

# CITY OF PASCO

## DRAFT SHORELINE MASTER PROGRAM UPDATE

Style Definition: TOC 3



Planning Commission Review Draft: 10/15/2015  
City Council Review: 10/26/2015

Prepared for  
City of Pasco

~~Adopted:~~  
~~Approved:~~  
~~Effective:~~

### Prepared by

~~Anchor QEA, LLC~~ White Bluffs Consulting  
8033 West Grandridge Avenue, Suite  
A189205 East 36<sup>th</sup> Avenue  
Kennewick, Washington 99337~~6~~

### ~~Prepared with assistance from~~

~~Oneza & Associates~~  
3131 Western Ave, Suite 316  
Seattle, Washington 98121

Formatted: Superscript

*~~This report was f~~unded through a grant from the Washington State Department of Ecology*

~~June 2015~~~~February~~~~December 2023~~~~2~~

**Date** ~~2023~~~~June 2015 (Revised October 2015)~~

Formatted: Highlight

## TABLE OF CONTENTS

SECTION I: Shoreline Goals and Policies (RCW 90.58.100) .....	1
<b>1 Introduction .....</b>	<b>1</b>
<b>2 Relationship Between Growth Management Act and Shoreline Management Act..</b>	<b>1</b>
<b>3 Profile of the Shoreline Jurisdiction within the City of Pasco.....</b>	<b>2</b>
3.1 Shoreline Jurisdiction Rivers.....	2
3.2 Shorelines of Statewide Significance .....	2
<b>4 Development of Goals and Policies .....</b>	<b>2</b>
4.1 Economic Development Element .....	3
4.2 Public Access and Recreation Element .....	4
4.3 Circulation Element.....	6
4.4 Shoreline Uses and Modifications Element.....	7
4.5 Conservation Element .....	16
4.6 Historic, Cultural, Scientific, and Educational Resources Element .....	18
4.7 Flood Hazard Management Element .....	19
4.8 Private Property Right .....	20
SECTION II: Shoreline Regulations .....	21
<b>Article I. Authority and Purpose .....</b>	<b>21</b>
29.01.010 Authority.....	21
29.01.020 Applicability.....	21
29.01.030 Purpose .....	22
29.01.040 Relationship to Other Codes, Ordinances, and Plans.....	23
29.01.050 Liberal Construction.....	24
29.01.060 Severability.....	24
29.01.070 Effective Date.....	24
29.01.080 Definitions.....	25
<b>Article II. Environment Designation.....</b>	<b>47</b>
29.01.100 Environment Designations.....	47
29.01.110 Aquatic .....	48
29.01.120 Natural.....	49
29.01.130 Urban Conservancy .....	51
29.01.140 Public Flood Protection.....	52
29.01.150 Recreation .....	53
29.01.160 High Intensity – Industrial.....	55
29.01.170 High Intensity – Mixed Use .....	56
29.01.180 Shoreline Residential.....	58

<b>Article III. General Regulations.....</b>	<b>60</b>
29.01.200 Shoreline Use and Modification .....	60
29.01.210 Development Standards.....	64
29.01.220 Archaeological and Historic Resources .....	65
29.01.230 Environmental Protection.....	66
29.01.240 Shoreline Vegetation Conservation .....	67
29.01.250 Water Quality, Stormwater, and Nonpoint Pollution .....	67
29.01.260 Public Access.....	68
29.01.270 Flood Hazard Reduction.....	73
<b>Article IV. Shoreline Modifications and Use Regulations.....</b>	<b>76</b>
29.01.300 Agriculture .....	76
29.01.320 Boating Facilities.....	77
29.01.330 Breakwater, Jetties, Groins, and Weirs.....	80
29.01.340 Commercial Development .....	81
29.01.350 Dredging and Dredge Material Disposal .....	83
29.01.360 Fill and Excavation .....	86
29.01.370 Industrial Development .....	88
29.01.380 In-stream Structures .....	89
29.01.390 Mining .....	91
29.01.400 Piers and Docks.....	92
29.01.410 Recreational Development .....	98
29.01.420 Residential Development .....	101
29.01.430 Shoreline Habitat and Natural Systems Enhancement Projects ...	102
29.01.440 Shoreline Stabilization.....	103
29.01.450 Transportation: Trails, Roads, and Parking.....	104
29.01.460 Utilities .....	106
<b>Article V. Critical Areas .....</b>	<b>110</b>
29.01.500 Critical Areas.....	110
29.01.510 General Provisions.....	112
29.01.520 Wetlands .....	121
29.01.530 Fish and Wildlife Habitat.....	<del>134</del> 133
29.01.540 Aquifer Recharge Areas.....	142
29.01.550 Flood Hazard Areas .....	146
29.01.560 Geologic Hazard Areas .....	148
<b>Article VI. Existing Uses, Structures, and Lots .....</b>	<b>157</b>
29.01.600 Applicability.....	157
29.01.610 Nonconforming Uses.....	157
29.01.620 Nonconforming Structures.....	158
29.01.630 Nonconforming Lots.....	160

<b>Article VII. Administration and Enforcements .....</b>	<b>161</b>
29.01.700 Roles and Responsibilities .....	161
29.01.710 Interpretation.....	162
29.01.720 Statutory Noticing Requirements .....	162
29.01.730 Application Requirements .....	163
29.01.740 Shoreline Substantial Development Permits.....	163
29.01.750 Shoreline Special Use Permits.....	164
29.01.760 Shoreline Variance Permits .....	165
29.01.770 Exemptions from Shoreline Substantial Development Permits....	166
29.01.780 Duration of Permits .....	172
29.01.790 Initiation of Development.....	173
29.01.800 Review Process .....	173
29.01.810 Appeals .....	174
29.01.820 Amendments to Permits.....	174
29.01.830 Enforcement.....	175
29.01.840 Cumulative Effects of Shoreline Developments .....	175
29.01.850 Amendments to Shoreline Master Program.....	176
29.01.860 Shoreline Environment Designation Maps or Official Shoreline Map	176

<b>SECTION I: Shoreline Goals and Policies (RCW 90.58.100) .....</b>	<b>1</b>
<b>1 Introduction.....</b>	<b>1</b>
<b>2 Relationship Between Growth Management Act and Shoreline Management Act 1</b>	<b>1</b>
<b>3 Profile of the Shoreline Jurisdiction within the City of Pasco .....</b>	<b>2</b>
3.1 Shoreline Jurisdiction Rivers .....	2
3.2 Shorelines of Statewide Significance.....	2
<b>4 Development of Goals and Policies.....</b>	<b>2</b>
4.1 Economic Development Element .....	3
4.2 Public Access and Recreation Element.....	4
4.3 Circulation Element .....	6
4.4 Shoreline Uses and Modifications Element.....	7
4.5 Conservation Element.....	16
4.6 Historic, Cultural, Scientific, and Educational Resources Element.....	18
4.7 Flood Hazard Management Element .....	19
4.8 Private Property Right.....	20

<b>SECTION II: Shoreline Regulations .....</b>	<b>21</b>
<b>Article I. Authority and Purpose .....</b>	<b>21</b>
29.01.010 Authority .....	21
29.01.020 Applicability .....	21
29.01.030 Purpose .....	21
29.01.040 Relationship to Other Codes, Ordinances, and Plans .....	22

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

City of Pasco Shoreline Master Program  
White Bluffs Consulting Anchor QEA/Oneza & Associates

29.01.540 Aquifer Recharge Areas .....	140
29.01.550 Flood Hazard Areas .....	144
29.01.560 Geologic Hazard Areas .....	146
<b>Article VI. Existing Uses, Structures, and Lots.....</b>	<b>155</b>
29.01.600 Applicability .....	155
29.01.610 Nonconforming Uses .....	155
29.01.620 Nonconforming Structures.....	156
29.01.630 Nonconforming Lots .....	160
<b>Article VII. Administration and Enforcements .....</b>	<b>159</b>
29.01.700 Roles and Responsibilities .....	159
29.01.710 Interpretation .....	160
29.01.720 Statutory Noticing Requirements .....	160
29.01.730 Application Requirements .....	161
29.01.740 Shoreline Substantial Development Permits .....	161
29.01.750 Shoreline Special Use Permits .....	162
29.01.760 Shoreline Variance Permits .....	163
29.01.770 Exemptions from Shoreline Substantial Development Permits.....	164
29.01.780 Duration of Permits.....	170
29.01.790 Initiation of Development.....	170
29.01.800 Review Process .....	171
29.01.810 Appeals .....	171
29.01.820 Amendments to Permits.....	172
29.01.830 Enforcement.....	172
29.01.840 Cumulative Effects of Shoreline Developments.....	173
29.01.850 Amendments to Shoreline Master Program.....	173
29.01.860 Shoreline Environment Designation Maps or Official Shoreline Map ..	173

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Normal, Indent: Left: 0.94"

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

Formatted: Default Paragraph Font

## List of Tables

Table 1. Shoreline Jurisdiction Rivers .....	2
Table 29.01.200 (2): Shoreline Use and Modification Matrix for City of Pasco.....	616160
Table 29.01.210 (2): Shoreline Development Standards Matrix for City of Pasco .....	656564
Table 29.01.520 (8)(a): Wetland Buffer Width Requirements.....	123123121
Table 29.01.520 (8)(b): Land Use Intensity Table .....	125125123
Table 29.01.520 (13): Wetland Mitigation Ratios (for Eastern Washington).....	133133131
Table 29.01.530 (3): Classification by Fish and Wildlife Areas.....	135135133
Table 29.01.540 (2)(a): Designation of Aquifer Recharge Areas .....	143143141
Table 29.01.560 (3)(a): Criteria for Classification of Geologic Hazard Areas .....	149149147

Table 29.01.560 (4): Rating of Geologic Hazard Risk ..... 150~~150~~148



## LIST OF ACRONYMS AND ABBREVIATIONS

ADA	Americans with Disabilities Act
BMP	best management practice
CFR	Code of Federal Regulations
City	City of Pasco
County	Franklin County
CPTED	Crime Prevention through Environmental Design
CWA	Clean Water Act
Ecology	Washington State Department of Ecology
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
GMA	Growth Management Act
Guidelines	SMA Guidelines (Chapter 173-26 WAC)
HPA	hydraulic project approval
JARPA	Joint Aquatic Resource Permits Application
NOAA	National Oceanic and Atmospheric Administration
NRCS	U. S. Department of Agriculture, Natural Resource Conservation Service
OHWM	ordinary high water mark
PMC	Pasco Municipal Code
RCW	Revised Code of Washington
SEPA	State Environmental Policy Act
SHB	Shorelines Hearings Board
SMA	Washington State Shoreline Management Act
SMP	Shoreline Master Program
SR	subreach
SSWS	shorelines of statewide significance
UGA	urban growth area
USACE	U.S. Army Corps of Engineers
USEPA	U.S. Environmental Protection Agency

USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
WA DOH	Washington State Department of Health
WAC	Washington Administrative Code
WDFW	Washington State Department of Fish and Wildlife
WDNR	Washington State Department of Natural Resources

## SECTION I: Shoreline Goals and Policies (RCW 90.58.100)

### 1 Introduction

The City of Pasco, through an updated Shoreline Master Program (SMP), intends to implement the requirements of the Washington State Shoreline Management Act (SMA) Revised Code of Washington (RCW 90.58), the state SMA Guidelines (Chapter 173-26 Washington Administrative Code [WAC]) (Guidelines), and the Shoreline Management Permit and Enforcement Procedures (WAC 173-27).

The SMA was enacted in 1971 to provide for the management and protection of shorelines of the state by regulating development in the shoreline area. The goal of the SMA is, “to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines” (RCW 90.58.020). The SMA requires cities and counties to adopt an SMP to regulate shoreline development and accommodate “all reasonable and appropriate uses” consistent with “protection against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life...and public rights of navigation.” The City of Pasco did not have its own SMP prior to [the 2015 comprehensive update](#)~~this update~~. The City had adopted by reference and implemented Franklin County’s SMP, which had been approved in 1974. [The SMP has again been updated in 2022 and 2023 as part of a periodic review and update.](#)

Washington State Department of Ecology (Ecology) approved the updated SMA Guidelines in 2003. The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The guidelines provide new requirements for environmental protections, including meeting no net loss of ecological functions, providing public access, accounting for advancements in science and shoreline management practices, and establishing a clear relationship between the SMA and the Growth Management Act (GMA).

[The updated version of the](#)~~s~~ SMP for the City of Pasco provides goals, policies, and regulations for the development of Pasco shorelines consistent with the SMA and guidelines.

### 2 Relationship Between Growth Management Act and Shoreline Management Act

~~A~~<sup>The</sup> SMP contains goals, policies, regulations, and environment designation maps that guide shoreline development in accordance with state requirements. Pasco's SMP is integrated with the City's land use regulation system. Consistent with RCW 36.70A.480, the goals and policies contained in this SMP shall be considered an element of the City's Comprehensive Growth Management Plan (Comprehensive Plan) required by the GMA. All other portions of this SMP, including the use regulations, are considered a part of the City's development regulations required by the GMA.

The Inventory, Analysis, and Characterization Report; Restoration Plan; Cumulative Impacts Analysis Report (which includes the “no net loss of shoreline ecological functions” analysis findings); and Public Participation Plan are supporting documents and are not adopted as part of this SMP or the City's Comprehensive Plan.

The Inventory, Analysis, and Characterization Report establishes the baseline against which the standard “no net loss of shoreline ecological functions” is measured. The Restoration Plan identifies and prioritizes shoreline restoration opportunities that may be undertaken independently or in conjunction with mitigation for development impacts to improve shoreline ecological functions over time.

### 3 Profile of the Shoreline Jurisdiction within the City of Pasco

The Washington State SMA defines the Shoreline of the State as, “all ‘shorelines’ and ‘shorelines of statewide (SSWS)’ within the state” (RCW 90.58.030). The shoreline includes floodways, land within 200 feet of the ordinary high water mark (OHWM) of the waterways, floodplains up to 200 feet from the floodway edge, and associated wetlands.

#### 3.1 Shoreline Jurisdiction Rivers

Pasco’s SMP encompasses shoreline along the Columbia River and Snake River. The City’s shoreline waterbodies are listed in Table 1. Both the Columbia River and Snake River are considered SSWS. See Section 3.2 for discussion on SSWS.

**Table 1. Shoreline Jurisdiction Rivers**

Stream Name	Shoreline of Statewide Significance	Total Length Proposed Shoreline
Columbia River	Yes	14.4 miles
Snake River	Yes	2.8 miles

#### 3.2 Shorelines of Statewide Significance

The entire shoreline jurisdiction in the City that includes the Columbia and Snake rivers are considered SSWS, as listed in Table 1. The SMA designates certain shoreline areas as SSWS, which are defined as “natural rivers or segments thereof” that have a mean annual flow of 200 cubic feet per second or more (or for streams east of the crest of the Cascades [RCW 90.58.030], the portion downstream from the first 300 square miles of drainage area) and lakes, whether natural, artificial, or a combination thereof, of 1,000 acres or greater in surface area. The Columbia and Snake rivers are SSWS based on the flow and upstream drainage criteria.

The SSWS protection and management goals are described in the Development of Goals and Policies – Shoreline Uses and Modifications Element section.

### 4 Development of Goals and Policies

Goals express broad value statements that reflect the City’s vision of its shorelines. Goals also provide a framework upon which the more detailed SMP shoreline use environments, policies, regulations, and administrative procedures are based in subsequent chapters. Policies are more detailed statements reflecting the City’s goals and visions for its shorelines. Policies provide detail to the associated goals and act as a bridge between the goals and implementing regulations.

The SMP goals and policies are categorized according to the SMP elements mandated in the SMA. The general goal and policy statements found within each SMP element provide the policy basis for the City's SMP administration.

#### 4.1 Economic Development Element

(1) Goals:

- (a) Goal A: Support water-oriented uses to maximize the positive economic impact of tourism and recreational development.
- (b) Goal B: Promote economic growth that conserves natural resources and open spaces and maintains the environmental quality.
- (c) Goal C: Maintain existing development and secure additional commercial and industrial facilities and infrastructure necessary for existing and future development in shoreline areas where it is most feasible, while maintaining environmental quality.
- (d) Goal D: Recognize the role of the rivers as a transportation corridor that facilitates trade and economic growth. Protect and expand the assets necessary in the rivers and on the shoreline to utilize that transportation corridor to promote economic development.

(2) Policies:

- (a) Ensure healthy, orderly economic growth by providing for those economic activities that will be an asset to the local economy and for which the adverse effects on the quality of the shoreline and surrounding environment can be mitigated. Ensure any economic activity taking place along the shoreline operates without causing irreparable harm to the site's environment or adjacent shoreline areas.
- (b) Maintain and protect existing water-dependent and water-related industries that support the City's economy. Provide opportunities for future expansions of such industries.
- (c) Allow diversion of water for agricultural, commercial, and industrial purposes consistent with the State's water rights laws.
- (d) Dredging of the rivers and shoreline transportation assets is a necessary component of maintaining the capabilities of the rivers to serve as a transportation corridor for inputs and outputs of industries within Pasco and surrounding areas.
- (e) Promote tourism and develop and maintain, as an economic asset, the recreation and tourism industry along shorelines in a manner that will enhance public enjoyment.

- (f) Work with the Port of Pasco, Franklin County, and other agencies to ensure sustainable economic growth along the shoreline. Encourage cooperative use of existing port facilities, including docks and piers, where feasible and when they do not negatively affect the public safety.
- (g) Give preference to economic activities in undeveloped areas, which either leave natural or existing shoreline features such as trees, shrubs, grasses, and wildlife habitat, unmodified, or modify them in a way that enhances human awareness and appreciation of the shoreline and other natural and non-natural surroundings.
- (h) Encourage new water-dependent, water-related, and water-enjoyment economic development in priority order.
- (i) Where possible, encourage development that incorporates low-impact development techniques into new projects and integrates architectural and landscape elements that recognize the river environment.
- (j) Require non-water-oriented commercial or recreational development to provide for ecological restoration and public access as appropriate.
- (k) Ensure new industrial and commercial uses will not result in a net loss of shoreline ecological functions or have significant adverse impacts on navigation, recreation, and public access.

#### 4.2 Public Access and Recreation Element

- (1) Goals:
  - (a) Goal A: Promote, protect, and enhance physical and visual public access along the shoreline of the Columbia and Snake rivers. Increase the amount and diversity of public access along the shoreline consistent with private property rights, public safety, and the natural shoreline character.
  - (b) Goal B: Maintain and enhance the existing public access system according to the City's Public Access Plan (Rivershore Linkage and Amenity Plan approved by the City in 2012), building upon the City's many types of shoreline public access with new public access opportunities where appropriate.
  - (c) Goal C: Provide physical and visual public access as feasible and when new development creates demand for public access.
  - (d) Goal D: Ensure diverse, convenient, and adequate water-oriented recreational opportunities along the shoreline for the public.
  - (e) Goal F: Give water-oriented shoreline recreational development priority within shoreline jurisdiction.

(2) Policies:

- (a) Protect and enhance visual and physical access to shoreline, especially on public properties. Provide visual access, such as viewpoints or view corridors, in areas with limited physical access due to a steep slope or the sensitive nature of the shoreline whenever possible.
- (b) Ensure new developments, uses, and activities on or near the shoreline do not impair or detract from the public's access to the water. Where practicable, public access to the shoreline should be enhanced.
- (c) Design public access that minimizes potential impacts to private property and individual privacy.
- (d) Locate, design, manage, and maintain public access and recreation facilities in a manner that protects shoreline ecological functions and processes and the public's health and safety.
- (e) Identify opportunities for public access on publicly owned shorelines and according to the City's Public Access Plan. Encourage federal, state, and local governments to provide public access and recreational uses on existing shoreline properties according to their management policies such as existing state parks, trails and U.S. Army Corps of Engineers (USACE) lands along the Columbia River.
- (f) Preserve, maintain, and enhance public access afforded by shoreline street ends, public utilities, and rights-of-way.
- (g) Provide physical and visual public access in the shoreline jurisdiction in association with the following uses when feasible: residential developments with five or more dwellings; commercial development; and public agency recreational development.
- (h) Provide public access and interpretive displays as part of publicly funded restoration projects where significant ecological impacts are addressed.
- (i) Allow for passive and active shoreline recreation that emphasizes location along shorelines in association with the state, county and other public agency parks, recreation, wildlife habitat, and open-space plans.
- (j) Encourage a variety of compatible recreational experiences and activities to satisfy the City's diverse recreational needs such as parks, boat lunches, docks, trails, and viewing platforms.
- (k) Give water-dependent recreation priority water-enjoyment recreation uses. Give water-enjoyment recreational uses priority over non-water-oriented recreational uses.

- (l) Integrate and link water-oriented recreational facilities with other amenities along the shoreline, such as walking trails, bicycle paths, easements, and scenic drives when feasible. For example, encourage connection between the Sacajawea Heritage Trail and the Columbia Plateau Trail in Franklin County.
- (m) Promote non-intensive recreational uses that avoid adverse effects to the natural environment, do not contribute to flood hazards, and avoid damage to the shoreline environment through modifications such as structural shoreline stabilization or native vegetation removal.

#### 4.3 Circulation Element

- (1) Goals:
  - (a) Goal A: Develop safe, convenient, and diversified circulation systems to ensure efficient movement of people, goods, and services, with minimal adverse impacts on the shoreline environment.
- (2) Policies:
  - (a) Provide safe, reasonable, and adequate circulation systems to shorelines where routes will minimize adverse effects on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline.
  - (b) Within the shoreline jurisdiction, locate land circulation systems that are not shoreline-oriented and as far from the land-water interface as practicable to reduce interference with either natural shoreline resources or other appropriate shoreline uses.
  - (c) Allow for maintenance and improvements to existing roads and parking areas. Allow for necessary new roads and parking areas when other locations outside of shoreline jurisdiction are not feasible.
  - (d) Plan and develop a circulation network, which is compatible with the shoreline environment and respects and protects ecological and aesthetic values in the shoreline of the state, as well as private property rights.
  - (e) In the circulation network, plan for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the SMP.
  - (f) Promote existing transportation corridors for reuse for water-dependent uses or public access when they are abandoned.



- (g) Encourage relocation or improvement of those circulation elements that are functionally or aesthetically disruptive to the shoreline, public waterfront access, and ecological functions.
- (h) Plan parking areas to achieve optimum use. Where possible, parking should serve more than one use (e.g., serving recreational use on weekends and commercial use on weekdays).
- (i) Encourage low-impact parking facilities such as those with gravels or permeable pavements and bio-swales.
- (j) Encourage trails and bicycle paths along shorelines in a manner compatible with the natural character, resources, and ecology of the shoreline.
- (k) Encourage the linkage of shoreline parks, recreation areas, and public access points with linear systems, such as hiking and bicycle paths, easements, and scenic drives.

#### 4.4 Shoreline Uses and Modifications Element

(1) Goals:

- (a) Goal A: Encourage shoreline development and uses that recognize the City's natural and cultural values and its unique aesthetic qualities offered by its variety of shoreline environments, including, but not limited to, reservoir-bounded river segments, flood protection levees, recreational and industrial developments, riverine wetlands, open views, and plentiful formal and informal public access.
- (b) Goal B: The City recognizes and protects the functions and values of the shoreline environments of statewide and local significance. For SSWS, protection and management priorities are to:
  - (i) Recognize and protect statewide interest over local interest;
  - (ii) Preserve the natural character of the shoreline;
  - (iii) Provide long-term over short-term benefits;
  - (iv) Protect the resources and ecology of shoreline;
  - (v) Increase public access to publicly owned areas of shoreline; ~~and~~
  - (vi) Increase recreational opportunities for the public in shoreline areas; ~~and-~~

Formatted: Indent: Left: 1.5"

- (vii) Recognize the statewide interest in keeping the Columbia and Snake rivers adequately dredged and maintained to facilitate trade.

(2) General Policies:

- (a) Maintain areas within the shoreline jurisdiction with unique attributes for specific long-term uses, including commercial, industrial, residential, recreational, and open-space uses.
- (b) Ensure proposed shoreline uses are distributed, located, and developed in a manner that will maintain or improve the health, safety, and welfare of the public when such uses occupy shoreline areas.
- (c) Ensure activities and facilities are located on the shoreline in such a manner as to retain or improve the quality of the environment.
- (d) Ensure proposed shoreline uses do not infringe upon the rights of others, upon the rights of private ownership, upon the rights of the public under the Public Trust Doctrine of federal navigational servitude, and treaty rights of Native American tribes.
- (e) Minimize the adverse impacts of shoreline uses and activities on the environment during all phases of development (e.g., design, construction, management, and use).

(3) Shoreline Environment Designation Policies:

- (a) Provide a comprehensive shoreline environment designation system to categorize the City's shoreline into environments based on the primary characteristics of shoreline areas to guide the use and management of these areas and to preserve wildlife habitat area, natural resources, and public agency operations.
- (b) Designate properties as Natural in order to protect and restore those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions that are sensitive to potential impacts from human use.
- (c) Designate properties Urban Conservancy to protect and restore ecological functions of open space, floodplain, and other sensitive lands, while accommodating low-intensity uses.
- (d) Assign appropriate designations to accommodate recreational uses. Ensure intense recreational uses, such as boat launches and parks, do not conflict with the sensitive nature of the shoreline (e.g., habitat management units) where low impact recreational uses are more appropriate.

- (e) Assign appropriate designation for flood protection areas maintained by public agencies, while allowing low-intensity recreational uses such as trail and viewpoints.
  - (f) Assign properties as High Intensity – Industrial to support industrial, commercial, irrigation supply, transportation, and navigation activities while maintaining the ecological functions.
  - (g) Assign properties as High Intensity – Mixed Use to support commercial, residential, transportation, and navigation activities while maintaining the ecological functions.
  - (h) Designate properties as Shoreline Residential to accommodate higher density residential development and recognize existing and proposed land uses. This designation is appropriate for residential uses on lands with zoning classifications for detached and attached residences.
- (4) Agriculture Policies:
- (a) This SMP recognizes the importance of agriculture to the City’s economy and also as it exists in the City limits and urban growth areas (UGAs). Allow for ongoing agricultural activities, while also maintaining shoreline ecological functions and processes.
  - (b) Conduct new agricultural development in a manner that ensures no net loss of shoreline ecological functions and processes.
  - (c) Maintain a vegetative buffer between agricultural lands and waterbodies or wetlands.
  - (d) Conversion of agricultural lands to other uses should comply with all policies and regulations for non-agricultural uses.
- (5) Boating Facilities Policies:
- (a) Locate and design boating facilities so their structures and operations will be compatible with the area affected such as environmental conditions, shoreline configuration, access, and neighboring upland and aquatic uses.
  - (b) Require restoration activities when substantial improvements or repairs to existing boating facilities are planned.
  - (c) Boating facilities that minimize the amount of shoreline modification are preferred.
  - (d) Boating facilities should provide physical and visual public shoreline access and provide for multiple uses, including water-related use, to the

extent compatible with shoreline ecological functions and processes and adjacent shoreline use.

- (e) Boating facilities should be located and designed to avoid adverse effects on riverine and nearshore processes, such as erosion, littoral or riparian transport, ~~and~~ accretion, and ~~should~~, where feasible, enhance degraded, scarce, and/or valuable shore features including accretion shoreforms.
- (f) Location and design of boating facilities should not unduly obstruct navigable waters and should avoid adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking, and shoreline viewing.

(6) Breakwaters, Jetties, Groins, and Weirs Policies:

- (a) To the extent feasible, limit the use of breakwaters, jetties, groins, weirs, or other similar structures to those projects providing ecological restoration or other public benefits. These structures should avoid or minimize significant ecological impacts. Impacts that cannot be avoided should be mitigated.

(7) Dredging and Dredge Material Disposal Policies:

- (a) Dredging and dredge material disposal should avoid and minimize significant ecological impacts. Impacts that cannot be avoided should be mitigated.
- (b) Design and locate new shoreline development to minimize the need for dredging.
- (c) Limit dredging and dredge material disposal to the minimum necessary to allow for shoreline restoration, flood hazard reduction, and maintenance of existing legal moorage and navigation, and to support existing industrial areas. Except for industrial development, dredging to provide for new navigation uses is discouraged.
- (d) Dredging to support industrial development and to maintain existing transportation corridors is a necessary and critical component of shoreline management.
- (e) Ensure dredging operations are planned and conducted in a manner that will minimize interference with navigation and lessen adverse impacts to other shoreline uses.

