or building or dwelling" means a building, part of a building or structure, or use that is subordinate to, and the use of which is incidental to, that of the main building, structure, or use of the same lot. This may include a mother-in-law apartment, guest house, or recreational park trailer.

4. "Appurtenant structures" means garages, sheds, and other legally established accessory structures. For purposes of this Title, appurtenant structures do not include bulkheads and other shoreline modifications or overwater structures.

5. "Associated wetlands" means those wetlands that are in proximity to and either influence or are influenced by a lake or stream subject to the Shoreline Management Act.

6. "Bank Stabilization Measure" means 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.

7. "Binding site plan" means a subdivision of land through the optional binding site plan process provided for in RCW 58.17.035 or its successor.

8. "Boating facilities" shall include but is not limited to: docks serving five or more single-family residences, commercial docks, and marinas.

9. "Boundary line adjustment" means a division made for the purposes of adjusting boundary lines, which does not create any additional lot, tract, parcel, site, or division, nor create any lot, tract, parcel, site, or division that contains insufficient area and dimensions to meet minimum requirements of this Title, the building codes, and other applicable ordinances.

10. "Building Height" shall be measured from the average finished grade to the highest point of the roof. The average finished grade shall be determined by first delineating the smallest rectangle that can enclose the building and then averaging the elevations taken at the midpoint of each side of the rectangle, provided that the measured elevations do not include berms or backfills extending less than 10 feet horizontally from the building.

11. "Bulkhead" means retaining wall structures erected to stabilize shorelines against erosion. Bulkheads may be constructed of concrete, timber, steel, or nonmetallic sheet pile or other materials. Bulkheads are a type of revetment.

12. "Camp: Non-profit" means camping and recreation facilities or retreat centers owned or operated by non-profit organizations including churches, social service agencies, and youth organizations such as the Boy Scouts of America.

13. "Channel migration zone (CMZ)" 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.

14. "Clearing" the use of bulldozers, excavators, vegetation grinders, or other equipment as determined by the Shoreline Administrator as well as the use of chemicals to remove vegetation or the noncommercial removal of timber.

15. "Concurrency" means that adequate public facilities are available when the impacts of development occur, or that a financial commitment is in place to provide the required facilities or services within a specified time.

16. "Danger tree" means a tree with a high probability of falling due to debilitating disease, a structural defect, a root ball more than 50% 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 of the base of the trunk, or where the top of a bluff or steep slope is endangered. Where not immediately apparent to the review authority, the danger tree determination shall be made after review of a report prepared by an arborist or forester.

17. "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 that interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. "Development" does not include dismantling or removing structures if there is no other associated development or redevelopment.

18. "Dock" means commercial, community, and public docks, as well as docks designed to serve single-family residences.

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

20. "Elevated building" means for insurance purposes, a non-basement building that has its lowest floor elevated above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

21. "Elevation certificate" means the official form (FEMA Form 81-31) used to track development provide elevation information necessary to ensure compliance with community floodplain management ordinances.

22. "Essential Public Facilities" means public facilities of a county-wide or statewide nature, which are typically difficult to site. Essential public facilities include, but are not limited to, the following:

    a. Airports;

    b. State education facilities;

    c. State or regional transportation facilities;

    d. Solid waste handling facilities;

    e. In-patient facilities including, but not limited to: substance abuse facilities, mental health facilities, secure community transition facilities, and group homes; and

    f. Uses identified on the Washington State list of essential public facilities maintained by the Office of Financial Management.

23. "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

24. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff or surface waters from any source.

25. "Flood Insurance Rate Map" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

26. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevation of the base flood.

27. "Floodway" means the channel of a river or other watercourse and the adjacent land areas (a portion of the 100-year floodplain) that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

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

29. "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.

30. "Home business," "home occupation," "cottage industry," or related terms means the accessory use of the residence (home) for a business conducted only by residents of the dwelling. This does not include storefronts or businesses that invite the public in for sales or services.