(8) Fill Policies:

- (a) Limit fill waterward of the OHWM to support ecological restoration or to facilitate water-dependent or public access uses.

- (b) Allow fill consistent with floodplain regulations upland of the OHWM, provided it is located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration, and is the minimum necessary to implement an approved project.
- (9) In-stream Structures Policies:
  - (a) Locate, plan, and permit in-stream structures only when consistent with the full range of public interests, ecological functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.
- (10) Mining Policies:
  - (a) Locate mining facilities outside shoreline jurisdiction whenever feasible.
  - (b) Do not allow mining in any location waterward of the OHWM.
  - (c) Design and locate mining facilities and associated activities to prevent loss of ecological function. Give preference to mining uses that result in the creation, restoration, or enhancement of habitat for priority species.
  - (d) Protect waterbodies from sources of pollution, including, but not limited to, sedimentation and siltation, chemical and petrochemical use, and spillage and storage/disposal of mining wastes and spoils.
  - (e) Mining operations should be located, designed, and managed so that other appropriate uses are not subjected to substantial or unnecessary adverse impacts from noise, dust, or other effects of the operation. The operator may be required to implement measures, such as buffers, limited hours, or other mitigating measures, for the purpose of minimizing adverse proximity impacts.
- (11) Pier and Dock Policies:
  - (a) Pier and dock provisions should be consistent with the USACE McNary Pool Management Plan.
  - (b) Moorage associated with a single-family residence is considered a water-dependent use provided that it is designed and used as a facility to access watercraft, and other moorage facilities are not available or feasible. Moorage for water-related and water-enjoyment uses or shared moorage for multi-family use should be allowed as part of a mixed-use development or where it provides public access.
  - (c) New moorage, excluding docks accessory to single-family residences, should be permitted when the applicant/proponent has demonstrated that a

specific need exists to support the intended water-dependent or public access use.

- (d) As an alternative to continued proliferation of individual private moorage, mooring buoys are preferred over docks or floats. Shared moorage facilities are preferred over single-user moorage where feasible, especially where water-use conflicts exist or are predictable. New subdivisions of more than two lots and new multi-family development of more than two dwelling units should provide shared moorage where feasible.
- (e) Docks, piers, and mooring buoys, including those accessory to single-family residences, should avoid locations where they will adversely impact shoreline ecological functions or processes, including high-velocity currents and littoral drift.
- (f) Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto, such as, but not limited to, fishing, swimming, and pleasure boating, and private riparian rights of adjacent land-owners.
- (g) Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width, and height of piers and docks should be no greater than that required for safety and practicality for the primary use.
- (h) Pile supports are preferred over fills because piles do not displace water surface or aquatic habitat and are removable and thus are more flexible in terms of long-term use patterns. Floats may be less desirable than pile structures where aquatic habitat or littoral drift are significant.
- (i) The use of buoys for small craft moorage is preferred over pile or float structures because of less long-term impact on shore features and users; moorage buoys should be placed as close to shore as possible to minimize obstruction to navigation.
- (j) Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.
- (k) New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the primary use and shore features.

(12) Recreational Development Policies:

- (a) Shoreline recreational development should be given priority for shoreline location to the extent that the use facilitates the public's ability to reach,

touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.

- (b) Recreational developments should facilitate appropriate use of shoreline resources while conserving them. These resources include, but are not limited to, [cultural resources](#), accretion shoreforms, wetlands, soils, groundwater, surface water, native plant and animal life, and shore processes.
- (c) Recreational facilities should be a combination of active and passive types. Location of such facilities should consider the ecological function and sensitive nature of the shoreline in order to avoid adverse impacts. For example, wildlife and habitat preservation areas with sensitive shoreline habitat should have low-impact recreational uses.
- (d) Recreational developments and plans should provide the regional population with a varied and balanced choice of recreation experiences in appropriate locations. Public agencies should coordinate their plans and activities to provide a wide variety of recreational opportunities without needlessly duplicating facilities.
- (e) Recreational development should encourage the linkage of shoreline parks, recreation areas, and public access points with linear systems such as hiking paths, bicycle paths, easements, and scenic drives.
- (f) When feasible, recreation facilities should incorporate public education regarding shoreline ecological functions and processes, the role of human actions on the environment, and the importance of public involvement in shoreline management. Opportunities incorporating educational and interpretive information should be pursued in design and operation of recreation facilities and nature trails.
- (g) Recreational development should be located and designed to preserve, enhance, or create scenic views and vistas.

(13) Residential Development Policies:

- (a) Consider single-family residential development as a priority use.
- (b) Locate and construct residential development in a manner that ensures no net loss of shoreline ecological functions.
- (c) Ensure the overall density of development, lot coverage, and height of structures is appropriate to the physical capabilities of the site and consistent with the Comprehensive Plan.

- (d) Ensure new residential development provides adequate buffers or open space from the water to protect ecological functions and ecosystem-wide processes, preserve views, preserve shoreline aesthetic characteristics, protect the privacy of nearby residences, and minimize use conflicts.
- (e) Make adequate provisions for services and infrastructure necessary to support residential development.
- (f) Design and locate residential development to preserve existing shoreline vegetation, control erosion, and protect water quality.
- (g) Design and locate new residences so shoreline stabilization will not be necessary to protect the structure. The creation of new residential lots should demonstrate the lots can be developed without:
  - (i) Constructing shoreline stabilization structures (such as bulkheads);~~and~~
  - (ii) Causing significant erosion or slope instability;~~and~~; ~~and~~
  - ~~(iii)~~ Removing existing native vegetation within shoreline buffers;~~and~~
  - ~~(iv)~~ Disturbing cultural resources.

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

(14) Shoreline Habitat and Natural Systems Enhancement Projects Policies:

- (a) Include provisions for shoreline vegetation restoration or enhancement, fish and wildlife habitat enhancement, and low-impact development techniques in projects located within shoreline jurisdiction, where feasible.
- (b) Encourage and facilitate implementation of projects and programs included in the SMP Shoreline Restoration Plan.

(15) Shoreline Stabilization Policies:

- (a) Locate and design new development, including subdivisions, to eliminate the need for new shoreline modification or stabilization.
- (b) Design, locate, size, and construct new or replacement structural shoreline stabilization measures to minimize and mitigate the impact of these modifications on the City's shorelines.
- (c) Give preference to non-structural shoreline stabilization measures over structural shoreline ~~stabilization, and~~ stabilization and give preference to soft structural shoreline stabilization over hard structural shoreline stabilization.



- (d) Allow location, design, and construction of riprap and other bank stabilization measures primarily to prevent damage to existing development or to protect the health, safety, and welfare of the City's residents.
- (e) Encourage fish-friendly shoreline design during new construction and redevelopment by offering incentives and regulatory flexibility.

(16) Utilities Policies:

- (a) Allow for utility maintenance and extension with criteria for location and vegetation restoration as appropriate.
- (b) Plan, design, and locate utility facilities to minimize harm to shoreline functions, preserve the natural landscape, and minimize conflicts with present and future planned land and shoreline uses, while meeting the needs of future populations in areas planned to accommodate growth.
- (c) Do not permit new non-water-oriented primary utility production and processing facilities or parts of those facilities, such as power plants, solid waste storage, or disposal facilities, within shoreline jurisdiction unless no other options are feasible. Primary utility facilities, such as wastewater treatment plants, and expansion of existing facilities should be located in shoreline jurisdiction only if no practical upland alternative or location exists. Such facilities and expansions should be designed and located to minimize impacts on shoreline ecological functions, including riparian and aquatic areas, and to the natural landscape and aesthetics. Public health and safety should be the highest priority for the planning, development, and operation of primary utility facilities.
- (d) Locate utility transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, outside of shoreline jurisdiction where feasible. Where permitted within shoreline jurisdiction, such facilities should be located within existing or approved road crossings, rights-of-way, and corridors or in such a way as to minimize potential adverse impacts on shoreline areas. Joint use of rights-of-way and corridors in shoreline areas should be encouraged.
- (e) Locate new utility facilities so as not to require extensive shoreline protection works.
- (f) Locate utility facilities and corridors to protect scenic views from public parks and trails. Whenever possible, such facilities should be placed underground or alongside or under bridges.
- (g) Design utility facilities and rights-of-way to preserve the natural landscape and to minimize conflicts with present and planned land uses.

(17) Existing Uses Policies:

- (a) Allow nonconforming, existing legal uses and structures to continue in accordance with this SMP. Residential structures and appurtenant structures that were legally established and are used for a conforming use (but do not meet standards for setbacks, buffers, or yards), area, bulk, height, or density, should be considered a conforming structure.
- (b) Allow alterations of nonconforming structures, uses, and lots in consideration of historic development patterns when occupied by preferred uses and consistent with public safety and other public purposes.
- (c) Encourage transitions from nonconforming uses to conforming uses.
- (d) Allow for nonconforming structures to expand when they do not increase the nonconformity according to SMP requirements.
- (e) Allow for existing roads, driveways, and utility lines to continue and expand when they do not increase the nonconformity according to SMP requirements.
- (f) Consider the no net loss of ecological function objective to guide review of proposed expansions or other changes to nonconforming uses and new development on nonconforming vacant lots. This objective may be addressed in an area-wide manner consistent with the SMP cumulative impacts analysis.

#### 4.5 Conservation Element

(Goals and policies for Environmental Protection, Critical Areas, and Shoreline Vegetation Conservation, and Water Quality, Stormwater Management, and Nonpoint Pollution)

(1) Goals:

- (a) Goal A: Protect the existing hydraulic, hydrologic, and habitat functions, as well as scenic and recreational values, of City's shorelines and the McNary Pool.

(2) General Policies:

- (a) Develop and implement management practices that will ensure a sustained yield of renewable resources of the shorelines while preserving, protecting, enhancing, and restoring unique and non-renewable shoreline resources, environments, or features.
- (b) To the greatest extent feasible, reclaim and restore areas that are biologically and aesthetically degraded while maintaining appropriate use of the shoreline.

- (c) Preserve scenic vistas, aesthetics, fisheries and wildlife habitat, and other critical areas.
  - (d) Protect shoreline processes and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within shoreline jurisdiction, and incentives to private property owners to encourage ecologically sound design and implementation of best land management practices.
  - (e) Protect and manage shoreline-associated wetlands, including maintenance of sufficient volumes of surface and subsurface drainage into wetlands, to sustain existing vegetation and wildlife habitat.
  - (f) Work with other jurisdictional agencies in the region and with the private sector to deal effectively with regional and watershed-wide natural environment issues and the protection, preservation, and enhancement of all shoreline areas as fish and wildlife habitat.
  - (g) Manage development to avoid risk and damage to property and loss of life from geological conditions.
  - (h) Regulate development within the SMP area of the 100-year floodplain to avoid risk and damage to property and loss of life.
  - (i) Prohibit the introduction of invasive plant species along ~~the shoreline,~~ and shorelines and encourage the removal of noxious and invasive weeds and trees.
  - (j) Protect, enhance, and maintain healthy vegetation consistent with the local climate and nature of shoreline.
- (3) Critical Areas:
- (a) Goals:
    - (i) Goal A: Promote public health and welfare by instituting local measures to preserve naturally occurring wetlands, critical aquifer recharge areas, geologically hazardous areas, frequently flooded areas (also see SMP Section I – 4.7: Flood Hazard Management goals and policies), and fish and wildlife habitat conservation areas that exist in the City’s shoreline jurisdiction for their associated value.
    - (ii) Goal B: Reduce the threat posed to the health and safety of citizens from commercial, residential, or industrial development that may be sited in areas of significant geologic hazard.

Formatted: Indent: Left: 1.5"

- (iii) Goal C: Identify categories of fish and wildlife habitat conservation areas in the City's shoreline jurisdiction, based in part on information supplied by Washington State Department of Fish and Wildlife's (WDFW's) Priority Habitat and Species Program and other sources.
- (iv) Goal D: Protect local wildlife values and reflect the needs and desires of the public.
- (b) Policies:
  - (i) Recognize that critical areas may serve a variety of vital functions, including, but not limited to, flood storage and conveyance, water quality protection, recharge and discharge areas for groundwater, erosion control, sediment control, fish and wildlife habitat, recreation, education, and scientific research.
  - (ii) Implement protection measures that strive to spare identified value and function of critical areas that may be in jeopardy from new development proposals. However, these regulations shall not prohibit uses legally existing on any parcel prior to their adoption.
  - (iii) Avoid unnecessary duplication with various legal means and levels of government that already address protection of wetlands, and promote cooperation and coordination whenever possible.
  - (iv) Recognize that risks from geologic hazards can be reduced or mitigated to acceptable levels through engineering design or modified construction practices. In other cases where technological efforts are not sufficient to reduce associated risks, building is best avoided. Cooperate with federal, state, and private agencies and individuals who have primary authority to manage specific fish and wildlife habitat conservation areas within certain parts of the City.
  - (v) Encourage preservation of adequate size blocks of land necessary for species survival and corridor areas that allow for migratory travel.
  - (vi) Recognize that species of wildlife in the City's locality are in a state of continuing flux, and a prudent understanding of this phenomenon is vital in guiding decision makers to balance conservation of wildlife species with promotion of wise, desirable growth.

Formatted: Indent: Left: 1.5"

#### 4.6 Historic, Cultural, Scientific, and Educational Resources Element

- (1) Goals:

- (a) Goal A: Identify, preserve, and protect historical, cultural, and archaeological resources found to be significant by recognized local, state, or federal processes [in compliance with State and Federal laws](#).
  - (b) Goal B: Encourage educational and scientific projects and programs that foster a greater appreciation for the importance of shoreline management, water-oriented activities, environmental conservation, and local historic connections with the City's shoreline.
- (2) Policies:
- (a) Identify, protect, preserve, and restore important archeological, historic, and cultural sites located in shoreline areas.
  - (b) Encourage educational projects and programs that foster a greater appreciation of the importance of shoreline management, maritime activities, environmental conservation, and maritime history, consistent with protecting no net loss of ecological functions.
  - (c) Prevent public or private uses and activities from damaging, altering, removing, or destroying any site having historic, cultural, scientific, or educational value without appropriate analysis and mitigation.

#### 4.7 Flood Hazard Management Element

- (1) Goals:
- (a) Goal A: Protect public safety within river floodways and floodplains while recognizing that water levels in Columbia and Snake rivers are generally stable as part of the McNary Pool. Protect natural systems by preserving the flood storage function of floodplains.
  - (b) Goal B: Diminish potential hazards that may be caused by inappropriate development in areas where severe and costly flooding is anticipated to occur.
- (2) Policies:
- (a) Manage development proposed within floodplains and floodways consistent with the SMA, Federal Emergency Management Agency (FEMA) standards, and Critical Area Regulations for frequently flooded areas contained within this SMP.
  - (b) Implement protection measures designed to minimize hazards in frequently flooded areas that already exist as detailed in Pasco Municipal Code (PMC) 24.20, Provisions for Flood Hazard Protection.

- (c) Work with Franklin County and state and federal agencies to deal effectively with regional flooding issues.
- (d) Control stormwater runoff in a manner consistent with low-impact development practices, which utilize natural detention, retention, and recharge techniques.
- (e) Prohibit any development within the floodplain that would individually or cumulatively cause any increase in the base flood elevation beyond FEMA standards.

#### 4.8 Private Property Right

- (1) Goals:
  - (a) Goal A: Recognize and protect private property rights in shoreline uses and developments consistent with the public interest.
- (2) Policies:
  - (a) Shoreline uses should be located and designed to respect private property rights, maintain privacy of private property, be compatible with the shoreline environment, protect ecological functions and processes, and protect aesthetic values of the shoreline.
  - (b) Public access to shoreline, such as trails, bikeways, or roads, should consider the privacy of private property owners when locating them near private properties.

## SECTION II: Shoreline Regulations

### Article I. Authority and Purpose

#### 29.01.010 Authority

- (1) The SMA of 1971, RCW 90.58, is the authority for the enactment and administration of this SMP.

#### 29.01.020 Applicability

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

- (a) Interior building improvements;
- (b) Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
- (c) Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding;
- (d) Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections;
- (e) Dismantling or removing structures if there is no other associated development or redevelopment;
- (f) 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;
- (g) Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit;
- (h) Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356;
- (i) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045 and RCW 43.21K;

Formatted: Font: Times New Roman

Formatted: Outline numbered + Level: 1 + Numbering  
Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at:  
0.5" + Indent at: 1"

Formatted: Heading 6, No bullets or numbering

(j) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to RCW 80.50; and

(k) 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.

~~(1)(2)~~ This SMP shall apply to all of the shoreline areas, waters, and critical areas within the shoreline jurisdiction of the City as described in SMP Section I, Shoreline Goals and Policies, Profile of the Shoreline Jurisdiction, within the city limits of the City of Pasco.

~~(2)(3)~~ All proposed uses, activities, or development occurring within shoreline jurisdiction must conform to the intent and requirements of RCW 90.58, the SMA, and this SMP whether or not a permit or other form of authorization is required. See SMP Shoreline Goals and Policies section for the shoreline jurisdiction description and SMP Article VII for the definition of uses, activities, and development.

~~(3)(4)~~ The SMP applies to shoreline jurisdiction within the City limits; this SMP will not apply to shorelines in the UGAs until the annexation of the UGA areas to City is finalized.

~~(4)(5)~~ Pursuant to WAC 173-27-060, federal agency activities may be required by other federal laws to meet the permitting requirements of RCW 90.58. This SMP shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease, or easement, even though such lands may fall within the external boundaries of federal ownership.

~~(5)(6)~~ As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Native American tribes.

~~(6)(7)~~ Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with the most current scientific and technical information available, field investigations, and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a SSWS, whether mapped or not, are subject to the provisions of this SMP.

#### **29.01.030 Purpose**

(1) The purposes of this SMP are:

- (a) To promote the public health, safety, and general welfare of the City by providing comprehensive policies and effective, reasonable regulations for development, use, and protection of jurisdictional shorelines;



- (b) To further assume and carry out the local government responsibilities established by the SMA in RCW 90.58.050, including planning and administering the regulatory program consistent with the policy and provisions of the SMA in RCW 90.58.020;
  - (i) To provide a high quality shoreline environment where:
  - (ii) Recreational opportunities are abundant;
  - (iii) The public enjoys access to and views of shoreline areas;
  - (iv) Natural systems are preserved, restored, or enhanced;
  - (v) Ecological functions of the shoreline are maintained and improved over time;
  - (vi) Water-oriented uses are promoted consistent with the shoreline character and environmental functions; ~~and~~
- (c) To apply special conditions to those uses that are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent on use of the state's shoreline; and
- (d) To ensure no net loss of ecological functions associated with the shoreline.

Formatted: Indent: Left: 1.5"

#### **29.01.040 Relationship to Other Codes, Ordinances, and Plans**

- (1) All applicable federal, state, and local laws shall apply to properties in the shoreline jurisdiction. Where this SMP makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply.
- (2) In the event provisions of this SMP conflict with provisions of federal, state, or city regulations, the provision that is most protective of shoreline resources shall prevail. It is understood that the provisions of this SMP may not allow development to occur at what otherwise might be the property's full zoning potential.
  - (a) Local plans or programs include, but are not limited to:
    - (i) PMC 24.20 – Provisions for Flood Hazard Protection
    - (ii) PMC Title 23, Environmental Impact
    - (iii) PMC Title 25, Zoning
  - (b) State and federal programs include, but are not limited to:
    - (i) Washington State Hydraulic Project Permits (HPA)

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

- (ii) Washington State Pesticide Applicator License Requirements
  - (iii) Washington State Waste Discharge Permits
  - (iv) Washington State Water Quality Certification Requirements (401)
  - (v) USACE 404 Permits and Section 10 Permits
- (3) The policies in the SMP, contained in the SMP elements, state those underlying objectives that the regulations are intended to accomplish. The policies guide the interpretation and enforcement of the SMP regulations contained in PMC 29.01. The policies are not regulations in themselves and, therefore, do not impose requirements beyond those set forth in the regulations.
- (4) This SMP contains Critical Area Regulations in PMC 29.01 Article V, applicable only in shoreline jurisdictions that provide a level of protection to critical areas assuring no net loss of shoreline ecological functions necessary to sustain shoreline natural resources (RCW 36.70A.480). In the event of a conflict between the requirements of this code and any other code or ordinance of the City, the regulation that provides the greater protection for the particular critical area within shoreline jurisdiction shall apply.
- (5) Projects in the shoreline jurisdiction that have either been deemed technically complete through the application process or have been approved through local and state reviews prior to the adoption of this SMP are considered accepted. Major changes or new phases of projects that were not included in the originally approved plan will be subject to the policies and regulations of this SMP.

**29.01.050 Liberal Construction**

- (1) According to RCW 90.58.900, SMA is exempted from the rule of strict construction, and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

**29.01.060 Severability**

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

**29.01.070 Effective Date**

- (1) The SMP is hereby adopted on ~~the XX day of XX 2023~~15. This SMP and all amendments thereto shall become effective fourteen (14) days after final approval and adoption by Ecology.

**29.01.080 Definitions**

- (1) "Act" means the Washington State Shoreline Management Act (SMA), Revised Code of Washington (RCW) 90.58.
- ~~(2)~~ "Active fault" means a fault that is considered likely to undergo renewed movement within a period of concern to humans. Faults are commonly considered to be active if the fault has moved one or more times in the last 10,000 years.
- ~~(3)~~(2) "Additions" means improvements to an existing building or structure, the cost of which does not exceed 50% of the assessed value of the total structure or result in an increase greater than 25% of the building footprint (up to a maximum of 500 square feet) before the addition is started. Additions must share a common wall (one full side) with the original structure.
- ~~(4)~~(3) "Adjacent," for purposes of applying Article V – Critical Areas, means immediately adjoining (in contact with the boundary of the influence area) or within a distance less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:
  - (a) On-site immediately adjoining a critical area; or
  - (b) A distance equal to or less than the required critical area buffer width and building setback.
- ~~(5)~~ "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. Also see definition of "New Agricultural Activities" below.
- ~~(6)~~ "Agricultural products" includes: but is not limited to horticultural, viticultural, floricultural, and vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within 20 years of planting; and livestock, including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.

- (7) ~~"Agricultural equipment" includes, but is not limited to, the following used in agricultural operations:~~
- (a) ~~Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;~~
  - (b) ~~Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;~~
  - (c) ~~Farm residences and associated equipment, lands, and facilities; and~~
  - (d)(c) ~~Roadside stands and on farm markets for marketing fruit or vegetables.~~
- (8) ~~Agricultural facilities. See "Agricultural equipment."~~
- (9)(4) "Agricultural land" means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local Shoreline Master Program (SMP) pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the SMP, land converted to agricultural use is subject to compliance with the requirements of the SMP.
- (10)(5) "Alteration," for purposes of applying Article V – Critical Areas, means any human-induced change in an existing condition of a critical area or its buffer. Alterations include grading, filling, dredging, channelizing, clearing (vegetation), applying pesticides, discharging waste, construction, compaction, excavation, modifying for stormwater management, relocating, or other activities that change the existing landform, vegetation, hydrology, wildlife, or habitat value of critical areas.
- (11)(6) "Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing SMP.
- (12)(7) "Applicant" means a person who files an application for a permit under this SMP and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.
- (13)(8) "Approval" means an official action by a local government legislative body agreeing to submit a proposed SMP or amendments to Ecology for review and official action pursuant to this SMP or an official action by Ecology to make a local government SMP effective, thereby incorporating the approved SMP or amendment into the SMP.
- (14)(9) "Aquaculture" means the culture or farming of fish or other aquatic plants and animals.

- ~~(15)~~(10) "Aquifer recharge area" means an area through which precipitation and surface water infiltrate the soil and are transmitted through rocks and soil to create groundwater storage. They are also areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of water.
- ~~(16)~~(11) "Area of Influence" encompasses an area that is 2.5 times the height of a slope. The Area of Influence applies to areas that have geologically hazardous attributes consistent with an Erosion or Landslide Hazard Area as defined in Pasco Municipal Code (PMC) 29.01.080, Definitions, and PMC 29.01.560, Geological Hazard Areas. This mapped area surrounds the hazard area from all points for a distance of 2.5 times the height of the applicable slope. Areas with a 15% slope or greater as its only attribute do not have an Area of Influence.
- ~~(17)~~ "Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRMs). AO is characterized as sheet flow and AH indicates ponding. The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.
- ~~(18)~~ "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 letters A or V.
- ~~(19)~~(12) "Assessed value" means assessed valuation shall be as established by the County assessor's office, unless otherwise provided by a market appraisal institute appraisal.
- ~~(20)~~(13) "Associated wetlands" are those wetlands that are in proximity to and either influence or are influenced by a stream subject to the SMA.
- ~~(21)~~(14) "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark (OHWM). Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.
- ~~(22)~~(15) "Base flood" means a flood having a 1% chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designated on FIRM with the letters A or V.
- ~~(23)~~(16) "Base flood elevation" means the water surface elevation of the base flood. It shall be referenced to the North American Vertical Datum of 1988.
- ~~(24)~~(17) "Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

~~(25)~~(18) "Best management practices (BMPs)" means conservation practices or systems of practice and management measures that:

- (a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;
- (b) Minimize adverse impacts on surface water and groundwater flow, and circulation patterns, and the chemical, physical, and biological characteristics of wetlands;
- (c) Protect trees and vegetation designated to be retained during and following site construction; and
- (d) Provide standards for proper use of chemical herbicides within critical areas.

~~(26)~~ "Best Management Practices, Agricultural" means systems of practices, schedules of activities, prohibitions, maintenance procedures, and management measures that prevent or minimize adverse impacts to the environment. Such practices may be subject to varying conditions, which include geographical location, weather, soil or mineral types and conditions, type of crop or livestock, type of mining, and management systems. Generally accepted agricultural BMPs include those practices historically carried out in the region and those practices defined by the State of Washington, Department of Agriculture, recommendations by the U.S. Department of Agriculture, and other professional and industry agricultural organizations.

~~(27)~~(19) "Boating facilities" allowed in the City include boat launches and upland boat storage, marinas, and other boat moorage structures or uses. For the purposes of this SMP, boating facilities excludes docks serving four or fewer single-family residences.

~~(28)~~(20) "Breakwater" means an offshore structure whose primary purpose is to protect harbors, moorages, and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave-caused erosion. Breakwaters are generally built parallel to shore, may or may not be connected to land, and may be floating or stationary.

~~(29)~~(21) "Buffer, Critical Areas," means an area, which provides the margin of safety through protection of slope stability, attenuation of surface water flows and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters, or an area which is an integral part of a stream or wetland ecosystem and which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland boundaries, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded.

~~(30) "Building setback line" means a line beyond which the foundation of a structure shall not extend.~~

~~(31)~~(22) "City" means the City of Pasco.

~~(32)~~(23) "Clearing" means the cutting, killing, grubbing, or removing of vegetation or other organic material by physical, mechanical, chemical, or any other similar means.

~~(33)~~(24) "Cluster" means a group of three or more significant trees with overlapping or touching crowns.

~~(34)~~(25) "Community access" means a shoreline access available to a group or community (e.g., homeowners association), which may not be accessible to general public.

~~(35)~~(26) "Compensation project" means actions specifically designed to replace project-induced critical area and buffer losses. Compensation project design elements may include land acquisition, planning, construction plans, monitoring, and contingency actions.

~~(36)~~(27) "Compensatory mitigation" means types of mitigation used to replace project-induced critical areas and buffer losses or impacts.

~~(37)~~(28) "Critical aquifer recharge area" means those areas that are:

- (a) Designated as "Wellhead Protection Areas" pursuant to the Washington Administrative Code (WAC) 246-290-135(4) and the groundwater contribution area in WAC 246-291-100 (2)(e). Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with either Group A public water supply wells and those Group B wells with a Wellhead Protection Plan filed with the Franklin County Health District; and
- (b) Identified in the Soil Survey of Pasco as having high potential for aquifer recharge, including those soil types identified by the Shoreline Administrator.

~~(38)~~(29) "Crown" means the area of a tree containing leaf- or needle-bearing branches.

~~(39)~~(30) "Cultural and historic resources" means buildings, sites and areas having archaeological, historic, cultural, or scientific value or significance.

~~(40) "Designated floodway" means the regulatory floodway that has been delineated on the City's FIRM.~~

- ~~(41)~~ "Developable area" means a site or portion of a site that may be utilized as the location of development, in accordance with the rules of this SMP.
- ~~(42)~~(31) "Development" means a use consisting of: the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulk heading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature, which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.
- ~~(43)~~(32) "Development permit" means any permit issued by the City or other authorized agency, for construction, land use, or the alteration of land.
- ~~(44)~~(33) "Dock" means, as a general term, a structure, or group of structures that provides boat moorage or other uses. A dock may be made up of piers (which are structures on fixed piles) and floats (which float on the water's surface and are typically attached to piles so that they may rise and fall with changes in the water's elevation).
- ~~(45)~~(34) "Dredging" means the removal of sediments from the bed of a waterbody by mechanical means.
- ~~(46)~~ "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.
- ~~(47)~~(35) "Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition, and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine the types of habitat and the associated ecological functions.
- ~~(48)~~(36) "Erosion" means the detachment and movement of soil or rock by water, wind, ice, or gravity.
- ~~(49)~~(37) "Erosion hazard area" means those areas that, because of natural characteristics, including vegetative cover, soil texture, slope gradient, rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.
- ~~(50)~~(38) "Feasible" means, for the purpose of this SMP, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are



currently available and likely to achieve the intended results; (b) the action provides a reasonable likelihood of achieving its intended purpose; and (c) the action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions, unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short-and long-term time frames.

~~(51)~~(39) "Federal Emergency Management Agency (FEMA)" means the agency that oversees the administration of the National Flood Insurance Program (44 Code of Federal Regulation [CFR]).

~~(52)~~(40) "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 shoreline areas in a manner that raises the elevation or creates dry land.

~~(53)~~(41) "Fish and wildlife habitat conservation areas" means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

- (a) Areas within which state and federal endangered and threatened species exist, or state sensitive, candidate, and monitor species have a primary association;
- (b) Priority Habitat and Species Areas identified by the Washington Department of Fish and Wildlife (WDFW);
- (c) Habitats and species of local importance that have been designated by the City at the time of application;
- (d) Naturally occurring ponds less than 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds of less than 3 years duration, and landscape amenities. Naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority;
- (e) Waters of the state as defined by WAC 222-16;
- (f) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- (g) Areas with which anadromous fish species have a primary association; and

(h) State natural area preserves and natural resources conservation areas.

~~(54)~~(42) "Flood" or "flooding" mean a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff or surface waters from any source.

~~(55)~~(43) "Flood hazard area" means any area subject to inundation by the base flood or risk from channel migration, including, but not limited to, an aquatic area, wetland, or closed depression.

~~(56)~~(44) "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the City.

~~(57)~~ "Flood insurance study" means the official report provided by the Federal Insurance and Mitigation Administration that includes the flood profiles, the FIRM, and the water surface elevation of the base flood (44 CFR Part 59).

~~(58)~~(45) "Flood protection elevation" means an elevation that is 1 foot or more above the base flood elevation.

~~(59)~~(46) "Floodplain" is synonymous with 100-year floodplain and means that land area susceptible to inundation with a 1% chance of being equaled or exceeded in any given year. The limit of this area shall be based on flood ordinance regulation maps or a reasonable method, which meets the objectives of the SMA.

~~(60)~~ "Floodproofing" means adaptations that ensure a structure is substantially resistant to the passage of water below the flood protection elevation and resists hydrostatic and hydrodynamic loads and effects of buoyancy.

~~(61)~~(47) "Floodway" means the channel of a river or other watercourse and the adjacent land areas through which the base flood is discharged. Floodways identified on flood boundary and floodway maps become "regulatory floodways" within which encroachment of obstructions are prohibited.

~~(62)~~ "Floodway dependent structure," for purposes of applying Article V – Critical Areas, means structures such as, but not limited to, dams, levees, pump stations, streambank stabilization, boat launches and related recreational structures, bridge piers and abutments, and fisheries enhancement or stream restoration projects.

~~(63)~~(48) "Functions" and "values," for purposes of applying Article V – Critical Areas, mean the beneficial roles served by critical areas, including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, and recreation. Functions and values

may be considered independently, with functions being measured indicators such as water quality, hydrologic functions, and habitat functions and values being non-measured indicators such as local importance, potential qualities, or recreational benefits.

~~(64)~~(49) "Geological hazard areas" means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geologic events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. Geological Hazard Areas include Erosion Hazards, Landslide Hazards, Mine Hazards, and Seismic Hazards, as defined herein and specified in PMC 29.01.560.

~~(65)~~(50) "Geotechnical Report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected landform and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts on adjacent and down-current properties. Geotechnical Reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

~~(66)~~(51) "Grading" means stripping, cutting, filling, or stockpiling of land, including the land in its cut or filled condition to create new grade.

~~(67)~~(52) "Groyne" means a barrier type of structure extending from the streambank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials.

~~(68)~~(53) "Ground cover" means all types of vegetation other than trees.

~~(69)~~(54) "Guidelines" means those standards adopted by the department to implement the policy of RCW 90.58 for regulation of use of the shorelines of the state prior to adoption of SMPs. Such standards shall also provide criteria for local governments and the department in developing and amending SMPs.

~~(70)~~(55) "Hazard areas" means areas designated as frequently flooded or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geologically hazardous conditions, including steep slopes.

~~(71)~~(56) "Hazardous substance(s)" means:

- (a) A hazardous substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act; any substance designated pursuant to Section 311(b)(2)(A) of the Clean Water Act (CWA); any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress); any toxic pollutant listed under Section 307(a) of the CWA; or any imminently hazardous chemical substance or mixture with respect to which the United States Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act; and
- (b) Hazardous substances that include any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibit any of the physical, chemical, or biological properties described in WAC 173-303-090, 173-303-102, or 173-303-103.

~~(72)~~(57) "High-intensity land use" means land uses consisting of commercial, urban, industrial, institutional, retail, residential with more than one unit per acre, agricultural (dairies, nurseries, raising and harvesting crops, requiring annual tilling, and raising and maintaining animals), high-intensity recreation (golf courses, ball fields), and hobby farms.

~~(73)~~ "Heavy equipment" means such construction machinery as backhoes, treaded tractors, dump trucks, and front end loaders.

~~(74)~~(58) "Hydraulic project approval (HPA)" means a permit issued by WDFW for modification to waters of the state in accordance with RCW 75.20.

~~(75)~~(59) "Impervious surface area" means a hard surface area, which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. Impervious surface shall also include a hard surface area, which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces, which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

~~(76)~~(60) "In-stream structures" function for the impoundment, diversion, or use of water for hydroelectric generation and transmission (including public and private facilities), flood control, irrigation, water supply (domestic and industrial), recreation, or fisheries enhancement.

~~(77)~~(61) "Invasive, non-native vegetation species" means the plants listed for Eastern Washington in Washington State Noxious Weed Board Publication # 820-264E (N/6/09), or the latest version of this document.

~~(78)~~(62) "Isolated wetland" means those wetlands and their buffers that are outside of the following critical areas and their buffers, where applicable: 100-year floodplain, lake, river, stream, or wetland. Isolated wetlands have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

~~(79)~~(63) "Landslide" means down slope movement of a mass of soil, rock, snow or ice, including, but not limited to, rock falls, slumps, mud flows, debris flows, torrents, earth flows, and snow avalanches.

~~(80)~~(64) "Landslide hazard areas" means those areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors.

~~(81)~~(65) "Low-intensity land use" includes forestry and open space (such as passive recreation and natural resources preservation).

~~(82)~~ "Lowest floor" means the lowest enclosed area (including basement) of a structure. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of these Critical Area Regulations found in PMC 29.01.550, F Flood Hazard Areas (i.e., provided there are adequate flood ventilation openings).

~~(83)~~(66) "May" means the action is acceptable, provided it conforms to the provisions of this SMP.

~~(84)~~(67) "Mitigation sequencing" means the process of avoiding, reducing, or compensating for the adverse environmental impact(s) of a proposal, including the following actions, listed in the order of preference, the first being the most preferred:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Where impact on critical areas or their buffers will not be avoided, demonstrating that the impact meets the criteria for granting a Shoreline Variance Permit or other administratively approved alteration;
- (c) 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;

- (d) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (e) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- (f) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
- (g) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

~~(85)(68)~~ "Mixed-use" or "Mixed-use development" means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design that includes a mix of water-oriented and non-water-oriented uses.

~~(86)(69)~~ "Moderate-intensity land use" includes residential at a density of 1-unit-per-acre or less, moderate-intensity open space (parks), and agriculture (moderate intensity land uses such as orchards and hay fields).

~~(87)(70)~~ "Monitoring" means the collection of data by various methods for the purpose of understanding natural systems and features, evaluating the impact of development proposals on such systems, and/or assessing the performance of mitigation measures imposed as conditions of development.

~~(88)(71)~~ "Must" means a mandate; the action is required.

~~(89)(72)~~ "Native vegetation" means plant species that are indigenous to the region.

~~(90)(73)~~ "New agricultural activities" are activities that meet the definition of agricultural activities but are proposed on land not in agricultural use at the adoption date of this SMP.

(74) "New construction" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this SMP.

(75) "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.

(76) "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.

Formatted: Font color: Auto

Formatted: Font color: Auto, Pattern: Clear

~~(91)~~(77) "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 which does not conform to present use regulations due to subsequent changes to the master program.

~~(92)~~(78) "Non-water-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

~~(93)~~(79) "Normal maintenance" means those usual acts that are necessary to prevent a property's decline, lapse, or cessation from a lawfully established condition.

~~(94)~~(80) "Normal repair" means to restore a structure or development to a state comparable to its original condition including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse impacts on 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 impacts on shoreline resources or environment.

~~(95)~~(81) "Ordinary high water mark (OHWM)" means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter in accordance with permits issued by a local government or the department. Where the OHWM cannot be found, it shall be the line of mean high water. For braided streams, the OHWM is found on the banks forming the outer limits of the depression within which the braiding occurs.

~~(96)~~(82) "Practical alternative" means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impact on critical areas.

~~(97)~~ "Primitive trail" means unimproved and unpaved, but physically defined pathway for non-motorized movement.

~~(98)~~(83) "Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- (a) Comparatively high fish or wildlife density;

- (b) Comparatively high fish or wildlife species diversity;
- (c) Fish spawning habitat;
- (d) Important wildlife habitat;
- (e) Important fish or wildlife seasonal range;
- (f) Important fish or wildlife movement corridor;
- (g) Rearing and foraging habitat;
- (h) Refugia habitat;
- (i) Limited availability;
- (j) High vulnerability to habitat alteration; or
- (k) Unique or dependent species.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as caves or snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

~~(99)~~(84) "Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the following criteria:

- (a) Criterion 1. State-listed or state-proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State-proposed species are those fish and wildlife species that will be reviewed by the WDFW (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- (b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate.
- (c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and non-native fish and wildlife species of recreational or



commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

- (d) Criterion 4. Species listed under the Federal Endangered Species Act as either proposed, threatened, or endangered.

~~(100)~~(85) "Provisions" means any definition, policy, goal, regulation, requirement, standard, authorization, prohibition, guideline criteria, or environment designations.

~~(101)~~(86) "Public Access" means physical and visual access. Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. The following are examples of public access:

- (a) Visual Access. Visual public access may consist of view corridors, viewpoints, or other means of visual approach to public waters, adjoining habitat and wildlife areas. A visual aesthetic will include vegetation and wildlife that exist along the shoreline and not just a view of the water.
- (b) Physical Access. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, park, boat or canoe and kayak launching ramp, dock area, view platform, or other area serving as a means of physical approach to public waters.

~~(102)~~(87) "Public Access Plan" means the City of Pasco's Rivershore Linkage and Amenity Plan adopted on July 16, 2012.

~~(103)~~(88) "Public agency" means every city, county, state, or federal office, every officer, every institution, whether educational, correctional, or other, and every department, division, board, and commission that provides services or recommendations to the public or other such agencies.

~~(104)~~(89) "Public utility" means a public service corporation performing some public service subject to special governmental regulations, or a governmental agency performing similar public services, either of which are paid for directly by the recipients thereof. Such services shall include water supply, electric power, gas, and transportation for persons and freight.

~~(105)~~(90) "Qualified professional" means a person with experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or shoreline subject. A qualified professional must have obtained a B.S., B.A., or equivalent degree or certification in biology, engineering, environmental studies, fisheries, geomorphology, landscape architecture, forestry or related field, and 2 years of related work experience.

- (a) A qualified professional for wildlife, habitats, or wetlands must have a degree in biology, zoology, ecology, fisheries, or related field, and professional experience in Washington State.
- (b) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the State of Washington.
- (c) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.
- (d) A qualified professional with flood and channel migration zone expertise must be a hydrologist or fluvial geomorphologist.
- (e) A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.
- (f) A qualified archaeologist must be a person qualified for addressing cultural and historic resources protection and preservation, with a degree in archaeology, anthropology, history, classics or other germane disciplines with a specialization in archaeology and/or historic preservation and with a minimum of 2 years of experience in preparing Cultural Resource Site Assessments reports.

~~(106)~~(91) "Recreational development" means the modification of the natural or existing environment to accommodate commercial and public facilities designed and used to provide recreational opportunities to the public. Commercial recreational development should be consistent with commercial development defined herein.

~~(107)~~(92) "Recreational vehicle" means a vehicle designed primarily for recreational camping, travel, or seasonal use that has its own mode of power or is mounted on or towed by another vehicle, including, but not limited, to travel trailers, folding camping trailers, truck campers, motor homes, motorized boats, and multi-use vehicles or any structure inspected, approved, and designated a recreational vehicle by and bearing the insignia of the State of Washington or any other state or federal agency having the authority to approve recreational vehicles.

~~(108)~~(93) "Research and Monitoring" includes activities associated with identifying data, and collecting, monitoring, and evaluating scientific data and information to support water, fisheries, and other ecological services management, restoration, and operational activities. Example activities that could be included under this category include installing and operating stream and water quality monitoring gages, collecting fisheries data using a trap or other devices, setting up and using equipment to collect sediment data, and other data collection

activities that need to utilize the shoreline and waters of the state to meet public objectives.

~~(109)~~(94) "Residential development" entails one or more buildings, structures, lots, parcels or portions thereof that are designed, used, or intended to be used as a place of abode for human beings. These include single-family residences, residential subdivisions, short residential subdivisions, attached dwellings, and all accessory uses or structures normally associated with residential uses. Accessory residential uses include garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas, and guest cottages. Hotels, motels, dormitories, or any other type of overnight or transient housing are excluded from the residential category and must be considered commercial uses depending on project characteristics.

~~(110)~~(95) "Restore," "Restoration," or "Ecological restoration" means the reestablishment or upgrading of impaired natural or enhanced ecological shoreline processes or functions. This may be accomplished through measures, including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to pre-aboriginal, or pre-European settlement conditions.

~~(111)~~(96) "Riparian habitat" means areas adjacent to aquatic systems with flowing water that contains elements of aquatic and terrestrial ecosystems that mutually influence each other.

~~(112)~~(97) "Salmonid" means a member of the fish family Salmonidae, including: King, Chinook, Coho, chum, sockeye, and pink salmon; cutthroat, brook, brown, rainbow, and steelhead trout; kokanee; and native char (bull trout and Dolly Varden).

~~(113)~~ "Section 404 Permit" means a permit issued by the U.S. Army Corps of Engineers (USACE) for the placement of dredge or fill material waterward of the OHWM or clearing in waters of the United States, including wetlands, in accordance with 33 U.S. Code Section 1344.

~~(114)~~(98) "Seismic hazard areas" means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

~~(115)~~(99) "Shall" means a mandate; the action must be done.

~~(116)~~(100) "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

~~(117)~~(101) "Shoreline Master Program" means the comprehensive use plan for a described area and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards

developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of an SMP for a county or city approved under RCW 90.58 shall be considered an element of the county or City's Comprehensive Plan. All other portions of the SMP for a county or city adopted under RCW 90.58, including use regulations, shall be considered a part of the county or city's development regulations.

~~(118)~~(102) "Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

~~(119)~~(103) "Shoreline stabilization" means actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes such as current, flood, wind, or wave action. These actions include structural and non-structural methods. Non-structural methods include building setbacks, relocation of the structure to be protected, groundwater management, and planning and regulatory measures to avoid the need for structural stabilization.

~~(120)~~(104) "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and this SMP, against taking the action.

~~(121)~~(105) "Significant adverse environmental impacts" (as used in State Environmental Policy Act [SEPA]) means a reasonable likelihood of more than a moderate adverse impact on environmental quality (WAC 197-11-794).

~~(122)~~(106) "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 on 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.

~~(123) "Site Assessment Requirements" means requirements for Critical Area Report.~~

~~(124)~~(107) "Snag" means the remaining trunk of a dying, diseased, or dangerous tree that is reduced in height and stripped of all live branches.

~~(125)~~(108) "Special flood hazard area" means an area subject to a base or 100-year flood; areas of special flood hazard are shown on a flood hazard boundary map or flood insurance rate map as Zone A, AO, A1-30, AE, A99, AH.

~~(126)~~(109) "Species and habitats of local importance" means those species that may not be endangered, threatened, or critical from a state-wide perspective, but are of local concern due to their population status, sensitivity to habitat

manipulation, or other educational, cultural, or historic attributes. These species may be priority habitats, priority species, and those habitats and species identified in the critical areas code as having local importance (e.g., elk).

~~(127)~~(110) "Species, threatened and endangered" means those native species that are listed by WDFW pursuant to RCW 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened or endangered under the Federal Endangered Species Act (16 U.S. Code 1533).

~~(128)~~(111) "Start of construction" means and includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit issuance date. For cumulative tracking, the permit may extend beyond the specified time frame to the time of permit completion. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~(129)~~(112) "Steep slopes" means those slopes (excluding City-approved geotechnical engineered slopes) 40% or steeper within a vertical elevation change of at least 10 feet. A slope is defined by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

~~(130)~~(113) "Stream" means any portion of a channel, bed, bank, or bottom waterward of the OHWM of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses that flow on an intermittent basis or fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

~~(131)~~(114) "Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or comprising parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water.

~~(132)~~(115) "Substantial damage" means damage of any origin, including intentional and unintentional demolition, sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the assessed value of the structure before the damage occurred.

~~(133)~~(116) "Substantial improvement" means any rehabilitation, repair, reconstruction, addition, or other improvement of a building when the cost of the improvement equals or exceeds 50% of the market value of the building before start of construction of the improvement. The term includes buildings that have incurred substantial damage or damage of any origin sustained by a building when the cost of restoring the building to its pre-damaged condition would equal or exceed 50% of the market value before the damage occurred. Substantial improvement does not include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and are the minimum necessary to ensure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

~~(134)~~(117) "Substantially degrade" means to cause significant ecological impact.

~~(135)~~(118) "Thinning" means the evenly spaced non-commercial removal of up to 40% of trees and woody shrubs.

~~(136)~~(119) "Topping" means the severing of main trunks or stems of vegetation at any place above 25% of the vegetation height.

~~(137)~~(120) "Transportation facilities" are those structures and developments that provide for the movement of people, goods, and services. These include roads and highways, railroad facilities, bridges, parking facilities, bicycle paths, trails, and other related facilities.

~~(138) "Tree removal" means the removal of a tree, through either direct or indirect actions, including, but not limited to: (a) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (b) removal of at least half of the live crown; or (c) damage to roots or trunk that is likely to destroy the tree's structural integrity.~~

~~(139)~~(121) "Trees" means any living woody plant characterized by one main stem or trunk and many branches and having a diameter of four inches or more measured 24 inches above ground level.

~~(140)~~(122) "Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

~~(141)~~(123) "Utility" means a service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water,

stormwater, communications (including, but not limited to, telephone and cable), sewage, oil, and the like.

~~(142)~~(124) "Vegetation" means plant life growing below, at, and above the soil surface.

~~(143) "Vegetation alteration" means any clearing, grading, cutting, topping, limbing, or pruning of vegetation.~~

~~(144)~~(125) "Water-dependent use" means a use or portion of a use that cannot exist in a location that is not adjacent to the water and that is dependent on the water by reason of the intrinsic nature of its operations.

~~(145)~~(126) "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.

~~(146)~~(127) "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

~~(147)~~(128) "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this SMP, the term water quantity refers only to development and uses regulated under this chapter and affecting water quantity such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

~~(148)~~(129) "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.

~~(149)~~ "Water resources inventory area" means one of 62 watersheds in the State of Washington, each comprising drainage areas of a stream or streams, as established in WAC 173-500 as it existed on January 1, 1997.

~~(150)~~(130) "Weir" means a structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

~~(151)~~(131) "Wetlands" are areas that are inundated or saturated by surface 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 to mitigate the conversion of wetlands.

~~(152)~~(132) "Wetland categories:"

- (a) Category I. Wetlands are: 1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/WDNR as high quality wetlands; 3) bogs; 4) mature and old growth forested wetlands over 1/4 acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well.
- (b) Category II. These wetlands are those that: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over 1/4 acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well. These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions.
- (c) Category III. 1) Forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over 1/4 acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well. These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions.
- (d) Category IV. Category IV wetlands have the lowest level of functions and are often heavily disturbed. These are wetlands that could be replaced, and in some cases improved. 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.



## Article II. Environment Designation

### 29.01.100 Environment Designations

- (1) The City has designated shorelines pursuant to RCW 90.58 by defining them, providing criteria for their identification, and establishing shoreline ecological functions to be protected. Project proponents are responsible for determining whether a shoreline exists and is regulated pursuant to this SMP. The SMP classifies the City's shoreline into eight shoreline environment designations consistent with the purpose and designation criteria as follows:
  - (a) Aquatic
  - (b) Natural
  - (c) Urban Conservancy
  - (d) Public Flood Protection
  - (e) Recreation
  - (f) High Intensity – Industrial
  - (g) High Intensity – Mixed Use
  - (h) Shoreline Residential
- (2) Official Shoreline Maps:
  - (a) Shoreline area designations are delineated on a map by reach and subreach (SR), hereby incorporated as a part of this SMP (PMC 29.01.860), shall be known as the Official Shoreline Map. Maps indicating the extent of shoreline jurisdiction and shoreline designations are to be used in conjunction with the most current scientific and technical information available, field investigations, and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed.
- (3) Unmapped or Undesignated Shorelines:
  - (a) All areas meeting the definition of a shoreline of the state or a SSWS, whether mapped or not, are subject to the provisions of this SMP.
- (4) Interpretation of Environment Designation Boundaries:
  - (a) Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Shoreline Administrator shall interpret the

boundaries. Appeals of such interpretations may be filed pursuant to PMC 29.01.810, Appeals.

- (b) All shoreline areas waterward of the OHWM shall be designated Aquatic.
- (c) Only one shoreline area designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature. Such linear features shall be clearly noted in the metadata associated with the Official Shoreline Map.
- (d) All areas within shorelines that are not mapped and/or designated are automatically assigned an Urban Conservancy designation.
- (e) Environment designations for shorelines within UGA will be effective immediately upon annexation of the area into the City limits.

#### 29.01.110 Aquatic

(1) Purpose:

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

(2) Designation Criteria:

- (a) An Aquatic shoreline designation is assigned to lands and waters waterward of the OHWM

(3) Management Policies:

- (a) In addition to the other applicable policies and regulations of this SMP, the following management policies shall apply:
  - (i) New over-water structures should be allowed only for water-dependent uses, public access, recreation, or ecological restoration.
  - (ii) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and natural hydrographic conditions.
  - (iii) In-water uses should be allowed where impacts can be mitigated to ensure no net loss of shoreline ecological functions. Permitted in-water uses must be managed to avoid impacts to shoreline ecological functions. Unavoidable impacts must be minimized and mitigated.

Formatted: Indent: Left: 1.5"

- (iv) On navigable waters or their beds, all uses and developments should be located and designed to:
  - (A) Minimize interference with surface navigation;
  - (B) Consider impacts to public views; and
  - (C) Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
- (b) Multiple or shared use of over-water and water-access facilities should be encouraged to reduce the impacts of shoreline development and increase effective use of water resources.
- (c) Structures and activities permitted should be related in size, form, design, and intensity of use to those permitted in the immediately adjacent upland area. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- (d) Natural light should be allowed to penetrate to the extent necessary to support fisheries and nearshore aquatic habitat unless other illumination is required by state or federal agencies.
- (e) Shoreline uses, development, activities, and modifications in the Aquatic shoreline designation requiring use of adjacent landside property should be in a shoreline designation that allows that use, development, activity, or modification.

#### **29.01.120 Natural**

(All islands, Subreach [SR] 1d)

- (1) Purpose:
  - (a) The purpose of the Natural shoreline designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline ecological functions less tolerant 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. Consistent with the policies of the designation, restoration of degraded shorelines within this environment is appropriate.
- (2) Designation Criteria:
  - (a) The following criteria should be considered in assigning a Natural environment designation:

- (i) The shoreline ecological functions are substantially intact and have a high opportunity for preservation and low opportunity for restoration;
- (ii) The shoreline is generally in public or conservancy ownership or under covenant, easement, or a conservation tax program;
- (iii) The shoreline contains little or no development or is planned for development that would have minimal adverse impacts to ecological functions or risk to human safety;
- (iv) The shoreline has high potential for low-impact, passive, or public recreation; and
- (v) The shoreline is considered to represent ecosystems and geologic types that have high scientific and educational value.

Formatted: Indent: Left: 1.5"

(3) Management Policies:

- (a) In addition to other applicable policies and regulations, the following management policies shall apply:
  - (i) Any use beyond existing uses that would substantially degrade shoreline ecological functions or natural character of the shoreline area should not be allowed;
  - (ii) Scientific, historic, cultural, educational research, and low-impact, passive recreational uses are allowed in addition to existing uses, while meeting no net loss of ecological function requirements;
  - (iii) Single-family residential development may be allowed as a conditional use if the density and intensity of such use is limited as necessary to protect ecological functions and is consistent with the purpose of the environment;
  - (iv) Vegetation should remain undisturbed except for removal of noxious vegetation and invasive species through ongoing management activities or as part of a development proposal. Proposed subdivision or lot line adjustments, new development, or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed;
  - (v) Uses that would deplete physical or biological resources or impair views to or from the shoreline over time should be prohibited;
  - (vi) Only physical alterations that serve to support an existing use, protect a significant or unique physical, biological, or visual

Formatted: Indent: Left: 1.5"

shoreline feature that might otherwise be degraded or destroyed, or those alterations that are the minimum necessary to support a permitted use should be allowed; and

- (vii) Only the following types of signs should be considered for location in the shorelines: interpretive; directional; navigational; regulatory; and public.

#### 29.01.130 Urban Conservancy

(Open-space areas located water ward of the parcel boundaries in the Columbia River Reach 1, Subreaches (SR) 3a (north portion of Chiawana Park), 3b, 5c (non-levee portion of the wetland near Riverview Park), 6c (portion water ward of the trail), Reach 7 (Sacajawea Park excluding the boat launch and recreation area), and SR 8a.)

(1) Purpose:

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

(2) Designation Criteria:

- (a) The following criteria are used to consider an Urban Conservancy environment designation:
  - (i) The shoreline contains open space, floodplain, or other sensitive areas that should not be more intensively developed;
  - (ii) The shoreline has riparian vegetation with high to moderate ecological functions;
  - (iii) The shoreline has potential for development that is compatible with ecological restoration; or
  - (iv) The shoreline is not generally suitable for water-dependent uses, however, has moderate to high potential for public, water-related, or water-enjoyment uses where ecological functions can be maintained or restored.

(3) Management Policies:

- (a) In addition to the other applicable policies and regulations of this SMP, the following management policies shall apply:

Formatted: Indent: Left: 1.5"

- (i) Shoreline uses that preserve the natural character of the area or promote preservation of open space, floodplain, or sensitive lands either directly or during the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
- (ii) Encourage regulations for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications to ensure no net loss of shoreline ecological functions;
- (iii) Public access and public recreation uses should be allowed whenever feasible and significant ecological impacts can be mitigated; or
- (iv) Water-oriented uses should be given priority over non-water-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given priority.

Formatted: Indent: Left: 1.5"

#### 29.01.140 Public Flood Protection

(Leveed areas along the Columbia River, where limited ecological function and future development potential exists, and the areas are dedicated for public recreation as part of the regional trail system.)