31. "Inflatable Water Toys-Large" means large inflatable toys and devices designed to be used on the water such as trampolines or water slides.

32. "Lake" means a body of standing water in a depression of land or expanded part of a river, including reservoirs, of 20 acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream.

33. "Legal Lot" means a parcel of land approved for division by the County, a city, or the State through a legally acceptable process as determined by the applicable local jurisdiction.

34. "Legal Nonconforming Lot" means a lot that met dimensional requirements of the applicable Master Program at the time of its establishment but now contains less than the required width, depth, or area due to subsequent changes to the Master Program.

35. "Level of Service (LOS)" means established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need.

36. "Limited public road" means a road that may be approved by the Shoreline Administrator that may be built to a lower construction standard than public road and utilized for limited public use by adjacent property owners and emergency vehicles.

37. "Local access" is a route with a primary function of land access. Most dead end or loop subdivision roads will be classified as local access roads.

38. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a buildings lowest floor, provided that such enclosure is not built so as to render the structure in violation of applicable non-elevation design requirements (i.e., provided there are adequate flood elevation openings).

39. "Major Collector" means a route that links towns and communities to state highways and serves as an intra-county route.

40. "Master Planned Resort" is a self-contained and fully integrated planned unit development, in a setting of natural amenities, with a primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreation facilities.

41. "Minor Collector" is a route that links major collectors with local access routes.

42. "Manufactured home" means a single-family dwelling required to be built in accordance with regulations adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.).

43. "Mitigation" for the purposes of implementing the Shoreline Master Program means to take measures to compensate for or replace damaged or destroyed shoreline and shoreland ecological function and attributes resulting from authorized development and uses, or to take measures to compensate for or replace damaged or destroyed shoreline and shoreland ecological function and attributes resulting from violations of the goals, policies, use regulations, or administrative procedures of this SMP.

    Mitigation shall be implemented as a sequence of steps or actions in order to compensate for impacts to shorelines, shorelands, and their associated wetlands. Mitigation sequencing refers to the prescribed order of the different mitigation steps. Compensatory mitigation is the stage of the mitigation sequence, where impacts to shoreline and shoreland ecological functions are offset (i.e., compensated) through restoration (re-establishment, rehabilitation), enhancement, or preservation of other ecologically intact shorelines of the state.

    The term "mitigation" is used interchangeably with the term "compensation" unless referring to the entire mitigation sequence (i.e., "mitigation site," "compensatory

mitigation site," or "compensation site" refers to the site that is being used for compensation).

44. "Mobile home" means a factory-built dwelling built before June 15, 1976, to standards other than the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) and acceptable under applicable state codes in effect at the time of construction or introduction of the home into this state.

45. "Multi-family dwelling unit" means a building designed to provide complete, independent living facilities for more than two families in individual, primary dwelling units. This includes apartments and duplexes that are rented or leased as well as condominiums.

46. "Nonconforming use" means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable Master Program but that does not conform to present use regulations due to subsequent changes to the Master Program.

47. "Nonconforming development" or "nonconforming structure" means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers, or yards; area; bulk; height or density standards due to subsequent changes to the Master Program.

48. "Nonconforming lot" - see "Legal Nonconforming Lot."

49. "Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment (WAC 173-26-020(29)).

50. "Off-premise sign" means a sign relating through its message, copy, or contents to an activity, use, product, event, or service that is not available on the premises upon which the sign is placed or erected.

51. "Ordinary High Water Mark" (OHWM) means the mark on all lakes, streams, that will be found by examining the bed and banks and ascertaining where the presence and action 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 the effective date of this Chapter, or as it may naturally change thereafter. Provided that:

    a. Where the ordinary high water mark of a lake cannot be found, it shall be the line of mean high water; and

b. Where the ordinary high water mark of a stream cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs.

52. "Out-building": a detached building subordinate to a main building.