(1) Purpose:

- (a) The purpose of the Public Flood Protection environment designation is to provide flood protection features while protecting shoreline ecological functions with limitations imposed by the flood protection features, and provide recreational opportunities. In addition to existing levees, examples of uses that are appropriate in a Public Flood Protection shoreline designation include public access and recreation uses consistent with the protection of public safety and property by the flood protection features.

(2) Designation Criteria:

- (a) The following criteria are used to consider a Public Flood Protection environment designation:
  - (i) The shoreline has low to moderate ecological function with low to moderate opportunity for preservation or restoration;
  - (ii) The shoreline is owned and maintained by public agencies;

Formatted: Indent: Left: 1.5"

- (iii) The shoreline is highly developed, and most development is related to flood protection, public utility, infrastructure, and low-intensity recreation, facility rehabilitation, or upgrade modifications;
- (iv) The shoreline has limited scientific or educational value or unique historic or cultural resources values; or
- (v) The shoreline has low to moderate potential for public, water-oriented recreation where ecological functions can be maintained or restored.

(3) Management Policies:

- (a) In addition to the other applicable policies and regulations of this SMP, the following management policies shall apply:

- (i) In regulating uses in the Public Flood Protection environment, first priority should be given to flood protection and water-dependent public-facility uses. Second priority should be given to water-related and water-enjoyment uses that are not in conflict with the flood protection uses. Non-water-oriented uses are allowed as part of the operational needs.
- (ii) Policies and regulations shall ensure no net loss of shoreline ecological functions as a result of redevelopment, facility upgrades, and new development. Where applicable, development shall include environmental enhancement of the shoreline in accordance with USACE McNary Pool Management Plan and the City's SMP Restoration Plan.
- (iii) Existing visual and physical public access opportunities shall be maintained and enhanced where feasible and appropriate, as consistent with PMC 29.01.260, Public Access.
- (iv) Aesthetic objectives should be implemented by means such as appropriate landscape features, screening, and maintenance of natural vegetative buffers.

Formatted: Indent: Left: 1.5"

**29.01.150 Recreation**

(Chiawana, Wade, Riverview, Schlagel, and Sacajawea parks, marina, boat launch areas)

(1) Purpose:

- (a) The purpose of the Recreation environment designation is to provide for water-oriented recreational uses with some commercial uses to support recreational uses while protecting existing ecological functions,

conserving existing natural resources, and restoring ecological functions in areas that have been previously degraded.

(2) Designation Criteria:

(a) The following criteria are used to consider a Recreation environment designation:

- (i) The shoreline has low to moderate ecological function with low to moderate opportunity for preservation and restoration.
- (ii) The shoreline is highly developed, and most development is recreation-related with potential for additional recreation and recreation-related commerce or is suitable and planned for water-oriented uses.
- (iii) The shoreline has existing recreation uses or moderate to high potential for public and private water-oriented recreation where ecological functions can be maintained or enhanced.
- (iv) The shoreline has limited scientific or educational value or unique historic or cultural resources values.

Formatted: Indent: Left: 1.5"

(3) Management Policies:

(a) In addition to the other applicable policies and regulations of this SMP, the following management policies shall apply:

- (i) In regulating uses in the Recreation environment, first priority should be given to water-dependent recreational uses. Second priority should be given to water-related and water-enjoyment recreational uses. Non-water-oriented uses should not be allowed, except as part of mixed-use developments with a recreation focus.
- (ii) Policies and regulations shall ensure no net loss of shoreline ecological functions as a result of new development. Consistent with the City's SMP Restoration Plan, new development may be required, as applicable, to include restoration of shoreline functions as part of project proposals.
- (iii) Where feasible, visual and physical public access should be required as provided for in PMC 29.01.260, Public Access. Recreational objectives should be enhanced by combining physical and visual public access opportunities with other recreational opportunities where feasible.
- (iv) Water-oriented commercial uses should be allowed.

Formatted: Indent: Left: 1.5"



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

#### 29.01.160 High Intensity – Industrial

(Areas landward of the levee in SR 5b, Port of Pasco, a portion of Osprey Point, industrial areas on Columbia River SR 6c, and the Snake River SR 8b)

(1) Purpose:

- (a) The purpose of the High Intensity – Industrial environment designation is to provide for public and private commercial and industrial uses that need a shoreline location for operation and are associated with water-oriented commerce and industry. Examples of uses that are appropriate in a High Intensity – Industrial shoreline environment include water-oriented commercial uses, water-supply diversion, transportation, navigation uses, barge and conveyance facilities, and similar uses. This environment may also provide for some recreation, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

(2) Designation Criteria:

- (a) Assign a High Intensity – Industrial environment designation to shoreline areas where:
  - (i) The shoreline has low to moderate ecological function with low to moderate opportunity for preservation or restoration.
  - (ii) The shoreline is highly developed, and most development is related to public utility, infrastructure, industry, or commerce with potential for additional related development, facility rehabilitation, or upgrade modifications.
  - (iii) Existing landward industrial development exists and has potential for future growth and development.
  - (iv) The operation of such uses depend on proximity to water, including high-intensity uses related to industrial production, conveyance, transportation, or navigation.
  - (v) The shoreline has limited scientific or educational value or unique historic or cultural resources values.

(3) Management Policies:

Formatted: Indent: Left: 1.5"

- (a) In addition to the other applicable policies and regulations of this SMP, the following management policies shall apply:
  - (i) In regulating uses in the High Intensity – Industrial environment, first priority should be given to water-dependent commercial and industrial uses. Second priority should be given to water-related and water-enjoyment uses that are not in conflict with the commercial and industrial uses. Non-water-oriented uses are allowed as part of mixed uses to support the water-oriented uses.
  - (ii) Policies and regulations shall ensure no net loss of shoreline ecological functions as a result of redevelopment, facility upgrades, and new development. Where applicable, development shall include environmental cleanup and restoration of the shoreline to comply in accordance with any relevant state and federal law.
  - (iii) Where feasible and appropriate, visual and physical public access provisions may be included as consistent with PMC 29.01.260, Public Access.
  - (iv) Aesthetic objectives should be implemented by means such as appropriate development siting, screening, and maintenance of natural vegetative buffers.

Formatted: Indent: Left: 1.5"

#### **29.01.170 High Intensity – Mixed Use**

(Port of Pasco Marine Terminal SR 6a and western half of Osprey Point)

- (1) Purpose:
  - (a) The purpose of the High Intensity – Mixed Use environment designation is to provide for water-oriented commercial and retail uses along with residential uses. Examples of uses that are appropriate in a High Intensity – Mixed Use shoreline environment include water-oriented commercial office and retail, residential, transportation, public access, and similar uses. This environment may also provide for some recreation, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.
- (2) Designation Criteria:
  - (a) Assign a High Intensity – Mixed Use environment designation to shoreline areas where:
    - (i) The shoreline has low to moderate ecological function with low to moderate opportunity for preservation or restoration.

Formatted: Indent: Left: 1.5"

- (ii) The shoreline is highly developed, and most development is related to public utility, infrastructure, or commerce with potential for additional related development, facility rehabilitation, or upgrade modifications.
- (iii) Existing landward development exists and has potential for future growth and development.
- (iv) The operation of such uses depends on proximity to water, including high-intensity uses related to commerce, transportation, or navigation.
- (v) The shoreline has limited to no scientific, educational, unique historic, or cultural resources values.

(3) Management Policies:

- (a) In addition to the other applicable policies and regulations of this SMP, the following management policies shall apply:
  - (i) Development in the High Intensity – Mixed-Use Environment should be managed so it enhances and maintains the shorelines for a variety of urban uses.
  - (ii) In regulating uses in the High Intensity – Mixed Use environment, first priority should be given to water-dependent commercial uses. Second priority should be given to water-related and water-enjoyment uses that are not in conflict with the commercial uses. Non-water-oriented uses are allowed as part of mixed uses to support the water-oriented uses. Residential uses should be allowed on the upper floors of developments as part of mixed uses to support the water-oriented uses.
  - (iii) Policies and regulations shall ensure no net loss of shoreline ecological functions as a result of redevelopment, facility upgrades, and new development. Where applicable, development shall include environmental cleanup and restoration of the shoreline to comply in accordance with any relevant state and federal law.
  - (iv) Where feasible and appropriate, visual and physical public access provisions may be included as consistent with PMC 29.01.260, Public Access.
  - (v) Aesthetic objectives should be implemented by means such as appropriate development siting, building design, screening, and maintenance of natural vegetative buffers.

Formatted: Indent: Left: 1.5"

## 29.01.180 Shoreline Residential

(Residential areas along the Columbia River in Reaches 1 and 2, SRs 4a and 4b, and portions of SRs 5b and 6b)

(1) Purpose:

- (a) The purpose of the Shoreline Residential environment designation is to accommodate primarily residential development and appurtenant structures, but also allow other types of development consistent with this section. An additional purpose is to provide appropriate public access and recreational uses.

(2) Designation Criteria:

- (a) Assign a Shoreline Residential environment designation to shoreline areas where:
  - (i) The shoreline has low to moderate ecological function with low to moderate opportunity for restoration.
  - (ii) The shoreline contains mostly residential development at urban densities or in clusters in more rural settings.
  - (iii) The shoreline has low to moderate potential for low-impact, passive, or active water-oriented recreation where ecological functions can be restored.

(3) Management Policies:

- (a) In addition to the other applicable policies and regulations of this SMP, the following management policies shall apply:
  - (i) Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development such as limiting lot coverage, providing adequate setbacks from the shoreline, promoting vegetation conservation, reducing the need for shoreline stabilization, and maintaining or improving water quality.
  - (ii) The scale and density of new uses and development should be compatible with the existing residential character of the area.
  - (iii) Public access and joint (rather than individual) use of recreational facilities should be promoted.
  - (iv) Access, utilities, and public services to serve proposed development within shorelines should be constructed outside

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

shorelines to the extent feasible and be the minimum necessary to adequately serve existing needs and planned future development.

- (v) Public or private outdoor recreation facilities should be provided with proposals for subdivision development and encouraged with all shoreline development, if compatible with the character of the area. Priority should be given first to water-dependent and then to water-enjoyment recreation facilities.
- (vi) Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed as part of mixed-used developments.

### Article III. General Regulations

#### 29.01.200 Shoreline Use and Modification

(1) Regulations:

- (a) PMC Table 29.01.200 (2) indicates which shoreline activities, uses, developments, and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment designation. Activities, uses, developments, and modifications are classified as follows:
- (i) “Permitted Uses” require a Shoreline Substantial Development Permit or a Shoreline Exemption.
  - (ii) “Conditional Uses” require a Shoreline Special Use Permit per PMC 29.01.750.
  - (iii) “Prohibited” activities, uses, developments, and modifications are not allowed and cannot be permitted through a Variance or Shoreline Special Use Permit.
  - (iv) General Regulations (PMC 29.01, Article III) and Shoreline Modification and Uses Regulations (PMC 29.01, Article IV) shall be considered for additional limitations.
- (b) All uses shall comply with the written provisions and regulations in this SMP and the shoreline use and modification matrix in PMC 29.01.200 (2). Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall control.

(2) General:

- (a) Accessory uses shall be subject to the same shoreline permit process as their primary use.
- (b) Authorized uses and modifications shall be allowed only in shoreline jurisdictions where the underlying zoning allows for it and subject to the policies and regulations of this SMP.
- (c) A use is considered unclassified when it is not listed in Table 29.01.200 (2) or in the Shoreline Modification and Uses Regulations (PMC 29.01, Article IV). Any proposed unclassified use may be authorized as a conditional use provided that the applicant can demonstrate consistency with the requirements of this SMP.
- (d) If any part of a proposed activity, use, modification, or development is not eligible for exemption per PMC 18.20.770 (Exemptions from Shoreline

Formatted: Indent: Left: 1.5"

Substantial Development Permits), then a Shoreline Substantial Development Permit or Shoreline Special Use Permit shall be required for the entire proposed development project.

- (e) When a specific use or modification extends into the Aquatic environment and an abutting upland environment without clear separation (e.g., private moorage facility or shoreline stabilization), the most restrictive permit process shall apply to that use or modification.
- (f) Shoreline and critical areas buffers found in PMC 29.01, Article V, apply to all uses and modifications unless stated otherwise in the regulations.
- (g) None of the allowed uses shall be conducted in the floodway in any environment designation, except as allowed by PMC 29.01.550, Flood Hazard Areas.
- (h) Administrative interpretation of these regulations shall be done according to PMC 29.01.710 (2).

(3) Shoreline Use and Modification Matrix:

**Table 29.01.200 (2): Shoreline Use and Modification Matrix for City of Pasco**

Use/Modification	Aquatic	Natural	Urban Conservancy	Public Flood Protection	Recreation	High Intensity – Industrial	High Intensity – Mixed Use	Shoreline Residential
A = Allowed with Substantial Development Permit C = Allowed with Shoreline Special Use Permit X = Prohibited NA = Not Applicable								
<b>Resource Uses</b>								
Agriculture	X	X	A <sup>1</sup>	X	X	X	X	C
Mining	X	X	C	X	X	C	C	X
<b>Boating Facilities</b>								
Boat launch (motorized boats)	A	C	C	A	A	A	A	C
Boat launch (non-motorized boats – canoe/kayak)	A	C	A	A	A	A	A	A
Marina	A	X	C	C	A	A	A	C
<b>Docks, Piers, Mooring Facilities</b>								
Private and shared moorage	A	X	A	A	A	A	A	A
Public moorage	A	X	A	A	A	A	A	C
Covered moorage	C	X	X	X	C	C	C	X

Use/Modification	Aquatic	Natural	Urban Conservancy	Public Flood Protection	Recreation	High Intensity – Industrial	High Intensity – Mixed Use	Shoreline Residential
A = Allowed with Substantial Development Permit C = Allowed with Shoreline Special Use Permit X = Prohibited NA = Not Applicable								
Commercial Development								
Water-dependent	A	X	A	A	A	A	A	A
Water-related, water-enjoyment	C	X	C	C	A	A	A	C
Non-water-oriented	C <sup>2</sup>	X	C <sup>2</sup>	C <sup>2</sup>	A <sup>2</sup>	A <sup>2</sup>	A <sup>2</sup>	X
Dredging Activities								
Dredging	A	NA	NA	NA	NA	NA	NA	NA
Dredge material disposal	C	X	C	C	C	C	C	C
Dredging and disposal as part of ecological restoration/enhancement	A	A	A	A	A	A	A	A
Fill and Excavation								
Fill Waterward of OHWM and in floodways <sup>3</sup>	C	C	C	C	C	C	C	C
Other upland fill	NA	C	A	A	A	A	A	A
Excavation	NA	C <sup>4</sup>	C	A	A	A	A	A
Industrial Uses								
Water-dependent	A <sup>5</sup>	X	X	C	X	A	A	X
Water-related, water-enjoyment	A <sup>5</sup>	X	X	C	X	A	A	X
Non-water-oriented	X	X	X	C <sup>2</sup>	X	A <sup>2</sup>	A <sup>2</sup>	X
In-water Modifications								
Breakwater	C	X	C	C	C	C	C	C
Groins and weirs	C	X	C	C	C	C	C	C
In-stream structures <sup>6</sup>	A	C <sup>4</sup>	C <sup>4</sup>	A <sup>4,6</sup>	A <sup>3</sup>	A	C	C
Recreational Development								
Water-dependent	A	A <sup>7</sup>	A <sup>7</sup>	A	A	A	A	A
Water-related, water-enjoyment (trails, accessory buildings)	C	C <sup>7</sup>	A <sup>7</sup>	A	A	A	A	A
Non-water-oriented	X	X	C <sup>2</sup>	C <sup>2</sup>	A <sup>2</sup>	A <sup>2</sup>	A <sup>2</sup>	A <sup>2</sup>
Residential Development								
	X	C	A	X	C	X	A <sup>2</sup>	A
Research and Monitoring								
Water-dependent	A	A	A	A	A	A	A	A
Water-related, water-enjoyment	A	A	A	A	A	A	A	A
Non-water-oriented	A	A	A	A	A	A	A	A



Use/Modification	Aquatic	Natural	Urban Conservancy	Public Flood Protection	Recreation	High Intensity – Industrial	High Intensity – Mixed Use	Shoreline Residential
A = Allowed with Substantial Development Permit C = Allowed with Shoreline Special Use Permit X = Prohibited NA = Not Applicable								
<b>Shoreline Habitat and Natural Systems Enhancement Projects</b>	A	A	A	A	A	A	A	A
<b>Shoreline Stabilization and Flood Control</b>								
<b>Flood Control</b>								
Modification of existing flood control facilities (Dams, Dikes and Levees), including replacement landward of existing location	A	A	A	A	A	A	A	A
New flood control facilities (Dams, Dikes and Levees)	C	C <sup>8</sup>	C	C	C	A	A	C
<b>Shoreline Stabilization – New</b>								
Hard	C	X	C	C	C	A	A	C
Soft	A	A	A	A	A	A	A	A
<b>Shoreline Stabilization – Replacement<sup>9</sup></b>	A	A	A	A	A	A	A	A
<b>Transportation</b>								
Highways, arterials, railroads (parallel to OHWM)	C	X	A	A	A	A	A	A
Secondary/public access roads (parallel to OHWM)	X	X	A	A	A	A	A	A
Roads perpendicular to the OHWM	X	C	A	A	A	A	A	A
Bridges (perpendicular to shoreline)	C	C	C	A	A	A	A	C
Existing bridges, trails, roads, and parking facilities: improvement or expansion	A	A	A	A	A	A	A	A
New parking, primary	X	X	X	A <sup>10</sup>	A <sup>10</sup>	A <sup>10</sup>	A <sup>10</sup>	X
New parking, accessory	X	Takes permit types of primary use						
<b>Utilities</b>								
Above-ground and underground utilities (parallel and across shoreline)	C	C	A	A	A	A	A	A

Notes:

1. Allowed when agricultural uses are passive, such as livestock grazing, harvesting of non-cultivated crops, or small-scale farms, or when ecological functions are degraded to the point where the land is functionally equivalent to cultivated land.
2. New uses are allowed as part of mixed use or according to PMC 29.01.340(2) for commercial development, PMC 29.01.370(2) for industrial development, or as part of an existing use according to Article VI, Existing Uses, Structures and Lots.
3. Fill and excavation waterward of the OHWM, to support ecological restoration is allowed with a Substantial Development Permit.
4. Habitat restoration and/or fish habitat enhance purposes only.

5. Allowed as part of upland industrial water-dependent or water-related uses.
  6. Construction, practices, and maintenance of facilities necessary for flood protections or Columbia Basin Project operations and associated water-dependent uses to access, pump, and convey water for project purposes to public agencies or private water users and as consistent with permit exemptions described in PMC 29.01.770.
  7. Low intensity only.
  8. Only when no other alternatives are available.
  9. Exempt for protective bulkhead common to single-family residences according to PMC 29.01.770 (4) and when consistent with PMC 29.01.440 (5) and (6).
  10. Not allowed within 50 feet of edge of riparian vegetation corridor.
- OHWM = ordinary high water mark

#### 29.01.210 Development Standards

- (1) Regulations:
  - (a) To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, development standards are provided in the table below. These standards apply to all uses and modifications unless otherwise indicated. In addition, shoreline developments shall comply with all other dimensional requirements of the PMC.
  - (b) When a development or use is proposed that does not comply with the dimensional performance standards of this SMP, not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Shoreline Variance Permit.
  - (c) No permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except for the High Intensity environment designations areas, or where the SMP does not prohibit the same, and then only when overriding considerations of the public interest will be served.
- (2) Shoreline Development Standards Matrix:

Table 29.01.210 (2): Shoreline Development Standards Matrix for City of Pasco

Use/Modification	Aquatic	Natural	Urban Conservancy	Public Flood Protection	Recreation	High Intensity – Mixed Use	High Intensity – Industrial	Shoreline Residential
Building height <sup>1</sup>	15	N/A	35	35	35	45	No limit	35
Building line setback in feet	NA		10 - 15					
Impervious surface cover – maximum (%) <sup>2</sup>	NA	5%	20%	10%	20%	50%	100%	50%
Riparian buffer width in feet <sup>2, 3, 4</sup>	NA	Conserve entire area	75	50	50	5	50	50
Trail width in feet	NA	NA	20 feet or as required by Americans with Disabilities Act regulations. Trails on private properties and not open for public use shall be up to 5-feet-wide.					

Notes:

1. According to 29.01.210 (1)(c)
  2. Accompanied by stormwater management measures/facilities, wetland protections and other protections as applicable
  3. Measured from the OHWM or top of bank as applicable.
  4. Except where roadway, paved trail, or parking area or other development that has eliminated or constrained ecological functions encroaches and then to the waterward edge of the facility maintenance area, as applicable
- NA = not applicable

## 29.01.220 Archaeological and Historic Resources

(1) The City will coordinate with tribal, state and federal agencies that maintain inventories of known significant historic, cultural and archaeological sites, and work with these agencies in the permit review process in complying with state and federal regulations and laws to protect sites and areas that have historic, cultural, and archaeological values. Existing policies also reinforce this action, as written, so no additional changes planned.

~~(1)~~(2) In all developments, whenever an archaeological area or historic site is discovered by a development in the shoreline area, the developer shall comply with applicable state and federal laws and regulations.

~~(2)~~(3) Developers and property owners shall stop work immediately and notify the local government, the office of archaeology and historic preservation, and

affected Indian tribes if archaeological resources are uncovered during excavation.

- ~~(3)~~(4) Permits issued in areas documented to contain archaeological resources shall require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

**29.01.230 Environmental Protection**

- (1) All project proposals, including those for which a Shoreline Substantial Development Permit is not required, shall comply with RCW 43.21C, the Washington State Environmental Policy Act (SEPA).
- (2) Applicants shall apply the following mitigation sequencing steps in order of priority to avoid or minimize significant adverse effects and significant ecological impacts (with (a) being top priority):
  - (a) Avoid the adverse impact altogether by not taking a certain action or parts of an action;
  - (b) Minimize adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
  - (c) Rectify the adverse impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
  - (d) Reduce or eliminate the adverse impact over time by preservation and maintenance operations;
  - (e) Compensate for the adverse impact by replacing, enhancing, or providing substitute resources or environments; and
  - (f) Monitor the adverse impact and the compensation projects and taking appropriate corrective measures.
- (3) Projects that cause significant adverse environmental impacts, as defined in WAC 197-11-794 and PMC 29.01.080, Definitions, are not allowed unless mitigated according to PMC 29.01.230 (2), above, to avoid reduction or damage to ecosystem-wide processes and ecological functions. As part of this analysis, the applicant shall evaluate whether the project may adversely affect existing hydrologic connections between streams and wetlands and either modify the project or mitigate any impacts as needed.
- (4) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the adversely impacted functions directly and in the immediate

vicinity of the adverse impact. However, alternative compensatory mitigation may be authorized within the affected drainage area or watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or resource management plans, including the Shoreline Restoration Plan, applicable to the area of adverse impact. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

**29.01.240 Shoreline Vegetation Conservation**

- (1) Vegetation conservation standards shall not apply retroactively to existing uses and developments. Vegetation associated with existing structures, uses, and developments may be maintained within shoreline jurisdiction as stipulated in the approval documents for the development.
- (2) Regulations specifying establishment and management of shoreline buffers are located in the PMC 29.01, Article V, Critical Areas. Vegetation within shoreline buffers, other stream buffers, and wetlands and wetland buffers shall be managed consistent with the PMC 29.01, Article V.
- (3) Vegetation outside of shoreline buffers, other stream buffers, and wetlands and wetland buffers and within shoreline jurisdiction shall be managed according to this PMC 29.01.230, Environmental Protection, and any other regulations specific to vegetation management contained in other sections of this SMP.
- (4) Vegetation clearing outside of wetlands and wetland and stream buffers shall be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP. Mitigation sequencing per PMC 29.01.230, Environmental Protection, shall be applied so the design and location of the structure or development minimizes native vegetation removal.
- (5) Removal of noxious weeds and/or invasive species shall be incorporated in management and mitigation plans, as necessary, to facilitate establishment of a stable community of native plants.

**29.01.250 Water Quality, Stormwater, and Nonpoint Pollution**

- (1) The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and groundwater adjacent to the site.
- (2) When applicable, all shoreline development should comply with the requirements of the latest version of Ecology's Stormwater Management Manual for Eastern Washington.
- (3) Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all shoreline development.

- (4) Potentially harmful materials, including, but not limited to, oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land. Potentially harmful materials shall be maintained in safe and leak-proof containers.
- (5) Within 25 feet of a waterbody, herbicides, fungicides, fertilizers, and pesticides shall be applied in strict conformance to the manufacturer's recommendations and in accordance with relevant state and federal laws. Further, pesticides subject to the final ruling in Washington Toxics Coalition, et al., v. EPA shall not be applied within 60 feet for ground applications or within 300 feet for aerial applications of the subject waterbodies and shall be applied by a qualified professional in accordance with state and federal law.
- (6) New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the latest version of the Ecology's Stormwater Management Manual for Eastern Washington, including the use of BMPs. Additionally, new development shall implement low-impact development techniques where feasible and necessary to fully implement the core elements of the Surface Water Design Manual.
- (7) For development activities with the potential for adverse impacts on water quality or quantity in a stream or Fish and Wildlife Habitat Conservation Area, a Critical Area Report as prescribed in the PMC 29.01, Article V, Critical Areas, shall be prepared. Such reports should discuss the project's potential to exacerbate water quality parameters, which are impaired, and for which total maximum daily loads for that pollutant have been established, and prescribe any necessary mitigation and monitoring.
- (8) All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, and approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave or boat wake splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in shoreline waterbodies.

#### **29.01.260 Public Access**

- (1) Applicants required to provide shoreline public access shall provide physical or visual access, consistent with the City of Pasco's Public Access Plan and other agencies' management plans when applicable, unless specifically exempted in this section. Examples of physical and visual access are listed below:
  - (a) Visual Access. Visual public access may consist of view corridors, viewpoints, or other means of visual approach to public waters.

- (b) Physical Access. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, park, boat or canoe and kayak launching ramp, dock area, view platform, or other area serving as a means of physical approach to public waters.
- (2) Except as provided in PMC 29.01.260 (3) below, new uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:
  - (a) The development is proposed by a public entity or on public lands;
  - (b) The nature of the proposed use, activity, or development will likely result in an increased demand for public access to the shoreline;
  - (c) The proposed use, activity, or development is not a water-oriented or other preferred shoreline use, activity, or development under the SMA such as a non-water-oriented commercial or recreational use;
  - (d) The proposed use, activity, or development may block or discourage the use of customary and established public access paths, walkways, trails, or corridors;
  - (e) The proposed use, activity, or development will interfere with the public use, activity, and enjoyment of shoreline areas or waterbodies subject to the public trust doctrine;
  - (f) The proposed use, activity, or development includes key areas for public access recommended in the City's Public Access Plan and/or Shoreline Restoration Plan; or
  - (g) The proposed activity is a publicly financed shoreline erosion-control measure (when feasible).
- (3) An applicant shall not be required to provide public access where one or more of the following conditions apply, provided such exceptions shall not be used to prevent implementing the City's Public Access Plan and other agencies' management plans. In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, the City shall consider alternative methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access:
  - (a) Proposed use, activity, or development only involves the construction of four or fewer single-family or multi-family dwellings;

- (b) Proposed use is within an area where public access is not proposed in the Public Access Plan, and the use will not increase public access demand or reduce public access;
  - (c) Proposed use is an agricultural activity;
  - (d) The nature of the use, activity, or development or the characteristics of the site make public access requirements inappropriate due to health, safety (including consistency with Crime Prevention Through Environmental Design [CPTED] principles, where applicable), or environmental hazards; the proponent shall carry the burden of demonstrating by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;
  - (e) An existing, new, or expanded road or utility crossing through shoreline jurisdiction shall not create the need for public access if the development being accessed or served by the road or utility is located outside of shoreline jurisdiction;
  - (f) The proposed use, activity, or development has security requirements that are not feasible to address through the application of alternative design features for public access such as off-site improvements, viewing platforms, and separation of uses through site planning and design;
  - (g) The economic cost of providing for public access at the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development;
  - (h) Safe and convenient public access already exists in the general vicinity, and/or the Public Access Plan shows adequate public access at the property;
  - (i) Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline and/or is deemed detrimental to threatened or endangered species under the Endangered Species Act; and
  - (j) The site is within or part of an overall development, a binding Site Plan, or a planned unit development, which has previously provided public access adequate to serve the project in full build-out through other application processes.
- (4) Public access shall be located and designed to respect private property rights, be compatible with the shoreline environment, protect ecological functions and processes, protect aesthetic values of shoreline, and provide for public safety (including consistency with CPTED principles, where applicable).