53. "Park model trailer" is designed to be used with connections to utilities necessary for operation of installed fixtures and appliances and certified by the manufacturer as complying with Standard No. A119.5 of the American National Standards Institute. The trailer's gross area shall not exceed 400 square feet when in the setup mode. "Park trailer" excludes a mobile home and recreational vehicles.

54. "Preliminary plat" means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this ordinance. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

55. "Public road" means a road owned by the County, Town, City, or other public agency.

56. "Private road" means a road owned by a private party(ies).

57. "Qualified Professional" means a firm or individual with educational degrees, professional knowledge, and proven professional experience relevant to the implementation of regulations to protect shorelines and environmentally sensitive areas as determined by the local jurisdiction. Qualified professionals may include biologists, wetland biologists, geologists, and/or individuals who have received certified training or professional accreditation, such as a wetland certification.

58. "Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping or travel use that is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, is licensed and ready for the road, does not include permanent fixtures (e.g., skirting, power or water lines), has quick-connect attachments, is not immobilized or permanently affixed, and includes any of the following:

    a. "Travel trailer" means a vehicular portable structure built on chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. It shall have a body width not exceeding 8 feet.

    b. "Pick-up camper" means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

c. "Motor home" means a portable temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

d. "Tent trailer" means a canvas folding structure, mounted on wheels, and designed for travel, recreation, and vacation.

e. "Dependent vehicle" means a vehicle that is dependent upon a service building for toilet and lavatory facilities.

f. "Self-contained vehicle" means a vehicle that can operate independent of connections to sewer, water, and electrical systems. It contains a water-flushed toilet, lavatory, shower, and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the vehicle.

59. "Recreational vehicle park" means a parcel of land in which three (3) or more spaces are occupied or intended for occupancy by recreational vehicles for transient purposes.

60. "Regional partnership" means the governing bodies that participate in implementing this regional SMP, including Pend Oreille County, the City of Newport, and the Towns of Cusick, Ione, Metaline, and Metaline Falls, Washington.

61. "Resource Lands" or "Natural Resource Lands" means designated agricultural, mineral, and forest land of long-term commercial significance.

62. "Riparian area" means areas adjacent to flowing or standing freshwater aquatic systems. Riparian habitat encompasses the area beginning at the ordinary high water mark and extends to that portion of the terrestrial landscape that is influenced by, or that directly influences, the aquatic ecosystem. In riparian systems, the vegetation, water tables, soils, microclimate, and wildlife inhabitants of terrestrial ecosystems are often influenced by perennial or intermittent water. Simultaneously, adjacent vegetation, nutrient and sediment loading, terrestrial wildlife, as well as organic and inorganic debris influence the biological and physical properties of the aquatic system. Riparian habitat includes the entire extent of the floodplain and riparian areas of wetlands that are directly connected to stream courses or other freshwater.

63. "Shoreline Administrator" means the Pend Oreille County Community Development Director or their designee, or the designated administrator or planner for the City of Newport or the Town of Cusick, Ione, Metaline, or Metaline Falls.

64. "Shorelines of the State" means those streams, rivers, lakes, and associated shorelands and wetlands designated by the State of Washington as being under the jurisdiction of the Washington State Shorelines Management Act and associated regulations.

65. "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on the Shoreline Management Act policy and state regulations, against taking the action (WAC 173-26-020(37)).

66. "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.

67. "Single-family residence or dwelling unit" means a single unit providing complete, independent living facilities for not more than one family and permitted roomers, boarders, and guests including permanent provisions for living, sleeping, eating, cooking, and sanitation. In addition to traditional stick-built homes, single-family dwelling units may include modular homes, mobile homes, and park model trailers.

68. A "stream" is a naturally occurring body of periodic or continuously flowing water where:

    a. The mean annual flow is greater than 20 cubic feet per second; and

    b. The water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stock watering channels.