- (5) For any development where public access is not required, shared community access may be allowed if there is no existing or planned public access along the shoreline identified in the City's, and other agencies' plan. Where provided, community access shall be subject to all applicable development standards of this section. Shared community access is not required when any of the conditions under PMC 29.01.260 (3) applies.
- (6) General Performance Standards:
- (a) Uses, activities, and developments shall not interfere with the regular and established public use.
  - (b) Shoreline substantial development or conditional uses shall minimize the impact on views of shoreline waterbodies from public land or substantial numbers of residences.
  - (c) Proponents shall include within their shoreline applications an evaluation of a proposed use, activity, or development's likely adverse impact on current public access and future demands for access to the site. Such evaluation shall consider potential alternatives and mitigation measures to further the policies of this SMP and the provisions of this section.
  - (d) Public access easements, trails, walkways, corridors, and other facilities may encroach upon any buffers or setbacks required in PMC 29.01, Article V, Critical Areas, or under other provisions of this SMP, provided that such encroachment does not conflict with other policies and regulations of this SMP, and no net loss of ecological function can be achieved. Any encroachment into a buffer or setback must be as close to the landward edge of the buffer as possible.
  - (e) Public access facilities shall accommodate persons with disabilities, unless determined infeasible by the Shoreline Administrator.
- (7) Trails and Levees:
- (a) Existing improved and primitive public trails shall be maintained and enhanced.
  - (b) Shoreline in private ownership should provide public access when feasible as follows:
    - (i) Easement for public access; and
    - (ii) Physical or visual public access when feasible and when mentioned in the City's Public Access Plan, or other agencies' management plan.

Formatted: Indent: Left: 1.5"

- (c) Where public access is to be provided by dedication of public access easements along the OHWM, the minimum width of such easements shall be 20 feet.
  - (d) The total width of trail, including shoulders, shall be 20 feet maximum or as required by Americans with Disabilities Act (ADA) regulations.
  - (e) Pervious pavings are encouraged for all trails and are required for trail shoulders.
  - (f) Trails should make use of an existing constructed grade such as those formed by an abandoned rail grade, road, or utility when feasible.
  - (g) Trails shall be located, constructed, and maintained so as to avoid, to the maximum extent possible, removal and other impacts to perennial native vegetation consistent with a Habitat Management Plan.
  - (h) Trails on private properties and not open for public use shall be up to 5 feet wide.
- (8) Rights-of-way, Easements, and Streets for Public Access:
- (a) The City shall maintain public rights-of-ways or easements as a means of retaining public access on the shoreline. Proposed use, activity, or developments shall maintain public access provided by public street ends, public utilities, and rights-of-way.
  - (b) The public easements required pursuant to this section, for the purpose of providing access across or through the site to the OHWM, shall be maintained by the property owner to provide for reasonable and safe public access to the OHWM.
- (9) Where public access routes terminate, connections should be made with the nearest public street unless determined by the Shoreline Administrator to be infeasible. Public access facilities required for an approved or permitted use, activity, or development shall be completed prior to occupancy and use of the site or operation of the activity. Public access shall make adequate provisions, such as screening, buffer strips, fences, and signs, to prevent trespass upon adjacent properties and to protect the value and enjoyment of adjacent or nearby private properties and natural areas.
- (10) Off-site public access may be permitted by the City where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, compatibility, or feasibility are present. Off-site public access may include, but is not limited to, adequate access on public lands in proximity to the site, opportunity to increase public lands and access with adjoining or proximate public area, enhancing a City-designated public property (e.g., existing public recreation site, existing public access, road abutting a body

of water, or similar) in accordance with City standards, or other related measures.

(11) Signage:

- (a) Signage to be approved by the Shoreline Administrator shall be conspicuously installed along public access easements, trails, walkways, corridors, and other facilities to indicate the public's right of use and the hours of operation. Public access and interpretive displays may be provided for publicly funded restoration projects where significant ecological impacts are addressed. The proponent shall bear the responsibility for establishing and maintaining signs.
- (b) The Shoreline Administrator may require the proponent to post signage restricting or controlling the public's access to specific shoreline areas. The proponent shall bear the responsibility for establishing and maintaining such signage.

**29.01.270 Flood Hazard Reduction**

- (1) Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, as well as applicable guidelines of FEMA and PMC 29.01.550, Flood Hazard Areas, and PMC 24.20, Provisions for Flood Hazard protection.
- (2) Existing structural flood hazard reduction measures, such as levees, may be repaired and maintained as necessary to protect legal uses on the landward side of such structures. Increases in height of an existing levee, with any associated increase in width, that may be needed to prevent a reduction in the authorized level of protection of existing legal structures and uses shall be considered an element of repair and maintenance.
- (3) Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.
- (4) New development and subdivisions. Approve new development or subdivisions when it can be reasonably foreseeable that the development or use would not require structural flood hazard reduction measures within floodway during the life of the development or use consistent with the following (WAC 173-26-221(3)(c)(i)):
  - (a) Floodway:
  - (b) New development and subdivisions shall be subject to applicable floodway regulations in PMC 29.01.550, Flood Hazard Areas, and PMC 24.20, Provisions for Flood Hazard protection.

Formatted: Heading 6

- (5) New public and private structural flood hazard reduction measures shall be approved when a scientific and engineering analysis demonstrates the following:
  - (a) They are necessary to protect existing development;
  - (b) Non-structural measures such as setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;
  - (c) Adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to ensure no net loss; and
  - (d) Appropriate vegetation conservation actions are undertaken consistent with PMC 29.01.240, Shoreline Vegetation Conservation.
- (6) Flood hazard reduction measures shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the Shoreline Administrator.
- (7) New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways, unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.
- (8) In those instances when management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal, or other flood hazard agency documents governing City-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications and shall comply with all other provisions of this section and this SMP that are not strictly prohibited by the approving flood hazard agency.
- (9) The removal of gravel or other riverbed material for flood-management purposes shall be consistent with the PMC 29.01.350, Dredging and Dredge Material Disposal, and PMC 29.01.390, Mining, and be allowed only after a biological and physical conditions study shows extraction has no effect on or provides a long-term benefit to flood hazard reduction, and does not result in a net loss of ecological functions.

- (10) Roads shall be located outside the floodway, except necessary crossings, which shall be placed perpendicular to the waterbody as much as is physically feasible. New transportation facilities shall be designed so the effective base flood storage volume of the floodplain is not reduced. The applicant shall provide all necessary studies, reports, and engineering analyses, which shall be subject to review and modification by the Shoreline Administrator. If proposed transportation facilities effectively provide flood control, they shall comply with policies and regulations of this section.

## Article IV. Shoreline Modifications and Use Regulations

### 29.01.300 Agriculture

- (1) The SMP shall not require modification of or limit existing agricultural activities occurring on agricultural lands consistent with RCW 90.58.065.
- (2) For shoreline areas used for agriculture, new uses, activities, and development that are not existing and ongoing, agriculture shall be subject to the following requirements:
  - (a) Such uses, activities, and development shall be allowed or permitted in a manner to ensure maintenance of ecological functions and be consistent with the City's land use plan.
  - (b) If the new use, activity, or development is more intensive than the existing land use, no significant vegetation removal, development, or grading shall occur in the shoreline buffer without associated mitigation, except as necessary to accommodate low-intensity, water-dependent uses and public access that sustains ecological functions.
  - (c) New agricultural lands created by diking, draining, or filling wetlands shall not be allowed.
  - (d) Conversion of land for new agricultural use or activities that are not consistent with the PMC Title 25, Zoning, shall not be allowed.
- (3) A Substantial Development Permit shall be required for all agricultural developments not specifically exempted by the provisions of PMC 29.01.770 (4)(e) except for agricultural developments in Shoreline Residential environment designation where a Shoreline Special Use Permit shall be required.
- (4) SMP provisions shall apply in the following cases:
  - (a) New agricultural activities on land not meeting the definition of agricultural land;
  - (b) Expansion of agricultural activities on non-agricultural lands;
  - (c) Conversion of agricultural lands to other uses;
  - (d) Other development on agricultural land that does not meet the definition of agricultural activities; and
  - (e) Agricultural development and uses not specifically exempted by the SMA.

- (5) New non-agricultural activities proposed on agricultural lands shall be consistent with the environment designation and the Shoreline Use and Modification Matrix table (PMC 29.01.200 (2)), as well as other applicable shoreline use standards, including Commercial (PMC 29.01.340) or Residential (PMC 29.01.420).
- (6) Agricultural uses and development shall be located and designed to ensure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.
- (7) New feedlots are prohibited in shoreline areas.
- (8) Agricultural uses and activities shall prevent and control erosion of soils and bank materials within shoreline areas. They shall minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
- (9) Agricultural chemicals shall be applied in a manner consistent with BMPs for agriculture and PMC 29.01.250 (5).
- (10) New agricultural activities shall not remove existing native or non-native vegetation, except for noxious and invasive ~~but non-noxious, weed~~ vegetation, between all cropland or pasture areas and adjacent waters or wetlands pursuant to the critical areas provisions of this SMP.
- (11) Agricultural development shall conform to applicable state and federal policies and regulations.

#### 29.01.320 Boating Facilities

- (1) General Requirements:
  - (a) All boating uses, development, and facilities shall protect the rights of navigation.
  - (b) Boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions and shall meet Washington State Department of Natural Resources (WDNR) requirements and other state guidance if located in or over state-owned aquatic lands.
  - (c) Boating facilities shall be located on stable shorelines in areas where:
    - (i) Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
    - (ii) Water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities; and

Formatted: Indent: Left: 1.5"

- (iii) Water depths are adequate to prevent the structure from grounding out at the lowest low water or stoppers are installed to prevent grounding out.
- (d) Boating facilities shall not be located:
  - (i) Where new dredging will be required; or
  - (ii) Where wave action caused by boating use would increase bank erosion rates, unless no-wake zones are implemented at the facility.
- (e) Boating uses and facilities shall be located far enough from public swimming beaches and aquaculture harvest areas to alleviate any aesthetic or adverse impacts, safety concerns, and potential use conflicts.
- (f) In-water work shall be scheduled to protect biological productivity (including, but not limited to, fish runs, spawning, and benthic productivity).
- (g) Accessory uses at boating facilities shall be:
  - (i) Limited to water-oriented uses, including uses that provide physical or visual shoreline access for substantial numbers of the general public; and
  - (ii) Located as far landward as possible, while still serving their intended purposes.
- (h) Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.
- (i) Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed, or made dangerous.
- (j) Joint-use moorage with 10 or more berths is regulated under this section as a marina (Section 3 below). Joint-use moorage with fewer than 10 berths is regulated under this section as a dock or pier (see PMC 29.01.400, Piers and Docks).
- (k) All marinas and public launch facilities shall provide at least portable restroom facilities for boaters' use that are clean, well-lit, safe, and convenient for public use.

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"



- (l) Installation of boat waste disposal facilities, such as pump-outs and portable dump stations, shall be required at all marinas and shall be provided at public boat launches to the extent possible. The locations of such facilities shall be considered on an individual basis in consultation with the Washington State Department of Health, Ecology, WDNR, Washington State Parks, and WDFW, as necessary.
  - (m) All utilities shall be placed at or below dock levels or below ground, as appropriate.
  - (n) When appropriate, marinas and boat launch facilities shall install public safety signs that include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.
  - (o) Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions, decking, and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol, or other similarly toxic materials is prohibited for use in moorage facilities.
  - (p) Boating facilities in waters providing a public drinking water supply shall be constructed of untreated materials such as untreated wood, approved plastic composites, concrete, or steel (see PMC 29.01. 250, Water Quality, Stormwater, and Nonpoint Pollution).
  - (q) Vessels shall be restricted from extended mooring on waters of the state, except as allowed by state regulations and provided that a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.
- (2) Boat Launch Facilities:
- (a) Public boat launch facilities may be allowed in areas where no launching opportunities exist within close proximity of a site (within less than 3 miles distance by road on a waterbody) or as mentioned in the Public Access Plan.
  - (b) Boat launch and haul-out facilities, such as ramps, marine travel lifts and marine railways, and minor accessory buildings, shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation, and neighboring uses.

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

(3) Marinas:

- (a) Marinas shall be designed to:
  - (i) Provide flushing of all enclosed water areas;
  - (ii) Allow the free movement of aquatic life in shallow water areas; and
  - (iii) Avoid and minimize any interference with geohydraulic processes and disruption of existing shore forms.
- (b) Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any greater net impacts to shoreline ecological functions, processes, fish passage, or shore features.
- (c) Wet-moorage marinas shall locate a safe distance from domestic sewage or industrial waste outfalls.
- (d) To the maximum extent possible, marinas and accessory uses shall share parking facilities.
- (e) New marina development shall provide public access amenities such as viewpoints, interpretive displays, and public access to accessory water-enjoyment uses (e.g., restaurants).
- (f) If a marina is to include gas and oil handling facilities, such facilities shall be separate from main centers of activity in order to minimize the fire and water pollution hazards and to facilitate fire and pollution control. Marinas shall have adequate facilities and procedures for fuel handling and storage, and the containment, recovery, and mitigation of spilled petroleum, sewage, and other potentially harmful or hazardous materials and toxic products.
- (g) The marina operator shall be responsible for the collection and dumping of sewage, solid waste, and petroleum waste.

Formatted: Indent: Left: 1.5"

**29.01.330 Breakwater, Jetties, Groins, and Weirs**

- (1) Breakwaters shall be allowed in environments defined in PMC 29.01.200 (2), Shoreline Use and Modification Matrix, with a Shoreline Special Use Permit.

- (2) New, expanded, or replacement groins and weirs shall only be permitted if the applicant demonstrates that the proposed groin or weir will not result in a net loss of shoreline ecological functions and the structure is necessary for water-dependent uses, public access, shoreline stabilization, or other specific public purposes.
- (3) Groins and weirs shall require a Special Use Permit, except when such structures are installed to protect or restore ecological functions such as installation of groins that may eliminate or minimize the need for hard shoreline stabilization.
- (4) Groins and weirs shall be located, designed, constructed, and operated consistent with mitigation sequencing principles, including avoiding critical areas, as provided in PMC 29.01.230, Environmental Protection.

**29.01.340 Commercial Development**

- (1) Water-dependent commercial development shall be given priority over non-water-dependent commercial uses within shoreline environments. Secondly, water-related and water-oriented uses shall be given priority over non-water-oriented commercial uses.
- (2) Non-water-oriented commercial uses shall be allowed if they can demonstrate at least one or more of the following:
  - (a) The commercial use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the objectives of the SMA.
  - (b) Navigability is severely limited at the proposed site, including opportunities for non-motorized boating or other water-oriented uses.
  - (c) The commercial use is physically separated from the shoreline by another property, public right-of-way, or levee.
  - (d) The commercial use is farther upland than 200 feet from the OHWM; therefore, a water-oriented use is not a viable option.
- (3) Non-water-oriented uses, including, but not limited to, residential uses, may be located with water-oriented commercial uses provided:
  - (a) The mixed-use project includes one or more water-dependent uses.
  - (b) Water-dependent commercial uses, as well as other water-oriented commercial uses, have preferential locations along the shoreline.
  - (c) The underlying zoning district permits residential uses together with commercial uses.

- (d) Public access is provided and/or ecological restoration is provided as a public benefit.
- (4) Review Criteria. The City shall utilize the following information in its review of all commercial development applications:
  - (a) Whether there is a water-oriented aspect of the proposed commercial use or activity when it is located within 200 feet of the OHWM;
  - (b) Whether the proposed commercial use is consistent with the Shoreline Use and Modification Matrix (PMC 29.01.200 (2));
  - (c) Whether the application has the ability to enhance compatibility with the shoreline environment and adjacent uses;
  - (d) Whether adequate provisions are made for public and private visual and physical shoreline access; and
  - (e) Whether the application makes adequate provisions to prevent adverse environmental impacts and provide for shoreline ecological or critical area mitigation, where appropriate.
- (5) Commercial development shall be designed and maintained in a manner compatible with the character and features of surrounding areas. Developments are encouraged to incorporate low-impact development techniques into new and existing projects and integrate architectural and landscape elements that recognize the river and lake environments. The City may prescribe and modify project dimensions, screening standards, setbacks, or operation intensities to achieve this purpose.
- (6) Eating and drinking facilities and lodging facilities shall be oriented to provide views to the waterfront, when such view is available from the site.
- (7) Commercial uses shall provide for public access as a condition of approval, unless such public access is demonstrated by the proponent to be infeasible or inappropriate for the shoreline pursuant to PMC 29.01.260, Public Access.
- (8) Commercial uses shall provide for suitable measures to rehabilitate and enhance the shoreline ecology as a condition of approval.
- (9) Non-water-oriented commercial uses shall not be allowed over water in any shoreline environment.
- (10) All commercial loading and service areas shall be located upland or away from the shoreline. Provisions shall be made to screen such areas with walls, fences, and landscaping and to minimize aesthetic impacts.

- (11) The storage of potentially hazardous or dangerous substances or wastes is prohibited in the floodway or within 200 feet of the OHWM, whichever boundary extends farthest landward.
- (12) Development shall be located, designed, and constructed in a manner that ensures no net loss of shoreline ecological functions and without significant adverse impacts on other preferred land uses and public access features.

**29.01.350 Dredging and Dredge Material Disposal**

- (1) Dredging:
  - (a) New dredging shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, Fish and Wildlife Habitat Conservation Areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines, unless one or more of these impacts cannot be avoided. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions.
  - (b) Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the National Register of Historic Places and the Washington Heritage Register until such time that they have been reviewed and approved by the appropriate agency.
  - (c) Dredging techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only the amount of dredging necessary shall be permitted.
  - (d) Dredging shall be permitted only:
    - (i) For navigation or navigational access;
    - (ii) In conjunction with a water-dependent use of waterbodies or adjacent shoreline areas;
    - (iii) As part of an approved habitat improvement project;
    - (iv) To improve water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from re-entering the water; or
    - (v) In conjunction with a bridge, navigational structure, or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist.

Formatted: Indent: Left: 1.5"

- (e) Dredging for fill is prohibited except where the material is necessary for restoration of shoreline ecological functions.

(2) Dredge Material Disposal:

- (a) Upland dredge material disposal within shoreline jurisdiction is discouraged. In the limited circumstances when it is allowed, it will be permitted under the following conditions:
  - (i) Shoreline ecological functions and processes will be preserved, restored, or enhanced, including protection of surface and groundwater;
  - (ii) Erosion, sedimentation, floodwaters, or runoff will not increase adverse impacts on shoreline ecological functions and processes or property; and
  - (iii) The site will ultimately be suitable for a use allowed by this SMP.
- (b) Dredge material disposal shall not occur in wetlands, except as authorized by Special Use Permit as part of a shoreline restoration project.
- (c) Dredge material disposal within areas assigned an Aquatic environment designation may be approved only when authorized by applicable agencies, which may include the USACE pursuant to Section 404 (Clean Water Act) permits, WDFW's Hydraulic Project Approval, and/or the Dredged Material Management Program of the WDNR; and when one of the following conditions apply:
  - (i) Land disposal is infeasible, less consistent with this SMP, or prohibited by law; or
  - (ii) Disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.
- (d) Dredge materials approved for disposal within areas assigned an Aquatic environment designation shall comply with the following conditions:
  - (i) Aquatic habitat will be protected, restored, or enhanced;
  - (ii) Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;
  - (iii) Shifting and dispersal of dredge material will be minimal; and
  - (iv) Water quality will not be adversely affected.

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

- (e) When required by the Shoreline Administrator, revegetation of land disposal sites shall occur as soon as feasible in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Native species shall be used in the revegetation.
  - (f) Dredge material disposal operating periods and hours shall be limited to those stipulated by the WDFW and hours from 7:00 AM to 5:00 PM Monday through Friday, except in time of emergency as authorized by the Shoreline Administrator. Provisions for buffers at land disposal or transfer sites, in order to protect public safety and other lawful interests and to avoid adverse impacts, shall be required.
- (3) Submittal Requirements. The following information shall be required for all dredging applications:
- (a) A description of the purpose of the proposed dredging and analysis of compliance with the policies and regulations of this SMP.
  - (b) A detailed description of the existing physical character, shoreline geomorphology, and biological resources provided by the area proposed to be dredged, including:
    - (i) A site plan map outlining the perimeter of the proposed dredge area, including the existing bathymetry (water depths that indicate the topography of areas below the OHWM), and having data points at a minimum of 2-foot depth increments.
    - (ii) A Critical Areas Detailed Studies according to PMC 29.01.510 (10).
    - (iii) A mitigation plan, if necessary, to address any identified adverse impacts on ecological functions or processes.
    - (iv) Information on stability of areas adjacent to proposed dredging and spoils disposal areas.
    - (v) A detailed description of the physical, chemical, and biological characteristics of the dredge materials to be removed, including:
      - (A) Physical analysis of material to be dredged (e.g., material composition and amount, grain size, organic materials present, and source of material).
      - (B) Chemical analysis of material to be dredged (e.g., volatile solids, chemical oxygen demand, grease and oil content, and mercury, lead, and zinc content).
      - (C) Biological analysis of material to be dredged.

Formatted: Indent: Left: 1.5"

- (c) A description of the method of materials removal, including facilities for settlement and movement.
- (d) Dredging procedure, including the length of time it will take to complete dredging, method of dredging, and amount of materials removed.
- (e) Frequency and quantity of project maintenance dredging.
- (f) Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including, but not limited to:
  - (i) Dredge material disposal area;
  - (ii) Physical characteristics, including location, topography, existing drainage patterns, and surface and ground water;
  - (iii) Size and capacity of disposal site;
  - (iv) Means of transportation to the disposal site;
  - (v) Proposed dewatering and stabilization of dredged material;
  - (vi) Methods of controlling erosion and sedimentation; and
  - (vii) Future use of the site and conformance with land use policies and regulations.
- (g) Total estimated initial dredge volume.
- (h) Plan for disposal of maintenance spoils for at least a 20-year period, if applicable.
- (i) Hydraulic modeling studies sufficient to identify existing geohydraulic patterns and probable effects of dredging.

Formatted: Indent: Left: 1.5"

**29.01.360 Fill and Excavation**

- (1) Fill and excavation waterward of the OHWM, except to support ecological restoration, requires a Special Use Permit and may be permitted only when:
  - (a) In conjunction with water-dependent or public access uses allowed by this SMP;
  - (b) In conjunction with a bridge, levee, or transportation facility of statewide significance, for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist;



- (c) In conjunction with implementation of an interagency environmental cleanup plan to clean up and dispose of contaminated sediments;
  - (d) Disposal of dredged material considered suitable under, and conducted in accordance with, the Washington State Dredged Material Management Program; or
  - (e) In conjunction with any other environmental restoration or enhancement project.
- (2) Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven not feasible.
- (3) Fill upland and waterward of the OHWM, including in non-watered side channels, shall be permitted only where it is demonstrated that the proposed action will not:
- (a) Result in significant ecological damage to water quality, fish, and/or wildlife habitat;
  - (b) Adversely alter natural drainage and circulation patterns, currents, or river flows, or significantly reduce flood water capacities;
  - (c) Alter geomorphic or hydrologic processes; and
  - (d) Significantly reduce public access to the shoreline or significantly interfere with shoreline recreational uses.
- (4) Fills are prohibited in the floodway, except when approved by Special Use Permit and where required in conjunction with uses allowed by this SMP.
- (5) Fills are allowed in floodplains outside of the floodway only where they would not alter the hydrologic characteristics or flood storage capacity, or inhibit channel migration that would, in turn, increase flood hazard or other damage to life or property and are consistent with FEMA standards and PMC 24.20, Provisions for Flood Hazard Protection, and PMC 29.01.550, Flood Hazard Areas.
- (6) Fill shall be of the minimum amount and extent necessary to accomplish the purpose of the fill.
- (7) Excavation waterward of the OHWM or within wetlands shall be considered dredging for purposes of this SMP.

- (8) Fills or excavation shall not be located where shore stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be immediately stabilized and revegetated, as applicable.
- (9) Fills, beach development or nourishment, and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long-term appropriate use, including lawful access and enjoyment of scenery.

**29.01.370 Industrial Development**

- (1) Water-dependent industrial development shall be given priority over non-water-dependent commercial uses within shoreline environments. Secondly, water-related and water-oriented uses shall be given priority over non-water-oriented commercial uses.
- (2) Non-water-oriented industrial uses shall be allowed if they can demonstrate one or more of the following:
  - (a) The industrial use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the objectives of the SMA.
  - (b) Navigability is severely limited at the proposed site, including opportunities for non-motorized boating or other water-oriented uses.
  - (c) The industrial use is physically separated from the shoreline by another property, public right-of-way, or levee.
  - (d) The industrial use is farther upland than 200 feet from the OHWM; therefore, a water-oriented use is not a viable option.
- (3) Where industrial use is proposed for location on land in public ownership, public access should be required unless such public access is demonstrated by the proponent to be infeasible or inappropriate for the shoreline pursuant to PMC 29.01.260, Public Access.
- (4) Industrial uses shall provide for suitable measures to rehabilitate and enhance the shoreline ecology as a condition of approval.
- (5) Non-water-oriented industrial uses shall not be allowed over water in any shoreline environment.
- (6) All industrial loading and service areas shall be located upland or away from the shoreline, except when loading services are water-dependent such as barge facilities. Provisions shall be made to screen upland loading areas with walls, fences, and landscaping and to minimize aesthetic impacts.

- (7) The new storage of potentially hazardous or dangerous substances or wastes is prohibited in the floodway or within 200 feet of the OHWM, whichever boundary extends farthest landward.
- (8) Industrial development will be located, designed, or constructed in a manner that ensures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.

#### 29.01.380 In-stream Structures

- (1) In-stream structures are those structures placed by humans within a stream or river waterward of the OHWM that either cause or have the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, structures primarily intended for fisheries management, or other purposes. Docks, piers, and marinas are not regulated as in-stream structures in this section of the SMP. See PMC 29.01.450, Transportation: Trails, Roads, and Parking, and PMC 29.01.460, Utilities, for regulations governing road and utility crossings of streams.
- (2) General:
  - (a) The location, planning, and design of in-stream structures shall be compatible with the following:
    - (i) The full range of public interests; existing agricultural activities; water diversion operations, maintenance, and facility upgrade activities; and providing for public access to shoreline waters, desire for protection from floods, and need for preservation of historic and cultural resources.
    - (ii) Protection and preservation of ecosystem-wide processes and ecological functions, including, but not limited to, fish and wildlife, with special emphasis on protecting and restoring priority habitats and species and water resources and hydrogeological processes within the context of the hydrology and water management effects of the Columbia and Snake River operations and McNary Pool conditions, as applicable.
  - (b) New structures shall be designed, located, and constructed consistent with mitigation sequencing principles in PMC 29.01.230, Environmental Protection, and as otherwise limited by floodplain regulations found in PMC 29.01.270, Flood Hazard Reduction, and PMC 29.01.550, Flood Hazard Areas.

Formatted: Indent: Left: 1.5"

- (c) New structures shall be designed and located to minimize removal of riparian vegetation and, if applicable, to return flow to the stream in as short a distance as possible.
  - (d) In-stream structures shall provide for adequate upstream and downstream migration of resident fish, as applicable, and shall not adversely affect salmonid fish species or adversely modify salmonid fish habitat, as applicable.
  - (e) Utilities and transmission lines shall be located so as to minimize obstruction or degradation of views and comply with applicable provisions of the Utilities section of this SMP.
  - (f) Mitigation shall be required of the proponent for the loss of ecological functions and processes pursuant to PMC 29.01.230, Environmental Protection, and PMC 29.01, Article V, Critical Areas. No net loss in function, value, or acreage shall occur from such development.
- (3) Submittal Requirements. In addition to the standard requirements listed in PMC 29.01.730, Application Requirements, all permit applications for in-stream structures shall contain, at a minimum, the following additional information:
- (a) A site suitability analysis, which provides sufficient justification for the proposed site; the analysis must fully address alternative sites for the proposed development.
  - (b) Proposed location and design of primary and accessory structures, transmission equipment, utility corridors, and access/service roads.
  - (c) A plan that describes the extent and location of vegetation, which is proposed to be removed to accommodate the proposed facility, and any site revegetation plans required by this SMP.
  - (d) A hydraulic analysis prepared by a licensed professional engineer that sufficiently describes the project's effects on streamway hydraulics, including potential increases in base flood elevation, changes in stream velocity, and the potential for redirection of the normal flow of the affected stream.
  - (e) A hydrologic analysis that analyzes the project's effects on ecological processes, including delivery and rate of water and sediment, geomorphology, and recruitment of organic material.
  - (f) Biological resource inventory and analysis that sufficiently describes the project's effects on fish and wildlife resources, prepared by a qualified professional as defined in the Critical Areas section of this SMP.