69. "Subdivision" for the purpose of this document shall be both long and short plat subdivisions and the subdivision of any lands with lots less than ten (10) acres in size.

    a. "Long plat subdivision" is the division or re-division of land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.

    b. "Short plat subdivision" is the division or re-division of land into four or less lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.

70. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

71. "Substantial development" under the SMA means any development proposed within the regulated shoreline area that the total cost or fair market value exceeds the current dollar threshold, or any development which materially interferes with the normal public use of

the water or shorelines of the state, and are not listed as exempt under WAC 173-27-040, or are excluded from SMA requirements under WAC 173-27-044 or 173-27-045.

72. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

    a. Before the improvement or repair is started; or

    b. If the structure has been damaged and is being restored before the damages occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

    The term can exclude:

    a. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications that have been previously identified by local enforcement officials and that are the minimum necessary to assure safe living conditions, or

    b. Any alteration listed on the National or State Register of Historic Places.

73. "Utility" means a service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water, stormwater, communications, sewage, oil, and the like.

74. "Vacation Rental" means a dwelling unit or Accessory Dwelling Units that may be rented for short-term and vacation use that is less than 30 days in duration. Vacation Rentals must be permitted with a Vacation Rental Permit.

75. "Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations (WAC 173-26-020(41)).

76. "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. (WAC 173-26-020(412)

77. "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses (WAC 173-26-020(43)).

78. "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 (WAC 173-26-020(45)).

79. "Wetland" or "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 non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

Chapter 7: Nonconforming Uses, Structures, and Lots

Sections:

xx.76.010 Applicability.
xx.76.020 Continuation.
xx.76.030 Expansion.
xx.76.040 Repair and Maintenance.

xx.76.010 Applicability. Uses, structures, or lots that were legally constructed or established in accordance with regulations and laws in effect at that time, but that do not conform to the provisions of this Title, shall be considered legal nonconforming-conforming structures, uses, or lots. Uses or structures that were illegally constructed or established in accordance with regulations and laws in effect at that time, and that do not conform to the provisions of this Title, shall be considered illegal nonconforming-conforming structures.

A. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet current standards for setbacks, buffers, height, or density shall be considered legal nonconforming structures.

    1. The redevelopment, expansion, or replacement of a residential structure may be permitted if it is otherwise consistent with the provisions of the applicable local development regulations and this Master Program, including the requirement for no net loss of shoreline ecological functions.

B. All new lots, structures, and uses must comply with the provisions of this Title. No new nonconforming-conforming lots, structures, or uses may be permitted.

C. Existing nonconforming-conforming lots, structures, or uses included in a development proposal or application covered by the provisions of this Title, must be brought into compliance unless otherwise provided.

D. Nonresidential uses that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses.

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

    1. No reasonable alternative conforming use is practical;

2. The proposed use will be at least as consistent with the policies and provisions of the act and the Master Program and as compatible with the uses in the area as the preexisting use; and

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

F. A nonconforming structure that is moved any distance must be brought into conformance with the provisions of the Shoreline Management Act and the Shoreline Master Program in effect at the time.

G. If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any 2-year period, the nonconforming rights shall expire, and any subsequent use shall be conforming.

H. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark that was established in accordance with local and state subdivision requirements prior to the effective date of the Shoreline Management Act or in compliance with Shoreline Master Program in effect at the time, but that does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of this Shoreline Master Program.