- (g) Provision for erosion control, protection of water quality, and protection of fish and wildlife resources during construction.
- (h) Long-term management plans that describe in sufficient detail the provisions for protection of in-stream resources during construction and operation; the plan shall include means for monitoring its success.

**29.01.390 Mining**

- (1) Mining shall be prohibited waterward of the OHWM.
- (2) Mining facilities shall be located within shoreline jurisdiction only when no feasible sites are available outside shoreline jurisdiction and only after the applicant has demonstrated compliance with the mitigation sequencing requirements of PMC 29.01.230, Environmental Protection.
- (3) Mining in shoreline jurisdiction shall only be approved when the material proposed to be extracted is only available in a shoreline location. This determination shall be based on an evaluation of geologic factors such as the distribution and availability of mineral resources for that jurisdiction, the need for such mineral resources, and economic, transportation, and land use factors. This demonstration may rely on analysis or studies prepared for purposes of the Comprehensive Plan's designations and may be integrated with any relevant environmental review conducted under (SEPA; RCW 43.21C) or otherwise be shown in a manner consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a), as amended.
- (4) Mining facilities and associated activities shall be designed and located to prevent loss of ecological function.
- (5) Application for permits for mining operations shall be accompanied by operation plans, reclamation plans, and analysis of environmental impacts sufficient to make a determination as to whether the project will result in net loss of shoreline ecological functions and processes during the course of mining and after reclamation, and how impacts will be mitigated to achieve no net loss of these functions. Creation, restoration, or enhancement of habitat for priority species and the future productivity of the site may be considered in determining no net loss of ecological functions.
- (6) Mining proposals must be coordinated and compliant with state Surface Mining Reclamation Act requirements (RCW 78.44, WAC 332-18).
- (7) Preference shall be given to mining uses that result in the creation, restoration, or enhancement of habitat for priority species.

**29.01.400 Piers and Docks**

- (1) All boating uses, development, and facilities shall protect the rights of navigation and demonstrate no net loss of ecological functions, including providing on-site and off-site mitigation, as applicable.
- (2) 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 Boating Facilities under PMC 29.01.320, Boating Facilities.
- (3) Docks and piers with four or fewer berths or any number of mooring buoys are regulated under this section.
- (4) Piers and docks shall avoid:
  - (a) Areas where shoreline modification is required for approach and other upland facilities.
  - (b) Locations where they would adversely impact upland riparian or nearshore habitat for aquatic species.
  - (c) Locations where they would adversely affect flood channel capacity or create a flood hazard.
  - (d) Locations where water depths for vessels are not adequate without dredging.
- (5) Piers and docks, except those accessory to single-family residences, shall provide public access in accordance with PMC 29.01.260, Public Access, of this SMP and shall be located and designed such that existing public access to public shorelines is not obstructed nor made hazardous.
- (6) All in- and over-water structures shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals during the long term. Wood treated with creosote, pentachlorophenol, or other similarly toxic materials is prohibited. Docks shall be constructed of untreated materials such as untreated wood, approved plastic composites, concrete, or steel.
- (7) Vessels shall be restricted from extended mooring on waters of the state, except as allowed by state regulations and unless a lease or other permission is obtained from the state and impacts to navigation and public access are mitigated.
- (8) Boat Launches:

- (a) Boat launches accessory to single-family and multi-family residential uses are prohibited.
- (b) Private boat launches shall be allowed only for water-dependent uses and marinas and only when it is demonstrated that public boat launches will not feasibly serve the use. Rail and track systems shall be preferred over concrete ramps.
- (c) New public boat launches for general public use or expansion of public boat launches by adding launch lanes shall demonstrate that:
  - (i) Water depths are adequate to avoid the need for dredging and eliminate or minimize potential loss of shoreline ecological functions or other shoreline resources from offshore or foreshore channel dredging.
  - (ii) Adjacent residential properties will not be adversely affected by adverse proximity impacts such as noise, light and glare, or scale and aesthetic impacts. Fencing or landscape areas may be required to provide a visual screen.
  - (iii) Exterior lighting will not adversely impact aquatic species.
  - (iv) Adequate provisions are made for restroom, sewage, and solid waste disposal facilities in compliance with applicable health regulations.
  - (v) Access and parking shall not produce traffic hazards, shall not result in excessive noise or other impacts, shall minimize traffic impacts on nearby streets, and shall include adequate parking for boat trailers. Parking on public streets may be allowed for peak periods if it is demonstrated that such parking will not adversely impact through traffic or residential uses.
- (9) New moorage to serve a single-family residence may be allowed only if:
  - (a) It is consistent with the USACE McNary Pool Management Plan.
  - (b) An applicant demonstrates that existing facilities (boat launches and public and private marinas) are not reasonably available to meet demand.
  - (c) The lot does not have access to shared moorage in an existing subdivision, and there is no homeowners association or other corporate entity capable of developing shared moorage.
  - (d) In cases where a new dock or pier is approved, the City may require an agreement to share with nearby residences with water frontage and provide for expansion to serve such additional users.

Formatted: Indent: Left: 1.5"

- (10) A dock or pier serving a single-family residence shall meet the following standards:

(a) Piers and Ramps:

- (i) To prevent damage to shallow-water habitat, piers and ramps shall extend at least 40 feet perpendicular from the OHWM. In some instances and sites, it may not be practical to extend a ramp 40 feet from OHWM (for instance, where this could conflict with navigation). The City may grant exceptions on a case-by-case basis depending on documentation of specific limitation that exist and in coordination with other permitting agencies.
- (ii) Piers and ramps shall be no more than 4 feet in width.
- (iii) The bottom of either the pier or landward edge of the ramp shall be elevated at least 2 feet above the plane of OHWM.
- (iv) Grating shall cover the entire surface area (100%) of the pier or ramp. The open area of grating shall be at least 50%, as rated by the manufacturer.
- (v) Skirting shall not be placed on piers, ramps, or floats. Protective bumper material will be allowed along the outside edge of the float, as long as the material does not extend below the bottom edge of the float frame or impede light penetration.
- (vi) Shoreline concrete anchors must be placed at least 10 feet landward from the OHWM and shall be sized no larger than 4-feet-wide by 4-feet-long, unless otherwise approved by the City, National Oceanic and Atmospheric Administration (NOAA) fisheries, USACE, and WDFW. The maximum anchor height shall be only what is necessary to elevate the bottom of either the pier or landward edge of the ramp at least 2 feet above the plane of OHWM. The intent of this criterion is to limit impacts to riparian vegetation along the shoreline. The City may grant exceptions from the 10-foot landward requirement if site conditions warrant. Exceptions shall be made on a case-by-case basis and based on documentation of a specific limitation that exists and in coordination with other permitting agencies.

Formatted: Indent: Left: 1.5"

(b) Preservatives:

- (i) The dock shall be built with materials that do not leach preservatives or other materials.
- (ii) No treated wood of any kind shall be used on any overwater structure (float, pier, or ramp).

Formatted: Indent: Left: 1.5"



- (iii) No paint, stain, or preservative shall be applied to the overwater structure.
- (c) General:
  - (i) No electricity shall be provided to, or on, the overwater structure.
  - (ii) No boat lifts or watercraft lifts (e.g., Jet Ski lifts) of any type will be placed on, or in addition to, the overwater structure. The City may grant exceptions on a case-by-case basis in coordination with other permitting agencies if the applicant can demonstrate that the proposed boat lift meets the intent of the criteria to minimize structure, maximize light penetration, and maximize depth. However, these structures must meet the size criteria of the plan (total 160 square feet).
  - (iii) Shoreline armoring (i.e., bulkheads, riprap, and retaining walls) shall not occur in association with installation of the overwater structure.
  - (iv) Construction of the overwater structure shall be completed during the in-water work window (November 1 to February 28).
- (d) Piling and Float Anchors:
  - (i) Piling shall not exceed 8 inches in diameter. The intent of this criterion is not to require existing pilings to be removed, cut, or capped, but to place limits on the size of new pilings. The City may grant exceptions to allow for larger pilings on a case-by-case basis and in coordination with other permitting agencies in areas where safety considerations merit it.
  - (ii) Pilings shall be spaced at least 18 feet apart on the same side of any component of the overwater structure. The pier/ramp and float are separate components.
  - (iii) Each overwater structure shall utilize no more than four piles total for the entire project. A combination of two piles and four helical anchors may be used in place of four piles.
  - (iv) All pilings shall be fitted with devices to prevent perching by piscivorous (fish-eating) birds.
  - (v) Submerged float anchors will be constructed from concrete and shall be horizontally compressed in form, by a factor of five or more, for a minimum profile above the stream bed (the horizontal length and width will be at least five times the vertical height). A helical screw anchor may be utilized where substrate allows. The

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

owner shall be responsible for demonstrating feasibility and for proper installation such that anchor displacement does not occur.

- (vi) No in-water fill material will be allowed, with the exception of pilings and float anchors. (Note: uncured concrete or its by-products shall not be allowed.)

(e) Floats:

- (i) Float components shall not exceed the dimensions of 8-by-20 feet, or an aggregate total of 160 square feet, for all float components.
- (ii) Flotation materials shall be permanently encapsulated to prevent breakup into small pieces and dispersal in water (e.g., rectangular float tubs).
- (iii) Grating shall cover 100% of the surface area of the float(s). The open area of the grating shall be no less than 50%, as rated by the manufacturer.
- (iv) Functional grating will cover no less than 50% of the float.
- (v) Floats shall not be located in shallow-water habitat where they could ground or impede the passage or rearing of any salmonid life stage.
- (vi) Nothing shall be placed on the overwater structure that will reduce natural light penetration through the structure.
- (vii) Floats shall be positioned at least 40 feet horizontally from the OHWM and no more than 100 feet from the OHWM, as measured from the landward-most edge of the float. Adjustments to this requirement may be made on an individual basis where street compliance with this standard may present safety issues or be excessive for site conditions.
- (viii) Project construction shall cease during high-flow conditions that could result in inundation of the project area, except for efforts to avoid or minimize resource damage.

- (11) Shared residential docks and piers shall generally meet the standards for single-family docks above, except that the number of floats and the size of piers and other facilities may be increased to serve additional slips to provide one moorage space per residence served.
- (12) Docks and piers shall be set back a minimum of 10 feet from side property lines, except that joint-use facilities may be located closer to, or upon, a side property line when agreed to by contract or covenant with the owners of the

Formatted: Indent: Left: 1.5"

affected properties. This agreement shall be recorded with the County Auditor and a copy filed with the Shoreline Permit application.

(13) Moorage related to subdivision:

- (a) New subdivisions and short plats shall contain a restriction on the face of the plat prohibiting individual docks. A site for community or shared moorage shall be designated on the plat and owned in undivided interest by property owners within the subdivision. Shared moorage facilities shall be available to lots with water frontage in the subdivision. The over-water area of the dock shall be made available to other lots and the public for community access and may be required to provide public access depending on the scale of the facility.
  - (b) Approval of a shared moorage for a subdivision shall be subject to the following criteria:
    - (i) There is no reasonably available public or private moorage that can serve the moorage needs of the residences or the subdivision.
    - (ii) Shared moorage to serve new development shall be limited to the amount of moorage needed to serve lots with water frontage. One moorage space per lot may not be presumed.
    - (iii) 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.
    - (iv) Public access shall be provided in all shared docks utilizing public aquatic lands that accommodate five or more vessels.
  - (c) If a community or shared dock is not developed at the time of subdivision, a community association shall be established with the authority to levy assessments within the subdivision to construct and maintain a community dock in the future. The failure of a subdivision to develop a community or shared dock shall not affect the prohibition on individual docks.
- (14) Multi-family residences, hotels, motels, and other commercial developments proposing to provide moorage facilities shall meet the criteria for a marina. Use of the moorage must be open to the general public on the same basis as residents or occupants and shall provide public access. If approved, no more than one joint-use moorage facility may be provided for a parcel or development.
- (15) Applications for docks or piers serving single commercial or industrial enterprises shall demonstrate that:
- (a) The facility serves a water-dependent use;

Formatted: Indent: Left: 1.5"

- (b) The facility is the minimum size required to serve the proposed use, provided that provisions for expansion or future joint use may be provided;
  - (c) The facility minimizes impacts to the extent feasible. Where impacts are unavoidable, the facility mitigates impacts to navigation, aquatic habitat, upland habitat, public access to the water for recreation, fishing and similar use, and public access to publicly accessible lands below the OHWM.
- (16) Commercial or industrial moorage facilities shall demonstrate that:
- (a) The dock or pier shall be the minimum length required to serve the use.
  - (b) Access from the shore to piers or floats shall minimize water cover in order to minimize impacts to shallow-water habitat.
  - (c) Piers and ramps shall be elevated to provide the maximum feasible light penetration.
  - (d) Grating, or clear translucent material, shall be utilized to the maximum extent feasible to provide light penetration.
  - (e) Floats shall be constructed and attached so they do not ground out on the substrate.
  - (f) Pile spacing shall be the maximum feasible to minimize shading and avoid a wall effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.
  - (g) Pile diameter shall be minimized while meeting structural requirements.
  - (h) Covered structures may be permitted only to serve a water-dependent use where it is demonstrated that adequate upland sites are not feasible and the area covered is the minimum necessary to serve the use.
- (17) Barge terminals are a particular use that can include docks, piers, and industrial moorage. These facilities must demonstrate those items as provided in PMC 29.01.100 (16), but the SMP recognizes that barge terminals require specific development regulations, including hardening of the shoreline, dredging, and no setback areas.

#### **29.01.410 Recreational Development**

- (1) General Preferences:

- (a) Recreational uses and facilities shall include features that relate to access, enjoyment, and use of the City's shorelines.
  - (b) Both passive and active shoreline recreation uses are allowed.
  - (c) Water-oriented recreational uses and activities are preferred in shoreline jurisdiction. Water-dependent recreational uses shall be preferred as a first priority and water-related and water-enjoyment recreational uses as a second priority.
  - (d) Existing passive recreational opportunities, including nature appreciation, non-motorized trails, public education regarding shoreline ecological functions and processes, environmental interpretation, and native habitat protection, shall be maintained. Opportunities incorporating educational and interpretive information shall be included in design and operation of recreation facilities and nature trails when feasible.
  - (e) Preference shall be given to the development and enhancement of public access to the shoreline to increase ~~fishing, boating, and other~~ water-~~enjoyment~~related recreational opportunities.
- (2) General Performance Standards:
- (a) The potential adverse impacts of all recreational uses shall be mitigated, and adequate provisions for shoreline rehabilitation shall be made part of any proposed recreational use or development to ensure no net loss of shoreline ecological function.
  - (b) Sites with fragile and unique shoreline conditions, such as high-quality wetlands and wildlife habitats, shall be used only for non-intensive recreation activities such as trails, viewpoints, interpretive signage, and similar passive and low-impact facilities that result in no net loss of shoreline ecological function, and do not require the construction and placement of permanent structures.
  - (c) For proposed recreation developments that require the use of fertilizers, pesticides, or other toxic chemicals, the proponent shall specify the BMPs to be used to prevent these applications and resultant leachate from entering adjacent waters.
  - (d) Recreational developments shall be located and designed to preserve, enhance, or create scenic views and vistas.
  - (e) In approving shoreline recreational developments, the Shoreline Administrator shall ensure the development will maintain, enhance, or restore desirable shoreline features, including unique and fragile areas, scenic views, and aesthetic values. The Shoreline Administrator may, therefore, adjust or prescribe project

dimensions, on-site location of project components, intensity of use, screening, lighting, parking, and setback requirements.

- (3) Signs indicating the public's right to access shoreline areas shall be installed and maintained in conspicuous locations at all points of access.
- (4) Recreational developments shall provide facilities for non-motorized access to the shoreline, such as pedestrian and bicycle paths, and equestrian access, as applicable. New motorized vehicle access shall be located and managed to protect riparian, wetlands, and shrub-steppe habitat functions and value.
- (5) Proposals for recreational developments shall include a landscape plan indicating how native, self-sustaining vegetation is incorporated into the proposal to maintain ecological functions. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of permitted structures or facilities and shall be consistent with provisions of PMC 29.01.240, Shoreline Vegetation Conservation, and PMC 29.01, Article V, Critical Areas.
- (6) Accessory uses and support facilities such as maintenance facilities, utilities, and other non-water-oriented uses shall be consolidated and located in upland areas outside shoreline, wetland, and riparian buffers unless such facilities, utilities, and uses are allowed in shoreline buffers based on the regulations of this SMP.
- (7) The placement of picnic tables, playground apparatus, and other similar minor components within the floodways shall be permitted, provided such structures are located and installed in such a manner as to prevent them from being swept away during a flood event.
- (8) Recreational facilities shall make adequate provisions, such as screening, landscaping buffer strips, fences, and signs, to prevent trespass on adjacent properties and to protect the value and enjoyment of adjacent or nearby private properties and natural areas, as applicable.
- (9) Recreational facilities or structures are only allowed to be built over water when they provide public access or facilitate a water-dependent use and shall be the minimum size necessary to accommodate the permitted activity.
- (10) Recreational developments shall make adequate provisions for:
  - (a) On-site and off-site access and, where appropriate, equestrian access;
  - (b) Appropriate water supply and waste disposal methods; and
  - (c) Security and fire protection.

- (11) Structures associated with recreational development shall not exceed 35 feet in height, except for as noted in PMC 29.01.210, Development Standards, when such structures document that the height above 35 feet will not obstruct the view of a substantial number of adjoining residences.
- (12) Recreational development shall minimize effective impervious surfaces in shoreline jurisdiction and incorporate low-impact development techniques.

**29.01.420 Residential Development**

- (1) Single-family residential development is a preferred use when it is developed in a manner consistent with SMP provisions.
- (2) Residential development shall be located and constructed to result in no net loss of shoreline ecological function.
- (3) Lots for residential use shall have a maximum density consistent with City's Comprehensive Plan and zoning regulations.
- (4) Accessory uses and structures shall be located outside of the riparian buffer, unless the structure is or supports a water-dependent use. Storage structures to support water-related uses are not water-dependent uses, and therefore, shall be located outside of the riparian buffer.
- (5) All residential development shall be located or designed in such a manner as to prevent measurable degradation of water quality from stormwater runoff. Adequate mitigation measures shall be required and implemented where there is the reasonable potential for such adverse effect on water quality.
- (6) New shoreline residences and appurtenant structures shall be sufficiently set back from steep slopes and shorelines vulnerable to erosion so structural improvements, including bluff walls and other shoreline stabilization and flood-control structures, are not necessary to protect proposed residences and associated uses.
- (7) New floating residences and overwater residential structures shall be prohibited in shoreline jurisdiction.
- (8) New, multi-unit residential development and the subdivision of land into five or more lots, shall make adequate provisions for public access consistent with the regulations set forth in PMC 29.01.260, Public Access.
- (9) New residential development shall connect with sewer systems, as required by the PMC.
- (10) All new residential development shall meet the vegetation management provisions contained in PMC 29.01.240, Shoreline Vegetation Conservation, and PMC 29.01.530, Fish and Wildlife Habitat Conservation Areas.

- (11) Residential development clustering may be required by the Shoreline Administrator where appropriate to minimize ecological and visual impacts on shorelines, including minimization of impacts on shoreline vegetation consistent with PMC 29.01.240, Shoreline Vegetation Conservation.

**29.01.430 Shoreline Habitat and Natural Systems Enhancement Projects**

- (1) Shoreline restoration and enhancement activities designed to restore or enhance shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species, and shall be given priority.
- (2) Shoreline restoration, enhancement, and mitigation activities designed to create dynamic and sustainable ecosystems to assist the City in achieving no net loss of shoreline ecological functions are preferred.
- (3) Restoration activities shall be carried out in accordance with an approved Shoreline Restoration Plan and in accordance with the provisions of this SMP.
- (4) To the extent possible, restoration, enhancement, and mitigation activities shall be integrated and coordinated with other parallel natural resource management efforts, such as those identified in the Shoreline Restoration Plan.
- (5) Habitat creation, expansion, restoration, and enhancement projects may be permitted subject to required state or federal permits when the applicant has demonstrated that:
  - (a) The primary objective is clearly restoration or enhancement of the natural character or ecological function of the shoreline;
  - (b) The project will not adversely impact spawning, nesting, or breeding in Fish and Wildlife Habitat Conservation Areas;
  - (c) Upstream or downstream properties or Fish and Wildlife Habitat Conservation Areas will not be adversely affected;
  - (d) Water quality will not be degraded;
  - (e) Flood storage capacity will not be degraded;
  - (f) Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated; and
  - (g) The project will not interfere with the normal public use of the navigable waters of the state.



**29.01.440 Shoreline Stabilization**

- (1) Shoreline restoration and enhancement activities designed to restore shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species, and shall be given priority.
- (2) New shoreline stabilization for new development is prohibited unless it can be demonstrated that reasonable use of a lot or parcel legally created prior to the effective date of this SMP is precluded without shore protection or is necessary to restore ecological functions or hazardous substance remediation.
- (3) Proposed designs for new or expanded shoreline stabilization shall be designed in accordance with applicable state guidelines, must use the most current scientific and technical information available, must document that alternative solutions are not feasible or do not provide sufficient protection, must demonstrate that future stabilization measures would not be required on the project site or adjacent properties, and be certified by a qualified professional.
- (4) Land subdivisions and lot line adjustments shall be designed to ensure future development of the newly created lots will not require structural stabilization for subsequent development to occur.
- (5) New or expanded structural shoreline stabilization is prohibited except when necessity is demonstrated consistent with the requirements of WAC 173-26-231(3). Necessity is demonstrated through conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within 3 years as a result of shoreline erosion caused by wind/wave action or other hydraulic forces and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.
- (6) Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures or public facilities, including roads, bridges, railways, irrigation and utility systems from erosion caused by stream undercutting or wave action. The existing shoreline stabilization structure will be removed from the shoreline as part of the replacement activity. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structure unless the facility was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. Proposed designs for new or expanded shore stabilization shall be in accordance with applicable state guidelines and certified by a qualified professional.
- (7) Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as 3 years, the analysis may

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

- (8) Shoreline stabilization projects that are part of a fish habitat enhancement project meeting the criteria of RCW 77.55.181, will be authorized through a Shoreline Exemption. Stabilization projects that are not part of such a fish enhancement project will be regulated by this SMP.
- (9) Small-scale shoreline stabilization projects (e.g., tree planting projects or other minimally intrusive enhancements) shall be reviewed by a qualified professional to ensure the project has been designed using the most current scientific and technical information available.
- (10) Large-scale or more complex shoreline stabilization projects (e.g., projects requiring fill or excavation, placing objects in the water, or hardening the bank) shall be designed by a qualified professional using the most current scientific and technical information available. The applicant may be required to have a qualified professional oversee construction or construct the project.
- (11) New stabilization structures, when found to be necessary, will implement the following standards:
  - (a) Limit the size of the project to the minimum amount necessary;
  - (b) Include measures to ensure no net loss of shoreline ecological functions; and
  - (c) Use biotechnical bank stabilization techniques unless those are demonstrated to be infeasible or ineffective before implementing “hard” structural stabilization measures.

#### **29.01.450 Transportation: Trails, Roads, and Parking**

- (1) New or expanded motor vehicle and rail transportation facilities shall not be located within shoreline jurisdiction, unless:
  - (a) The proponent demonstrates that no feasible upland alternatives exist;
  - (b) The project represents the minimum development necessary to serve another specific, localized, and permitted shoreline use; or
  - (c) In the case of a water crossing, the proponent demonstrates the project is necessary to further a substantial public interest.
- (2) When new roads or road expansions are unavoidable in shoreline jurisdiction, proposed transportation facilities shall be planned, located, and designed to achieve the following:

- (a) Meet mitigation sequencing provisions of PMC 29.01.230 Environmental Protection;
  - (b) Avoid adverse impacts on existing or planned water-oriented uses;
  - (c) Set back from the OHWM to allow for a usable shoreline area for vegetation conservation and any preferred shoreline uses unless infeasible;
  - (d) Minimize grading, vegetation clearing, and alterations of the natural topography; and
  - (e) Use BMPs for preventing erosion and degradation of surface water quality.
- (3) Improvements to existing motor vehicle and rail transportation facilities shall not interfere with pedestrian and bicycle access and shall, whenever possible, provide for expansion and enhancement of pedestrian and bicycle transportation facilities.
  - (4) Transportation facilities and services for motor vehicles and rail shall utilize existing transportation corridors whenever possible.
  - (5) The development, improvement, and expansion of pedestrian and bicycle transportation facilities are allowed within all environments. Such transportation facilities are a preferred use wherever they are compatible with the natural character, resources, and ecology of the shoreline.
  - (6) Pedestrian and bicycle transportation facilities shall be designed, located, and constructed consistent with the policies and regulations for public access as provided in PMC 29.01.260, Public Access, of this SMP. Linkage among shoreline parks, recreation areas, and public access points is encouraged, when feasible.
  - (7) Parking facilities are not a water-dependent use and shall only be permitted in the shoreline jurisdiction to support an authorized use where it can be demonstrated to the satisfaction of the Shoreline Administrator that there are no feasible alternative locations away from the shoreline. Parking as a primary use shall not be allowed within 50 feet of edge of riparian vegetation corridor. Accessory parking facilities shall be subject to the same permit type as the primary use.
  - (8) Accessory parking facilities shall be planned to avoid or minimize adverse effects on unique or fragile shoreline features and shall not result in a net loss of shoreline ecological functions or adversely affect existing or planned water-dependent uses. Parking facilities shall be located upland of the principal structure, building, or development they serve, and preferably outside of shoreline jurisdiction, 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 parking facilities in shoreline jurisdiction, such as 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.
- (10) All forms of transportation facilities shall, wherever feasible, consolidate water crossings and make joint use of rights-of-way with existing or planned future primary utility facilities and other transportation facility modalities.
- (11) Improvements to all existing transportation facilities shall provide for the reestablishment and enhancement of natural vegetation along the shoreline when appropriate.
- (12) If located in the side yard or waterward side of a structure, loading areas shall be screened from view of pedestrians on either side of the waterway. The visual screen shall comprise a fence or wall with trees and shrubs consistent with the City's landscape standards.
- (13) Shoreline crossings and culverts shall be designed to minimize adverse impacts on riparian and aquatic habitat and shall allow for fish passage. See PMC 29.01.530, Fish and Wildlife Habitat Areas, for regulations governing crossings of non-shoreline streams located in shoreline jurisdiction.
- (14) Trails shall be designed consistent with public access requirements in PMC 29.01.260, Public Access.

#### **29.01.460 Utilities**

- (1) Non-water-oriented utility production and processing facilities and transmission facilities are permitted in shoreline jurisdiction only if no practical upland alternative or location exists. New primary utility production and processing facilities or parts of those facilities, such as power plants, solid waste storage, or disposal facilities that are non-water-oriented, should not be permitted within shoreline jurisdiction unless no other options are feasible.
- (2) The principal uses permitted by this section include sewage collection, holding, transfer and treatment pipelines, tanks, structures, containment facilities, and buildings. Water diversion, treatment and conveyance facilities are also

considered principle uses. Accessory facilities are also permitted, including, but not limited to:

- (a) Plant monitoring and control facilities and on-site administrative offices;
  - (b) Plant access and logistical facilities such as storage areas and material handling ramps and facilities, including utility delivery (electrical and communication) facilities;
  - (c) Plant security and safety features such as fences and signage; and
  - (d) Other accessory or auxiliary uses or features, necessary to effective and efficient operation of the plant, which cannot feasibly be located outside the shoreline jurisdiction.
- (3) Expansion of existing primary utility facilities within shoreline jurisdiction must demonstrate:
- (a) The expansion is designed to protect adjacent shorelands from erosion, pollution, or other environmentally detrimental factors during and after construction.
  - (b) The project is planned to fit existing natural topography as much as practical and avoid alteration of the existing natural environment.
  - (c) Debris, overburden, and other construction waste materials shall be disposed of so as to prevent erosion or pollution of a waterbody.
- (4) New primary utility facilities and expansions shall include provisions to control the quantity and quality of surface water runoff to natural waterbodies, using BMPs to retain natural flow rates. A maintenance program to ensure continued proper functioning of such new facilities shall be required.
- (5) Applications for installation of utility facilities other than water-dependent facilities within the High Intensity Environment Designation shall include the following:
- (a) Reason why the utility facility must be in shoreline jurisdiction;
  - (b) Alternative locations considered and reasons for their elimination;
  - (c) Location of the same, similar, or other utility facilities in the vicinity of the proposed project;
  - (d) Proposed method(s) of construction;
  - (e) Plans for reclamation of areas to be disturbed during construction;
  - (f) Landscape plans;

- (g) Methods to achieve no net loss of ecological function and minimize clearing of native vegetation; and
  - (h) Consistency with City's plans for utilities, where such plans exist.
- (6) Applications for installation of utility facilities shall include the following:
- (a) Proposed method(s) of construction;
  - (b) Plans for reclamation of areas to be disturbed during construction;
  - (c) Landscape plans; and
  - (d) Methods to achieve no net loss of ecological function and minimize clearing of native vegetation.
- (7) Where feasible, utilities shall be consolidated within a single easement and utilize existing rights-of-way. Any utility located within property owned by the utility, which must of necessity cross shoreline jurisdiction, shall be designed and operated to reserve the option of general public recreational usage of the right-of-way in the future. This option shall be exercised by the public only where:
- (a) The public will not be exposed to dangers from the utility equipment; and
  - (b) The utility itself will not be subjected to unusual risks of damage by the public.
- (8) In areas where utilities must cross shoreline jurisdiction, they shall do so by the most direct route feasible, unless such a route would negatively affect an environmentally critical area, obstruct public access to the shoreline, or interfere with the navigability of a waterbody regulated by this SMP. See PMC 29.01.530, Fish and Wildlife Habitat Areas, for regulations governing crossings of non-shoreline streams located in shoreline jurisdiction.
- (9) Utility facilities shall be designed and located in a manner that protects scenic views and minimizes adverse aesthetic impacts.
- (10) New utilities, which must be constructed across shoreline jurisdiction in previously undisturbed areas, must submit a mitigation plan demonstrating the restoration of the shoreline to at least its existing condition. Upon completion of utility installation or maintenance, any disturbed areas shall be regraded to be compatible with the natural terrain of the area and revegetated with appropriate native plants to prevent erosion.
- (11) Outside of the High Intensity Environment Designations, all underwater pipelines or those paralleling the waterway transporting liquids potentially injurious to aquatic life or water quality shall be prohibited, unless no other

alternative exists to serve a public interest. In those limited instances where permitted, shut-off valves shall be provided at both sides of the waterbody except for public sanitary sewers of a gravity or siphon nature. In all cases, no net loss of ecological functions shall be maintained.

- (12) Where utilities cannot cross a shoreline waterbody via a bridge or other existing water crossing, the utilities shall evaluate site-specific habitat conditions and demonstrate whether impacts can be mitigated to avoid negatively impacting substrate, or whether utilities will need to be bored beneath the waterbody such that the substrate is not disturbed. Construction of pipelines placed under aquatic areas shall be placed in a sleeve to avoid the need for excavation in the event of a failure in the future.
- (13) Minor trenching<sup>1</sup> to allow the installation of necessary underground pipes or cables is allowed if no alternative, including boring, is feasible, and if:
  - (a) Impacts on fish and wildlife habitat are avoided to the maximum extent possible.
  - (b) The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.
  - (c) Appropriate BMPs are employed to prevent water quality impacts or other environmental degradation.
- (14) Utility installation and maintenance operations shall be conducted in a manner that does not negatively affect surface water quality or quantity. Applications for new utility projects in shoreline jurisdiction shall include a list of BMPs to protect water quality.

---

<sup>1</sup> Minor trenching is defined as up to 2.5 feet wide and 6 feet deep, and less than 100 feet.

## Article V. Critical Areas

### 29.01.500 Critical Areas

- (1) Purpose:
  - (a) The purpose of SMP Article V, Critical Areas, is to conserve and protect the values and functions of environmentally sensitive and hazardous areas, which contribute to public health, safety, and welfare of the community without violating any citizen's constitutional rights to the use of property as required by the GMA of 1990 (Chapter 17, Laws of 1990) and the SMA (RCW 90.58) through the application of the most current scientific and technical information available.
  - (b) The City shall regulate in shoreline jurisdiction all uses, activities, and development within, adjacent to, or likely to affect one or more critical areas.
- (2) Critical Areas. Critical areas of concern to the City of Pasco within the shoreline jurisdiction include:
  - (a) Wetlands;
  - (b) Fish and wildlife habitats;
  - (c) Aquifer recharge areas;
  - (d) Flood hazard areas; and
  - (e) Geologically hazardous areas such as those subject to landslide and steep slope failures, erosion, seismic events, mine collapse, and volcanic hazards.
- (3) Critical Area Categories. The City finds that these critical areas fall into one or both of the following categories:
  - (a) Critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the City and its residents; and
  - (b) Critical areas pose potential threat to human safety or to public and private property.
- (4) Intent. The intent of this section is to implement the provisions of the GMA, SMA, and the Comprehensive Plan by managing development in harmony with critical areas. This section seeks to:



- (a) Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, or flooding;
  - (b) Protect unique, fragile and valuable elements of the environment, including fish and wildlife and their habitats;
  - (c) Mitigate unavoidable impacts to environmentally sensitive areas by regulating alterations in and adjacent to critical areas;
  - (d) Prevent cumulative adverse environmental impacts to water quality and wetlands;
  - (e) Meet the requirements of the Washington GMA (RCW 36.70A), and SMA (RCW 90.58) with regard to the protection of critical area lands;
  - (f) Coordinate environmental review and permitting of proposals to avoid duplication and delay of desirable actions.
- (5) Most Current Scientific and Technical Information:
- (a) WAC 173.26.201(2)(a) requires the City to identify and assemble the most current, accurate, and complete scientific and technical information available regarding the development of policies related to identification of and policies governing management recommendations for critical areas.
  - (b) Critical Area Reports, mitigation plans, and decisions to permit the alteration of critical areas within the shoreline jurisdiction shall rely on the most current scientific and technical information to ensure the protection of the ecological functions and values of critical areas, and areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat.
  - (c) The most current scientific and technical information that is consistent with criteria established in WAC 173.26.201(2)(a), and may include the following:
    - (i) Critical area maps;
    - (ii) Maps and reference documents in the City of Pasco's Inventory, Characterization, and Analysis Report, as applicable;
    - (iii) U.S. Geological Survey (USGS) topographic quadrangle maps;
    - (iv) Aerial photographs;
    - (v) Soil Survey of Franklin County, Washington, by the U.S. Department of Agriculture, Soil Conservation Service;

Formatted: Indent: Left: 1.5"

- (vi) National Wetland Inventory maps; and
- (vii) WDFW Priority Habitats and Species maps.

#### **29.01.510 General Provisions**

- (1) Authorizations Required. Prior to fulfilling the requirements of this section, the City shall not grant any approval or permission to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement including, but not limited to, the following:
  - (a) Building Permit;
  - (b) Special Use Permit;
  - (c) Shoreline Special Use Permit;
  - (d) Shoreline Substantial Development Permit;
  - (e) Shoreline Variance Permit;
  - (f) Binding Site Plan;
  - (g) Short Subdivision;
  - (h) Subdivision;
  - (i) Zoning Variance Permit;
  - (j) Rezone; or
  - (k) Any other adopted permit or required approval not expressly exempted by this section
- (2) Jurisdiction:
  - (a) This section shall apply to all lands, all land uses and development and all structures and facilities in City's shoreline jurisdiction. This section shall apply to every person, individual, firm, partnership, corporation, governmental agency or other entity that owns, leases, or administers land within the City's shoreline jurisdiction.
  - (b) This section provides regulations for land use and development in and adjacent to critical areas within the City's shoreline jurisdiction.

(3) Allowed uses:

- (a) All allowed activities shall use reasonable methods supported by the most current scientific and technical information or accepted BMPs with the least amount of potential impact to the critical areas. Any incidental damage to or alteration of a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense. This includes, but is not limited to, access ways or paths, vegetation removal or damage beyond a reasonable work zone, and grading and clearing not essential to the ongoing operation of the site's use. Uses allowed under this section do not give permission to destroy a critical area or ignore risk from natural hazards. See PMC 29.01.770, Exemptions from Shoreline Substantial Development Permits, for provisions for exempted activities within shoreline jurisdiction. Allowed uses include:

- (i) Modification of any existing structure that does not alter the structure to further intrude into a critical area or established buffer and does not increase risk to life and property. Modification includes construction of tenant improvements, fences, decks, patios, driveways, signs, and accessory structures.
- (ii) Operation and maintenance of any system of existing dikes, levees, ditches, drains, or other facilities which were created, developed or utilized primarily as a part of a drainage or diking system. Operation and maintenance does not necessarily include the expansion or new construction of drainage ditches and related facilities. See PMC 29.01.770, Exemptions from Shoreline Substantial Development Permits, for additional provisions that may be applicable.
- (iii) Removal of hazardous trees and vegetation and, when necessary, measures to control or prevent a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act; RCW 76.09, provided that no vegetation shall be removed from a critical area or its buffer without approval from the City.
- (iv) Activities involving artificially created wetlands or streams intentionally created from non-wetland sites, including, but not limited to: grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features, except those features that provide critical habitat for anadromous fish and those features that were created as mitigation for projects or alterations subject to the provisions of this section.
- (v) Passive recreational activities, including, but not limited to, fishing, bird watching, boating, swimming, hiking, and use of

Formatted: Indent: Left: 1.5"

nature trails, provided the activity does not alter the critical area or its buffer.

- (vi) 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 soil, planting crops, or changing existing topography, water conditions or water sources.
  - (vii) Educational and scientific research.
  - (viii) Existing and ongoing agricultural activities and related development activities, provided no alteration of flood storage capacity or conveyance, or increase in the extent or nature of impact to a critical area or its buffer occurs, beyond that which has occurred prior to the effective date of this section.
- (b) If the proposed activity meets any of the listed allowed uses, including any BMP and/or restoration requirements, completion of a critical area checklist or further Critical Area Review is not required.

(4) Critical Area Review:

- (a) The City of Pasco shall complete a Critical Area Review prior to granting any shoreline permit approval for a development or other alteration on a site that is found to likely include, or be adjacent to, or have significant impact upon one or more critical areas, unless otherwise provided in this section. As part of this review, the Shoreline Administrator shall verify the information submitted by the applicant, and:
  - (i) Confirm the extent, nature, and type of any critical areas identified and evaluate any required Critical Area Detailed Study;
  - (ii) Determine whether the development proposal conforms to the purposes and performance standards of this section;
  - (iii) Assess impacts on the critical area from the activities and uses proposed and determine whether any proposed alterations to, or impacts upon, critical areas are necessary and unavoidable in order to meet the objectives of the proposal; and
  - (iv) Determine if any required mitigation plans proposed by the applicant are sufficient to protect the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this section.
- (b) The applicant shall be responsible for the initiation, preparation, submission, and expense of all required assessments, studies, plans, reconnaissance, and other work in support of the application. The

Formatted: Indent: Left: 1.5"

applicant shall provide the City with digital copies and paper copies of reports/studies and maps prepared for the reports/studies, including all geotechnical studies and mapping.

- (5) Minimum Standards. Any proposed activity shall be conditioned as necessary to mitigate impacts to critical areas to ensure no net loss of ecological function and conform to the performance standards required by this section and PMC 29.01.230, Environmental Protection.
- (6) Concurrent Requirements. Lands characterized by one or more critical area feature may also be subject to other regulations established by this section due to overlap or multiple functions of some critical areas. In the event of conflict between regulations, the most restrictive regulations shall apply.
- (7) Critical Area Checklist:
  - (a) For any proposed activity not found to be exempt under PMC 29.01.510 (3), or PMC 29.01.770, Exemptions from Shoreline Substantial Development Permits, the applicant shall complete a critical area checklist on forms provided by the City. The checklist must be submitted to the Shoreline Administrator prior to consideration of any permit request that requires a Critical Area Review, as described in PMC 29.01.510, General Provisions.
  - (b) Following receipt of the checklist, the Shoreline Administrator will conduct a review to determine whether there are any critical area indicators present that may be impacted by the proposal.
- (8) Initial Determination:
  - (a) If the Shoreline Administrator determines the site potentially includes, or is adjacent to critical areas, or the proposed project could have significant adverse impacts on critical areas, the Shoreline Administrator shall notify the applicant that a Critical Area Detailed Study is required for each of the indicated critical area types.
  - (b) If the review of the checklist and critical area resources do not indicate that critical areas are included or adjacent to the ~~activity, or~~ activity or could suffer probable significant adverse impacts from the activity, then the Shoreline Administrator shall rule that the Critical Area Review is complete. The determination shall be noted on the checklist.
  - (c) The applicant shall acknowledge in writing that a determination regarding the apparent absence of one or more critical areas by the Shoreline Administrator is not intended to be an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received. If the applicant wants greater assurance of the accuracy of the Critical Area

Review determination, the applicant may hire a qualified consultant to provide such assurances.

(9) Waivers from Critical Area Detailed Study Requirements:

- (a) The Shoreline Administrator may waive the requirement for a Critical Area Detailed Study if there is substantial evidence that:
  - (i) There will be no alteration of the critical areas or required buffer;
  - (ii) The development proposal will not impact the critical area in a manner contrary to the purpose, intent and requirements of this section; and
  - (iii) The performance standards required by this section will be met.
- (b) In making the determination, the Shoreline Administrator may use any of the most current scientific information and the Critical Area reference maps and/or inventories identified in PMC 29.01.500 (6).
- (c) Notice of the findings substantiating the waiver will be attached to the permit and filed with the application records.

Formatted: Indent: Left: 1.5"

(10) Critical Area Detailed Studies:

- (a) Preliminary Reconnaissance. If a Critical Area Detailed Study is determined to be necessary, then a data review and field reconnaissance shall be performed by a qualified consultant for that type of critical area. If the Detailed Study reveals no critical area is present, then a statement of this finding along with supporting evidence shall be prepared by the consultant and submitted to the City. An approved finding of the lack of a critical area shall satisfy all of the requirements for a Detailed Study.
- (b) Minimum Requirements. If the data review and field reconnaissance reveals that a critical area is present, then a complete Detailed Study shall be prepared by the applicant and submitted to the City. At a minimum, a Critical Area Detailed Study shall comply with the specific criteria in PMC 29.01.520 through PMC 29.01.560, and clearly document:
  - (i) The boundary and extent of the critical area;
  - (ii) The existing function, value, and/or hazard associated with the critical area;
  - (iii) The probable impact upon the function, value, and/or hazard associated with the critical area from the project as proposed; and
  - (iv) A mitigation plan including the items in PMC 29.01.510 (13).

Formatted: Indent: Left: 1.5"

- (c) Limitations to Study Area. If the applicant, together with assistance from the City, cannot obtain permission for access to properties adjacent to the project area, then the Critical Area Detailed Study may be limited accordingly.
- (d) Preparation and Determination of Completeness. The Critical Area Detailed Study shall be prepared by a qualified consultant for the type of critical area or areas involved. The qualified consultant may consult with the Shoreline Administrator prior to or during preparation of the Critical Area Detailed Study to obtain City approval of modifications to the contents of the study where, in the judgment of the qualified consultant, more or less information is required to adequately address the critical area impacts and required mitigation.

If the Critical Area Detailed Study is found to be incomplete, the applicant shall be notified and the Critical Area Review process shall be suspended pending correction of the inadequacies. Upon receipt of a complete Critical Area Detailed Study a final determination is to be rendered.

- (11) Final Determination. Following submission of a completed Detailed Study, the Shoreline Administrator will review the Detailed Study and make a determination, based on the Critical Area Detailed Study and any other available and appropriate materials. The Shoreline Administrator's determination will address the adequacy of the project, as proposed, to mitigate any effects it may have on critical areas that are included within or adjacent to the project site. The Shoreline Administrator may elect to request assistance from state resource agency staff if necessary. In addition, the Shoreline Administrator will assess the adequacy of the project proposal's compliance with the applicable performance standards and this SMP. Notice of this determination shall be attached to the permit and the Critical Area Review shall be completed.
  - (a) A Favorable Determination. A determination that the project proposal adequately mitigates its impacts on the critical areas and complies with the applicable performance standards satisfies the provisions of this Title only. It should not be construed as endorsement or approval of the original or any subsequent permit applications.
  - (b) An Unfavorable Determination. When a project proposal is found to not adequately mitigate its impacts on the critical areas and/or not comply with applicable performance standards, the Shoreline Administrator shall prepare written notice of the reasons for the finding of non-compliance. Such notice shall identify the critical area impacted and the nature of the impact.

Following notice of a determination from the Critical Area Review that the proposed activity does not adequately mitigate its impacts on the critical areas

and/or does not comply with applicable performance standards, the applicant may request consideration of a revised mitigation plan. If the revision is found to be substantial and relevant to the Critical Area Review, the Shoreline Administrator may re-open the Critical Area Review and make a new determination based on this revised mitigation plan.

- (12) Completion of the Critical Area Review. If at any time prior to completion of the public input process on associated permits or approvals, the City receives new evidence that a critical area may be included in, adjacent to, or significantly impacted by the proposed activity, then the City shall re-open the Critical Area Review process and shall require whatever level of Critical Area Review and mitigation as indicated by the evidence. Once the public input process on all associated permits or approvals is completed and the record is closed, then the City's determination regarding critical areas shall be final, unless appeal is filed as per PMC 29.01.810, Appeals.
- (13) Mitigation Standards:
  - (a) All proposed critical area alterations shall include mitigation sufficient to maintain the function and values of the critical area or to prevent risk from a hazard posed by a critical area. Mitigation of one critical area impact should not result in unmitigated impacts to another critical area. Mitigation includes avoiding, minimizing, or compensating for adverse impacts to critical areas or their buffers. The preferred sequence of mitigation is defined in PMC 29.01.230, Environmental Protection.
  - (b) Possible mitigation techniques include, but are not limited to, buffers, setbacks, limits on clearing and grading, creation of artificial wetlands, streambank stabilization, modified construction methods, and BMPs for erosion control and maintenance of water quality.
  - (c) All proposed mitigation shall be documented in a mitigation plan included as an element of the Critical Area Detailed Study. The mitigation plan shall include a description of the following:
    - (i) The proposed mitigation;
    - (ii) How the proposed mitigation will maintain the critical area function, any ongoing monitoring and/or inspection that may be required to ensure the adequacy of the proposed mitigation, and an evaluation of the anticipated effectiveness of the proposed mitigation;
    - (iii) Any remedial measures that may be required, depending on the outcome of that ongoing monitoring and/or inspection;
    - (iv) Any required critical expertise necessary to install, monitor, or inspect the proposed mitigation; and

Formatted: Indent: Left: 1.5"



- (v) Any bonding or other security required to insure performance and/or maintenance of the proposed mitigation.

(14) Buffers:

- (a) Buffers have, in some cases, been determined to be necessary to protect critical areas and their functions. Where specific buffers are identified, those buffers are deemed "required" or "standard" buffers. See Table 29.01.210 (2) for riparian buffers and PMC 29.01.520 for wetland buffers.
  - (i) Except as otherwise specified herein, required buffers shall be retained in their pre-existing condition. If a project does not propose any alteration of buffers or of the associated critical area, then subject to the following provision, no additional mitigation will be required to protect the critical area. Additional mitigation beyond the required buffer shall be required if the Shoreline Administrator finds that, based on unique features of the critical area or its buffer or of the proposed activity, the required buffers will not adequately protect the function of the critical area or prevent risk of hazard from the critical area and that additional mitigation or buffering is required to protect the critical area function or to prevent risk of hazard from the critical area.
  - (ii) The buffer shall be marked prior to any site alteration, and boundary markers shall be visible, durable, and permanently affixed to the ground. The boundary markers shall remain until all activity is completed and a final site inspection is completed.
  - (iii) An 8-foot-minimum setback shall be required from the buffer area for any construction of impervious surface area greater 120 square feet. Clearing, grading, and filling within this setback shall only be allowed when the applicant can demonstrate that vegetation within the buffer will not be damaged.
  - (iv) Where temporary buffer disturbance or alteration has or will occur in conjunction with regulated activities, revegetation with appropriate native vegetation shall be required and completed 1 month before the end of the growing season.
  - (v) Normal non-destructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide a view corridor, shall not be subject to these buffer requirements. Enhancement of a view corridor shall not be construed to mean excessive removal of trees or vegetation that impairs views. See also PMC 29.01.240, Shoreline Vegetation Conservation.

Formatted: Indent: Left: 1.5"

- (b) If the applicant proposes to reduce required buffers or to alter the required buffer, then the applicant shall demonstrate why such buffer modification, together with any alternative mitigation proposed in the Critical Area Detailed Study, is sufficient to protect the critical area function or to prevent risk of hazard from the critical area.
  - (c) The Critical Area Detailed Study shall make adequate provision for long-term buffer protection. Periodic inspection of the buffers may be required if deemed to ensure long-term buffer protection.
- (15) **Bonding.** The Shoreline Administrator shall have the discretion to require a bond, which will ensure compliance with the mitigation plan if activity related to the protection of the critical area(s) (e.g., monitoring or maintenance) or construction is scheduled to take place after the issuance of the City's permit. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable standby letter of credit guaranteed by a financial institution with terms and conditions acceptable to the City Attorney. The bond shall be in the amount of 125% of the estimated cost of the uncompleted actions or construction or the estimated cost of restoring the function and values of the critical area that are at risk, whichever is higher. The term of the bond shall be 2 years, or until the additional activity or construction has been completed and passed the necessary inspections, whichever is longer.
- (16) **Incentives.** The following incentives are intended to minimize the burden to individual property owners from application of the provisions of this section:
  - (a) **Open Space.** Any property owner on whose property a critical area or its associated buffer is located and who proposes to put the critical area and buffer in a separate tract may apply for current use property tax assessment on that separate tract through Franklin County, pursuant to RCW 84.34.
  - (b) **Conservation Easement.** Any person whose property contains an identified critical area or its associated buffer may place a conservation easement over that portion of the property by naming a beneficiary under RCW 64.04.130 as beneficiary of the conservation easement. This conservation easement may be in lieu of a separate critical areas tract that qualifies for open-space tax assessment described in PMC 29.01.510 (16). The purpose of the easement shall be to preserve, protect, maintain, restore, and limit future use of the property affected. The terms of the conservation easement may include prohibitions or restrictions on access.
- (17) **Critical Areas Mapping.** The approximate location and extent of critical areas in the City of Pasco may include the following:
  - (a) Critical areas shown on the critical areas map adopted as a part of the Comprehensive Plan.

- (b) Other mapping resources provided in PMC 29.01.500 (6).

Mapping resources are to be used only as guides to alert the user to the possible distribution, location, and extent of critical areas. Mapping shall be utilized as a source of generalized information and shall not be considered as regulatory standards or substitute for site-specific assessments. The actual type, extent, and boundaries of critical areas shall be determined in the field by a qualified specialist according to the procedures, definitions, and criteria established in this section.

#### **29.01.520 Wetlands**

- (1) Purpose. The purpose of this section is to promote public health and welfare by instituting local measures to preserve naturally occurring wetlands that exist in the City's shoreline jurisdiction for their associated value. These areas may serve a variety of vital functions, including, but not limited to, flood storage and conveyance, water quality protection, recharge and discharge areas for groundwater, erosion control, sediment control, fish and wildlife habitat, recreation, education, and scientific research.
- (2) Wetland Designation. Under SMP Article V, Critical Areas, wetlands shall be designated in accordance with the definitions, methods, and standards set forth in the approved 1987 USACE Wetlands Delineation Manual, as amended and its regional applicable regional supplements, as amended (The Arid West Final Regional Supplement was last updated in 2008 at time of SMP adoption). All areas within the City of Pasco meeting the criteria identified in this delineation manual, regardless of whether or not these areas have been formally identified as wetlands, are hereby designated as wetland critical areas and are subject to the provisions of SMP Article V, Critical Areas.
- (3) Wetland Rating (Classification):
  - (a) The wetlands rating system is intended to differentiate between wetlands based on their sensitivity to disturbance, rarity, irreplaceability, and the functions and values they provide. A general description of wetland categories and the rationale for each category is provided in PMC 29.01.080, Definitions (see "Wetland Categories").
  - (b) Wetlands shall be rated (classified) as either Category I, Category II, Category III, or Category IV according to the criteria listed in this section. This rating system is based on the Washington Department of Ecology's Washington State Wetlands Rating System for Eastern Washington-Ecology Publication #14-06-030 (October 2014), as amended. The most current copy of this document should be used in classifying wetlands and developing wetland mitigation plans.

- (4) Wetland Indicators. The following indicators of wetland presence shall be used by the Shoreline Administrator to determine if a Wetland Detailed Study is needed:
- (a) Listing in the City's Critical Areas Mapping resources as a wetland or resources listed in PMC 29.01.500 (6);
  - (b) Documentation, through references state or federal handbooks and or reports by qualified experts;
  - (c) A finding by a qualified wetland biologist that an appropriate hydrologic, soil, and/or vegetation regime indicative of a wetland exists; or
  - (d) A reasonable belief by the Shoreline Administrator that a wetland may exist, supported by a site visit and subsequent consultation with a qualified wetland biologist.
- (5) Wetland Detailed Study. Requirements. If a Wetland Detailed Study is required, it shall meet the following requirements in addition to the Basic Requirements identified in PMC 29.01.510 (10):
- (a) The Wetland Detailed Study shall be completed by a qualified wetlands biologist.
  - (b) The extent and boundaries of any wetlands shall be determined in accordance with the methodology specified under PMC 29.01.520 (2). The boundary shall be surveyed and mapped at a scale no smaller than 1 inch equals 200 feet.
  - (c) A wetland community description and wetland classification shall be completed, consistent with the requirements of PMC 29.01.520 (2).
  - (d) A written values and functions assessment shall be completed and address site hydrology (source of water in the system, water quality, flood and stream flow attenuation, seasonality of presence of water, if applicable), soils, vegetation, fish and wildlife habitat, recreation, and aesthetics.
  - (e) The site plan for the proposed activity shall be mapped at the same scale as the wetland map, showing the extent of the proposed activity in relationship to the surveyed wetland, including a detailed narrative describing the project, its relationship to the wetland, and its potential impact on the wetland.
  - (f) The proposed mitigation plan shall follow the general mitigation plan requirements described in PMC 29.01.510 (13), and address how the activity has been mitigated to avoid and minimize adverse impacts to wetlands. The Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans, Department of Ecology

Publication # 06-06-011b, March 2006 (or any succeeding documents) should be used as a basis for mitigation.

- (6) Wetland Detailed Study Exemptions. In addition to activities exempted in PMC 29.01.510 (3) and PMC 29.01.770, the following activities shall not require a Wetland Detailed Study, provided they are conducted using accepted BMPs as determined by the Shoreline Administrator:
  - (a) Conservation or preservation of soil, water, vegetation, fish, or other wildlife.
- (7) Basic Wetland Requirement. A regulated wetland or its required buffer can only be altered if the Wetland Detailed Study shows that:
  - (a) The proposed alteration does not degrade the quantitative and qualitative functions of the wetland and results in not net loss of ecological function, or
  - (b) Any degradation can be adequately mitigated to protect the wetland function. Any proposed alteration approved pursuant to this section shall include mitigation necessary to mitigate the impacts of the proposed alteration on the wetland as described in this section and PMC 29.01.510 (13).
- (8) Required Buffers:
  - (a) Buffer Requirements. The following buffers shall be required for wetlands based on the rating of the wetland as outlined in PMC 29.01.520 (3) and land-use intensity described in Table 29.01.520 (8)(b).
    - (i) Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland.