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

xx.76.020 Continuation. A legal nonconforming-conforming use of a structure or land may continue, provided that if such nonconforming-conforming use is discontinued for one 1 year or longer, it may not be reestablished:

A. Structures, or the use of a structure or lot, that were not legally established or are otherwise not legally conforming may not be continued and shall be discontinued upon notice; and

B. Uses of similar impact may replace a legally nonconforming-conforming use provided that the new use occupies the same space within a structure, or in the case of an outdoor use, occupies the same amount of land, as the previous use. Similarity of impact shall be determined by the Shoreline Administrator based on the listing of permitted uses. The replacement use shall continue to be subject to the limitations on nonconforming-conforming uses specified in this Chapter. Any nonconforming-conforming use which that has been discontinued for a year or

more shall only be replaced only by a use which that conforms to the regulations of the zone in which it is located.

xx.76.030 Expansion. An existing legal nonconforming-conforming structure cannot be enlarged or expanded in a manner which that would increase the degree of nonconformance. If only a limited aspect of a use or structure is nonconforming-conforming, the use or structure may be expanded provided that the aspect of nonconforming-conforming is not increased.

A. Illegal nonconforming-conforming uses or structures may not be expanded.

xx.76.040 Repair and Maintenance. Legal nonconforming-conforming structures may be repaired and maintained in accordance with the provisions of this Title, provided that the degree of nonconformity is not increased.

A. Any nonconforming-conforming structure or nonconforming-conforming use damaged by fire, explosion, accident, act of God, or act of a public enemy, may be restored to its status prior to the act of damage provided such efforts are commenced within 2 years. If restored under these circumstances, the structure or use shall occupy no more floor area than existed prior to the act of damage and the use and building shall remain nonconforming-conforming. If reconstruction of a nonconforming-conforming structure is not commenced within 2 years of the act of damage, the land and any development on it shall thereafter conform to the regulations of the zone in which it is located; provided, that a conditional use permit may be issued to reestablish a nonconforming-conforming structure, the restoration of which is not commenced within 2 years if circumstances such as lengthy litigation or disputed insurance settlements delay the Applicant from commencing reconstruction within the specified 2-year time frame.

Chapter 8: Violations and Enforcement

Sections:

xx.92.010 Violations Declared Unlawful.
xx.92.020 Civil Penalty.
xx.92.030 Remedies and Penalties for Continuing Violation.
xx.92.040 Persons Liable.
xx.92.050 Enforcement Duty and Authority.
xx.92.060 Right of Entry.
xx.92.070 Corrective Actions.

xx.92.010 Violations Declared Unlawful. Violations of, or failure to comply with, the provisions of this Title are declared to be unlawful.

xx.92.020 Civil Penalty. In addition to any other penalty or remedy provided by this Chapter or by law, civil penalties in accordance with the local jurisdiction's fee schedule and ordinances may be imposed upon any person, firm, or corporation who violates the provisions of this Title. The civil penalty shall occur from the date set for correction until violation is corrected. The civil penalty is a personal obligation of the person or persons to whom the notice of violation is directed. The applicable local jurisdiction's legal counsel, on behalf of the local jurisdiction, is authorized to collect the civil penalty by use of appropriate legal remedies, the seeking or grant of which shall neither stay nor terminate the accrual of additional civil penalties, as long as the violation continues.

xx.92.030 Remedies and Penalties for Continuing Violations. An imposition of one penalty for any violation shall not excuse the violation or permit it to continue. Any person, firm or corporation shall be required to correct such violation or defects.

A. In addition to the civil proceedings authorized to enforce this Title and in addition to any fine or penalty provided, continuing violations of this Title may be enjoined or ordered abated in civil proceedings for injunction, abatement, or other relief. For those actions, violation of this Title is declared to be a public nuisance.

B. Any person, firm, or corporation violating any of the provisions of this Title shall be liable in any private or public action brought to enforce the provisions of this Title for all costs of proceedings, expenses of abatement and for reasonable attorney fees. These expenses are cumulative and in addition to any penalties or other remedies available.

xx.92.040 Persons Liable. The owner, lessee, or tenant of any building, structure, premises or part thereof, and the architect, builder, contractor, employee agent, or other person who commits, authorizes, participates in, assists in, or who maintains after notice, a violation of this Title may be held jointly liable in any civil action brought to enforce the provisions of this Title.

xx.92.050 Enforcement Duty and Authority. The Community Development Director and/or his/her designee is authorized and directed to serve as Shoreline Administrator, and enforce the provisions of this Title. The Shoreline Administrator shall, either upon complaint or initiative, investigate potential violations of this Title. It shall be the duty of all the County, Town, or City officers, as applicable, to assist in the performance of this duty. It shall be the duty of the County Sheriff and all other applicable local officers charged with the enforcement of the law to assist in the enforcement of this Title and its provisions. Contractors found working without a permit shall be fined an amount equal to the owner's fine.

xx.92.060 Right of Entry. Whenever necessary to make an inspection, to enforce any of the provisions of this Title, or whenever the Shoreline Administrator has reasonable cause to believe that a violation of this Title exists or is occurring on any property or within any building, authorized County, City, or Town personnel may enter onto such property or within any building at any time, to inspect the same or to perform any duty imposed by this Title; provided, that before entering into any dwelling or any area of the building not otherwise open to the public, proper credentials shall be presented to the owner or person in possession or occupation of said property and request entry. If such entry is refused, the County, City, or Town shall have recourse to every remedy provided by law to secure entry.

xx.92.070 Corrective Actions. Whenever necessary to implement corrective actions the following procedure is to be followed:

A. Letter of Inquiry. If the Shoreline Administrator determines that any activity, condition, structure, or use exists that does not conform to the provisions of this Title, a Letter of Inquiry may be issued. A Letter of Inquiry will be sent to the party requesting information relating to the applicable required permits for the action. The letter will specify the date required for response to the Letter of Inquiry. Failure to respond to the Letter of Inquiry within 15 days may result in additional corrective actions.

B. Notice of Violation/ Order to Correct. If the Shoreline Administrator determines that any activity, condition, structure, or use exists that does not conform to the provisions of this Title, a Notice of Violation or Order to Correct will be issued. The notice shall be directed to the owner of the property and/or to such other persons as are causing or contributing to such violation and must be responded to with 15 days. The Notice of Violation or Order to Correct

shall be served upon the person or persons to whom it is directed either personally in the manner provided for by personal service to summons and complaint or by mailing a copy of the notice of violation by certified mail, postage prepaid, return receipt requested, to such person(s) at his/her last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury executed by the person making service, declaring the time, date, and manner by which the service was made. For good cause shown, the Shoreline Administrator may extend the date set for correction of the Notice of Violation or Order to Correct. This action is subject to possible fees and/or fines.

C. Stop Work Orders. The Shoreline Administrator or his/her designee(s) may issue an order to stop work and collect fines for any activity being conducted or any improvement being erected or altered that does not conform to this Title.

1. The Stop Work Order shall be prominently placed on the subject property and reasonable attempts to forward a copy of the order to the owner of the property, the person in charge of the property or occupant thereof, or the person causing the activity to be established or conducted will be made.

2. When any order to stop work has been posted on the subject property, it is unlawful for any person with active or constructive knowledge of the order to conduct the activity or do the work covered by the order until the Shoreline Administrator has removed the posted copy of the order and issued a written authorization for the activity or work to be continued. The Shoreline Administrator will mail notice of the Stop Work Order to the owner of record and will require response within 15 days.

3. If work continues under a Stop Work Order or the party fails to take appropriate steps as required and within the time frames specified by the Stop Work Order, then the case will be turned over to the applicable local jurisdiction's legal counsel for prosecution.

4. The issuance of an order to stop activity may be appealed to the Board of County Commissioners or other applicable local government body, but such order shall remain in full force and effect during the appeal process unless the Shoreline Administrator issues an interim or final order staying or lifting the Stop Work Order. When considering the appeal, the duty of the local governing body is to determine whether the Shoreline Administrator correctly interpreted and applied the ordinance when issuing the Stop Work Order.

Appendix A: Maps

Pend Oreille County shoreline maps are available on the County's GIS web page:

https://experience.arcgis.com/experience/99e6fec584db41bfb81feb53b62a7e5e