Formatted: Indent: Left: 1.5"

**Table 29.01.520 (8)(a): Wetland Buffer Width Requirements**

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
<b>Category IV Wetlands (For wetlands scoring less than 16 points for all functions)</b>		
Score for all three basic functions is less than 16 points	Low – 25 feet Moderate – 40 feet High – 50 feet	No recommendations at this time
<b>Category III Wetlands (For wetlands scoring 16 to 18 points or more for all functions)</b>		

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
Moderate level of function for habitat (score for habitat 5 to 7 points) *If wetland scores 8 to 9 habitat points, use Category II buffers	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
Score habitat for 3 to 4 points	Low – 40 feet Moderate – 60 feet High – 80 feet	No recommendations at this time
<b>Category II Wetlands (For wetlands scoring 19 to 21 points or more for all functions or having the “Special Characteristics” identified in the rating system)</b>		
High level of function for habitat (score for habitat 8 to 9 points)	Low – 100 feet Moderate – 150 feet High – 200 feet	Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 to 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
High level of function for water quality improvement and low for habitat (score for water quality 8 to 9 points; habitat less than 5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Riparian forest	Buffer width to be based on score for habitat functions or water quality functions	Riparian forest wetlands need to be protected at a watershed or subbasin scale Other protection based on needs to protect habitat and water quality functions
Not meeting above characteristic	Low – 50 feet Moderate – 75 feet High – 100 feet	No recommendations at this time
Vernal pool	Low – 100 feet Moderate – 150 feet High – 200 feet  Or develop a regional plan to protect the most important vernal pool complexes; buffers of vernal pools outside protection zones can then be reduced to: Low – 40 feet Moderate – 60 feet High – 80 feet	No intensive grazing or tilling of wetland

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
<b>Category I Wetlands (For wetlands scoring 22 points or more for all functions or having the “Special Characteristics” identified in the rating system)</b>		
Wetlands of High Conservation Value	Low – 125 feet Moderate – 190 feet High – 250 feet	No additional surface discharges to wetland or its tributaries No septic systems within 300 feet of wetland Restore degraded parts of buffer
High level of function for habitat (score for habitat 8 to 9 points)	Low – 100 feet Moderate – 150 feet High – 200 feet	Restore degraded parts of buffer Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 to 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	No recommendations at this time
High level of function for water quality improvement (8 to 9 points) and low for habitat (less than 5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Not meeting above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet	No recommendations at this time

Note:

See Table 29.01.520 (8)(b) in this section, or as amended by Ecology, for types of land uses that can result in low, moderate, and high impacts to wetlands.

- (b) The Land Use Intensity table describes the types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands.

**Table 29.01.520 (8)(b): Land Use Intensity Table**

Level of Impact from Proposed <del>Change in</del> Land Use	Types of Land Use <del>Based on Common Zoning Designations</del>
High	<ul style="list-style-type: none"> <li>Commercial</li> <li>Urban</li> <li>Industrial</li> <li>Institutional</li> <li><del>Retail sales</del> <u>Mixed-use developments</u></li> </ul>

Level of Impact from Proposed Change in Land Use	Types of Land Use <del>Based on Common Zoning Designations</del>
	<ul style="list-style-type: none"> <li>Residential (more than one unit/acre)</li> <li><del>Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.)</del></li> <li><del>High-intensity recreation (e.g., golf courses and ball fields)</del></li> <li><del>Hobby farms</del> Roads: federal and state highways, including on-ramps and exits, state routes, and other roads associated with high-impact land uses</li> <li>Railroads</li> <li>Agriculture with high-intensity activities (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling, raising and maintaining animals, etc.)</li> <li>Open/recreational space with high-intensity uses (golf courses, ball fields, etc.)</li> <li>Solar farms (utility scale)</li> </ul>
Moderate	<ul style="list-style-type: none"> <li>Residential (1 unit/acre or less)</li> <li>Roads: Forest Service roads and roads associated with moderate impact land uses</li> <li>Open/recreational space with moderate-intensity uses (parks with paved trails or playgrounds, biking, jogging, etc.)</li> <li>Agriculture with moderate-intensity uses (orchards, hay fields, light or rotational grazing, etc.)</li> <li><del>Moderate-intensity open space (e.g., parks with biking and jogging)</del></li> <li><del>Paved driveways and gravel driveways serving three or more residences</del></li> <li><del>Paved trails</del></li> <li>Utility corridor or right-of-way <del>us</del>shared by <del>one or more</del>several utilities and including access/maintenance</li> <li><del>Wind farm</del>road</li> </ul>
Low	<ul style="list-style-type: none"> <li><del>Forestry (cutting of trees only)</del></li> <li><del>Low-intensity open space (e.g., hiking, bird-watching, and preservation of natural resources)</del></li> <li><del>Unpaved trails</del></li> <li><del>Utility corridor without a maintenance road and little or no vegetation management</del></li> <li>Natural resource lands (forestry/silviculture—cutting of trees only, not land clearing and removing stumps)</li> <li>Open/recreational space with low-intensity uses (unpaved trails, hiking, birdwatching, etc.)</li> <li>Utility corridor without a maintenance road and little or no vegetation management</li> <li>Cell tower</li> </ul>



- (c) Measuring Buffer Dimensions. Wetland buffers shall be measured horizontally in a landward direction from the delineated wetland edge.
- (d) Wetlands Adjacent to Slopes. Where lands adjacent to a wetland display a continuous slope of 25% or greater, the buffer shall include such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer shall be extended to a point 25 feet beyond the top of the bank of the sloping area.

(9) Buffer Width Modifications:

- (a) Administrative Buffer Width Averaging. The required buffer widths established in this SMP may be modified by the Shoreline Administrator for a development on existing legal lots of record in place at the time of adoption of this SMP.
  - (i) Buffer widths may be modified in accordance with the provisions of this section only where the applicant demonstrates all of the following:
    - (A) Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
    - (B) The designated buffer area contains variations in sensitivity to ecological impacts due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;
    - (C) The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;
    - (D) The minimum buffer width at its narrowest point shall not be less than ~~76~~5% of the required buffer width established under this SMP; and
    - (E) The buffer width averaging does not result in a net loss of ecological function.

Formatted: Indent: Left: 1.5"

(b) Wetland Buffer Reductions.

- (i) For wetlands that score moderate or high for habitat function, the width of the buffer can be reduced if the following criteria are met:
  - (A) A relatively undisturbed vegetative corridor of at least 100 feet in width is protected between the wetland and any other priority habitats; and

Formatted: Indent: Left: 1.5"

- (B) The protected area is preserved by means of easement, covenant or other measure; and
- (C) Measures identified in PMC 29.01.520 (9)(b)(ii)(A) are taken to minimize the impact of any proposed land use.
- (ii) For wetlands that score low for habitat function, the buffer width can be reduced to that required for moderate land-use impacts by applying the following measures to minimize the impacts of the proposed land uses:
  - (A) Wetland buffers may be administratively modified based on reducing the intensity of impacts from land uses. Buffer widths required for high-intensity land uses may be reduced to those required for moderate land use intensity under the following conditions:
    - Direct lights away from the wetland and buffer.
    - Locate activities that that generate noise away from the wetland and buffer.
    - Establish covenants limiting use of pesticides within 200 feet of a wetland.
    - Implement integrated pest-management programs.
    - Infiltrate or treat, detain and disperse runoff into buffer.
    - Post signs at the outer edge of the critical area or buffer to clearly indicate the location of the critical area according to the direction of the City.
    - Plant buffer with native vegetation appropriate for the region to create screens or barriers to noise, light, and human intrusion, as well as to discourage domestic animal intrusion.
    - Use low-impact development where appropriate.
    - Establish a permanent conservation easement to protect the wetland and the associated buffer.
- (10) Compensatory Mitigation. As a condition of any development permit or approval, which results in on-site loss or degradation of regulated wetlands and/or wetland buffers, the City may require the applicant to provide compensatory mitigation to ensure no net loss of ecological function and to

Formatted: Indent: Left: 1.5"

offset impacts resulting from the actions of the applicant. The following standards shall apply:

- (a) The mitigation shall be conducted on property that shall be protected and managed to avoid further loss or degradation. The applicant shall provide for long-term preservation of the mitigation area.
- (b) Mitigation ratios shall be consistent with the following entitled Washington State Department of Ecology manual; Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version ~~24~~, Publication #~~21-06-00306-06-011a~~, ~~April 2021~~ ~~March 2006~~) and Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans (Version 1, Publication #06-06-011b, March 2006). See Table 29.01.520 (13), Wetland Mitigation Ratios (for Eastern Washington).
- (c) Mitigation shall follow an approved mitigation plan and reflect the restoration/creation ratios specified above.
- (d) The applicant shall enter in-to a wetland mitigation monitoring agreement with the City as a condition of approval. The monitoring program will continue for at least 8 years from the date of plant installation. Monitoring will continue for 10 years where woody vegetation (forested or shrub wetlands) is the intended result.

These communities take at least 8 years after planting to reach 80% canopy closure. Reporting for a 10-year monitoring period shall occur in years 1, 2, 3, 5, 7, and 10. Monitoring in all instances shall be bonded. Reporting results of the monitoring data to the City is the responsibility of the applicant.

- (e) Mitigation shall be completed prior to or concurrently with, wetland loss, or, in the case of an enforcement action, prior to continuation of the activity by the applicant.
- (f) On-site mitigation is generally preferred over off-site mitigation.
- (g) Off-site mitigation allows replacement of wetlands away from the site on which the wetland has been impacted by a regulated activity. Off-site mitigation will be conducted in accordance with the restoration/creation ratios described above and in Table 29.01.520 (13), Wetland Mitigation Ratios (for Eastern Washington). Off-site mitigation shall occur within the same drainage basin as the wetland loss occurs, provided that Category IV wetlands may be replaced outside of the watershed if there is no reasonable alternative. Off-site mitigation may be permitted where:
  - (i) On-site mitigation is not feasible due to hydrology, soils, or other factors.

Formatted: Indent: Left: 1.5"

- (ii) On-site mitigation is not practical due to probable adverse impacts from surrounding land uses or would conflict with a federal, state, or local public safety directive.
    - (iii) Potential functional values at the site of the proposed restoration are greater than the lost wetland functional values.
  - (h) When the wetland to be altered is of a limited functional value and is degraded, mitigation shall be of the wetland community types needed most in the location of mitigation and those most likely to succeed with the highest functional value possible.
  - (i) Except in the case of cooperative mitigation projects in selecting mitigation sites, applicants shall pursue locations in the following order of preference:
    - (i) Filled, drained, or cleared sites that were formerly wetlands and where appropriate hydrology exists.
    - (ii) Upland sites, adjacent to wetlands, if the upland is significantly disturbed and does not contain a mature forested or shrub community of native species, and where the appropriate natural hydrology exists.
  - (j) Where out-of-kind replacement is accepted, greater restoration/creation ratios may be required.
  - (k) Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and plants. Construction shall be timed to ensure grading and soil movement occurs during the dry season, and planting of vegetation shall be specifically timed to the needs of target species.
- (11) Innovative Mitigation:
- (a) One or more applicants, or an organization may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:
    - (i) Creation of one or several larger wetlands may be preferable to many small wetlands;
    - (ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
    - (iii) The group demonstrates that long-term management of the mitigation area will be provided; and

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

- (iv) There is a clear potential for success of the proposed mitigation at the identified mitigation site.
  - (b) Wetland mitigation and banking programs shall be consistent with the provisions outlined in the Department of Ecology's publication Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Publication #06-06-011a, March 2006) and Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans (Version 1, Publication #06-06-01b, March 2006).
  - (i) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
    - (A) The bank is certified under WAC 173-700;
    - (B) The Shoreline Administrator determines 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.
  - (ii) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
  - (iii) 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.
- (12) Mitigation Exceptions. Requirements for mitigation do not apply when a wetland alteration is intended exclusively for the enhancement or restoration of an existing regulated wetland, and the proposal will not result in a loss of wetland function and value, subject to the following conditions:
  - (a) The enhancement or restoration project shall not be associated with a development activity.
  - (b) A restoration plan shall be prepared and approved as described in PMC 29.01.520 (12).
- (13) Restoration. Restoration is required when a wetland or its buffer has been altered in violation of SMP, Article V, Critical Areas. The following minimum performance standards shall be met for the restoration of a wetland, provided that if it can be demonstrated by the applicant that greater functional and habitat values can be obtained, these standards may be modified:

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

- (a) The original wetland configuration should be replicated, including depth, width, and length at the original location.
  - (b) The original soil types and configuration shall be replicated.
  - (c) The wetland, including buffer areas, shall be replanted with native vegetation, which replicates the original species, sizes, and densities.
  - (d) The original functional values shall be restored, including water quality and wildlife habitat functions.
  - (e) Required replacement ratios are shown in the Re-establishment or Creation column of Table 29.01.520 (13), Wetland Mitigation Ratios (for Eastern Washington).
  - (f) A restoration plan shall be prepared and approved prior to commencement of restoration work. Such a plan shall be prepared by a qualified wetland biologist and describe how the proposed actions meet the minimum requirements described above. The Shoreline Administrator shall, at the applicant's expense, seek expert advice in determining the adequacy of the Restoration Plan. Inadequate plans shall be returned to the applicant for revision and resubmittal.
- (14) Wetland mitigation ratios are provided in the Table 29.01.520 (13).

Table 29.01.520 (13): Wetland Mitigation Ratios (for Eastern Washington)

Category and Type of impacted Wetland Impacts	Re-establishment or Creation <sup>3</sup>	Rehabilitation Only <sup>4</sup>	Re-establishment or Creation and Preservation Rehabilitation <sup>4,5†</sup>	Enhancement Only <sup>5†</sup>
All Category IV	1.5:1	3:1	6:1 R/C and 1:1 RH	6:1
All Category III	2:1	4:1	8:1 R/C and 2:1 RH	8:1
All other Category II	3:1	6:1	12:1 R/C and 4:1 RH	12:1
Category I based on score for functions	4:1	8:1	16:1 R/C and 6:1 RH	16:1
Category I Natural Heritage site	Not considered possible <sup>2</sup>	6:1 Rehabilitation of a Natural Heritage site	R/C not considered possible <sup>2</sup>	Case-by-case

Formatted Table

Formatted: Superscript

## Notes:

1. These ratios are based on the assumption that 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, while 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.

2. Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

<sup>3</sup>Ratios reflect the amount of compensation: amount of impact.

<sup>2</sup>The category of impacted wetland is based on scores for functions. Compensation ratios in this table generally do not apply when impacts involve a wetland whose category is based on special characteristics. Compensation ratios and options for impacts to these types of wetlands are discussed in Chapters 6B.5.1 to 6B.5.8.

<sup>3</sup>If proposing to combine re-establishment or creation with other methods of compensation, see Chapter 6B.4.2.

<sup>4</sup>All proposed preservation sites need to meet the preservation criteria listed in Chapter 5.2.3.1.

<sup>5</sup>Applicants proposing preservation only or enhancement only should also provide a Credit-Debit analysis. The Credit-Debit analysis uses the Credit-Debit Method and includes the following: 1) Scoring Form(s) for wetland(s) impacted (i.e., debits); 2) Scoring Form(s) for wetland(s) proposed as compensation (i.e., credits); 3) Debit Worksheet(s); 4) Credit Worksheet(s); and 5) Summary of Credits and Debits.

## Reference:

Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10, [April 2021 March 2006](#). Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version [24](#)). Washington State Department of Ecology Publication #[21-06-00306-06-011a](#). Olympia, Washington.

E = Enhancement  
R/C = Re-establishment or Creation  
RH = Rehabilitation

## 29.01.530 Fish and Wildlife Habitat

- (1) Purpose. The purpose of this section is to provide a framework to evaluate the development, design, and location of buildings to ensure critical fish and wildlife habitat with the shoreline jurisdiction is preserved and protected, in order to ensure no net loss of ecological function and avoid habitat fragmentation. These regulations seek to protect critical habitat areas so populations of endangered, threatened, and sensitive species are given consideration during the shoreline development review process.
- (2) Fish and Wildlife Habitat Area Designation and Classification Criteria:
  - (a) Fish and Wildlife Habitat Areas shall include the following:

**Table 29.01.530 (2)(a): Criteria for Classification of Fish and Wildlife Habitat Areas**

Habitat Area Characteristic/Classification	Source
(1) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association	WDFW, USFWS (NOAA)
(2) Naturally occurring under 20 acres in size and their submerged aquatic beds that provide fish or wildlife habitat	Ecology
(3) Waters of the state classified as fish and wildlife habitats under the Growth Management Act, RCW 36.70A, and WAC 365-190-080(5)(c)(v) <ul style="list-style-type: none"> <li>• Columbia River</li> <li>• Snake River</li> </ul>	WDNR, Ecology, WDFW, affected Indian tribes
(4) State Natural Area Preserves and Natural Resource Conservation Areas	WDNR
(5) Habitat areas of local importance as determined by resolution of the City Council.	WDFW

- (b) All areas within the City of Pasco's shoreline jurisdiction meeting one or more of these criteria are hereby designated as critical areas and are subject to the provisions of this section.
- (c) Mapping information sources for identification of fish and wildlife habitat conservation areas include, but are not limited to:



- (i) WDFW Priority Habitat and Species maps.
- (ii) Wetlands mapped under the National Wetland Inventory by the U.S. Department of Interior; USFWS.
- (iii) WDFW/WDNR, Washington Rivers Inventory System maps.
- (iv) Maps and reference documents in the City of Pasco SMP Inventory, Analysis, and Characterization Report, as applicable.

Formatted: Indent: Left: 1.5"

- (3) Fish and Wildlife Habitat Area Rating. Fish and Wildlife Habitat Areas shall be rated as Primary or Secondary according to the criteria in this section.

**Table 29.01.530 (3): Classification by Fish and Wildlife Areas**

Habitat Area	Classification	Source
Primary Habitats	Primary habitats are those areas that are valuable to fish and wildlife and support a wide variety of species due to an undisturbed nature, diversity of plant species, and structure, presence of water, or size, location or seasonal importance and which meet any of the following qualifying criteria:	
	(1) The documented presence of species listed by the federal government or State of Washington as endangered, threatened, or sensitive.	WDFW, USFWS (NOAA)
	(2) Those rivers identified as "Shorelines of the State" under the City of Pasco Shoreline Master Program, and streams within the shoreline jurisdiction.	Ecology
	(3) Those wetlands identified as Category I Wetlands, as defined in this title.	PMC 29.01.520 (3) Wetland Rating (Classification)
Secondary Habitat	Secondary habitats are those which are valuable to wildlife and support a wide variety of species due to: an undisturbed nature, diversity of plant species, structure, presence of water, or size, location or seasonal importance but do not meet any of the qualifying criteria listed in items 1 through 3 in the Primary Habitats above.	

- (4) Determination of Need for Fish and Wildlife Habitat Area Detailed Study:
  - (a) A Detailed Study shall be required for any activity that is within 200 feet of a Fish and Wildlife Habitat Area.
  - (b) Due to the sensitive nature of certain species, the applicant shall notify the City if the proposed activity will occur within 660 feet (1/8 of a mile) of a Fish and Wildlife Habitat Area; the City may then contact appropriate agencies and determine if a -Detailed Study should be prepared, based on the sensitivity of the site.

- (c) The Shoreline Administrator shall require a Detailed Study of a habitat area if the following indicators are present:
  - (i) The area is listed in the City's Critical Areas Map as a Fish and Wildlife Habitat Area;
  - (ii) Documentation exists that shows that any of the classification criteria listed in PMC 29.01.530 (3) are present, based on any of the references listed in this section;
  - (iii) A qualified fish and wildlife biologist finds that habitat conditions appropriate to meet one or more of the classification criteria listed above in PMC 29.01.530 (3) exist; or
  - (iv) The Shoreline Administrator possesses a reasonable belief that a Fish and Wildlife Habitat may exist. Such reasonable belief shall be supported by a site visit and subsequent consultation with a qualified fish and wildlife biologist.
- (5) Fish and Wildlife Habitat Area Detailed Study Requirements. If a Fish and Wildlife Habitat Area Detailed Study is required, it shall include and/or meet the following requirements in addition to the Basic Requirements identified in PMC 29.01.510 (10).
  - (a) The Detailed Study shall be completed by a qualified Fish and Wildlife biologist with expertise in assessing the relevant species and habitats. Evidence of qualifications shall be provided with the Detailed Study.
  - (b) The site plan and map submitted shall be of a scale no smaller than 1 inch = 200 feet. The site plan shall indicate all Fish and Wildlife Habitat Critical Areas, as determined by the criteria in PMC 29.01.530 (3), and shall include the area within 200 feet of the subject property. The applicant may prepare the site plan; however, it is subject to review by the qualified fish and wildlife biologist. The extent and boundaries of the habitat shall be determined by the qualified fish and wildlife biologist.
  - (c) A habitat description shall be included, including a habitat rating as described in PMC 29.01.530 (3), and a statement of functions and values providing information on the species in question and the associated plant and animal communities. A complete list of species and special habitat features shall be included.
  - (d) A regulatory analysis shall be included, including a discussion of any federal, state, tribal, and/or local requirements or special management recommendations developed specifically for species and/or habitats located on the site.

Formatted: Indent: Left: 1.5"

- (e) The proposed mitigation plan shall address how the proposed development activity has been mitigated to avoid and minimize adverse impacts to the habitat and shall follow the general mitigation plan requirements described in PMC 29.01.530 (13).
- (f) A statement of management and maintenance practices shall be included, including a discussion of ongoing maintenance practices that will ensure protection of all fish and wildlife habitat conservation areas on-site after the project has been completed.
- (g) Habitat and Buffer Recommendation.
  - (i) Riparian habitat areas: For the protection of habitat along rivers, the buffer widths provided in Table 29.01.210 (2), Shoreline Development Standards Matrix apply.
  - (h) Habitats and species that have been identified as Priority Species or Priority Habitats by the WDFW Priority Habitats and Species Program should not be reduced and shall be preserved through regulation, acquisition, incentives, and other techniques.
- (6) Performance Standards Minimum Requirements. This section describes the minimum performance standard requirements for habitat areas, including riparian habitats, anadromous salmonids, and specific requirements for bald eagle habitat areas.
  - (a) Riparian Habitats:
    - (i) Buffer Requirements. Native vegetation standard buffers for activities occurring adjacent to streams within Fish and Wildlife Habitat Areas shall be maintained. Buffer widths shall be based on the extent of prior stream channel modification. Riparian buffers are determined by whether or not a salmonid habitat is present.
    - (ii) The buffer distance from the OHWM are provided in Table 29.01.210 (2), Shoreline Development Standards Matrix apply.
  - (b) Bald Eagle Habitat. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). A Habitat Management Plan shall be developed by the applicant in coordination with the WDFW whenever activities that alter habitat are proposed near a verified nest territory or communal roost.
  - (c) Wetland Habitat. All habitat sites containing wetlands shall conform to the wetland development performance standards set forth in PMC 29.01.520, Wetlands, and shall conform to the wetland mitigation and restoration provisions set forth in PMC 29.01.520 (9) through (13).

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

(d) Anadromous Salmonids:

- (i) Activities, uses, and alterations proposed to be located in waterbodies used by anadromous salmonids, or in areas that affect such waterbodies, shall give special consideration to the preservation and enhancement of anadromous salmonid habitat, including, but not limited to, the following:
  - (A) Activities shall be timed to occur only during the allowable work window, as designated by the WDFW;
  - (B) The activity is designed so that it will minimize the degradation of the functions or values of the fish habitat or other critical areas; and
  - (C) Any impact on the functions and values of the habitat conservation area are mitigated in accordance with an approved Detailed Study.
- (ii) Structures that prevent the migration of anadromous salmonids shall not be allowed in the portion of the waterbodies currently used by salmonids. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and prevent juveniles migrating downstream from being trapped or harmed.
- (iii) Fills waterward of the OHWM, when authorized, shall minimize the adverse impacts on anadromous salmonids and their habitat, shall mitigate any unavoidable impacts, and shall only be allowed for water-dependent uses or for uses that enable public access or recreation for significant numbers of the public.

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

(7) Buffer Width Modifications:

- (a) Administrative Buffer Width Averaging. The required buffer widths established in this SMP may be modified by the Shoreline Administrator for a development on existing legal lots of record in place at the time of adoption of this SMP, in accordance with the provisions of this section only where the applicant demonstrates all of the following:
  - (i) Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
  - (ii) The designated buffer area contains variations in sensitivity to ecological impacts due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;
  - (iii) The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;

Formatted: Indent: Left: 1.5"

- (iv) The minimum buffer width at its narrowest point shall not be less than 75% of the required buffer width established under this SMP; and
- (v) The buffer width averaging does not result in a net loss of ecological function.
- (b) Exception for Lots Adjacent to Pre-Existing Development. The required Riparian buffer width listed above shall not apply in cases where the adjacent pre-existing development (vested prior to the effective date of this section) does not meet these established standards. In such cases, the buffer may be reduced by one-third the difference between the required buffer and the larger of the two adjacent buffers.

Adjacency in this situation shall be defined as being within 50 feet of the side property lines. If there is only clearing on one side of the proposed activity within 50 feet of the side property line, then the buffer can be reduced as described above.

- (c) Shoreline Buffer Reductions. Shoreline buffers may be administratively modified as outlined below:
  - (i) Where a legally established road or railway, or other type of continuous development crosses or extends along a shoreline or critical area buffer and is wider than 20 feet, the Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved continuous development provided the upland side of the continuous development area:
    - (A) Does not provide additional protection of the shoreline waterbody or stream; and
    - (B) Provides little (less than 20%) to no biological, geological, or hydrological buffer functions relating to the riparian and upland portions of the buffer.
  - (ii) Standard Buffer Reduction. Reductions of up to 75% of the standard required buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that a mitigation plan developed by a qualified professional pursuant to PMC 29.01.510 (13) indicates that enhancing the buffer (by removing invasive plants or impervious surfaces, planting native vegetation, installing habitat features, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer.

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

- (8) Allowed uses in Fish and Wildlife Habitat Areas and stream buffers:
- (a) Roads, bridges, and utilities. Road, bridge, and utility maintenance, repair, and construction may be permitted across a Fish and Wildlife Habitat Conservation Area and/or buffers under the following conditions:
    - (i) It is demonstrated to the Shoreline Administrator that there are no alternative routes that can be reasonably used to achieve the proposed development;
    - (ii) The activity will have minimum adverse impact to the Fish and Wildlife Habitat Conservation Area;
    - (iii) The activity will not significantly degrade surface or groundwater; and
    - (iv) The intrusion into the Fish and Wildlife Habitat Conservation Area and its buffers is fully mitigated to achieve no net loss of ecological functions.
  - (b) Limited park or recreational access to a Fish and Wildlife Habitat Area and/or stream buffers, provided that all of the following are satisfied:
    - (i) The access is part of a public park or a recreational resort development that is dependent on the access for its location and recreational function;
    - (ii) The access is limited to the minimum necessary to accomplish the recreational function; and
    - (iii) The intrusion is fully mitigated to achieve no net loss of ecological functions.
  - (c) Low-impact uses and activities that are consistent with the purpose and function of the stream setback and do not detract from its integrity. Examples of low-impact uses and activities include removal of noxious vegetation and stormwater management facilities such as grass-lined swales.
- (9) Additional Protection Measures:
- (a) Temporary and permanent erosion and sedimentation controls shall be provided to prevent the introduction of sediments or pollutants to waterbodies or watercourses within the habitat area.
  - (b) Clearing and grading shall be limited to that necessary for establishment of the use or development and shall be conducted to avoid significant adverse impacts and minimize the alteration of the volume, rate, or

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

temperature of freshwater flows to or within the habitat area and any buffer required by this section.

- (c) The proposed development shall not discharge hazardous substances to the habitat area that would have significant adverse impacts on that area.
- (d) Stream flows shall be protected from changes to the normal flow, temperature, turbidity, and discharge to the maximum extent practicable.
- (e) Septic drainfields and any required replacement drainfield area shall be at least 100 feet from the edge of any habitat area.
- (f) Exceptions to the above protection standards may be allowed by the Shoreline Administrator based on a special report prepared by a Qualified Biological Professional that demonstrates that such exception would not adversely impact the habitat system, functions, and values of the habitat area.
- (g) Activities may only be permitted in a stream or stream buffer if the applicant can show that the proposed activity will not degrade the functions and values of the stream, stream buffer, or other critical area.
- (h) Stream Crossings. Stream crossings shall be minimized, but when necessary, they shall conform to the applicable provisions of this SMP and other laws (see WDFW or Ecology).
- (i) Stormwater conveyance facilities. Stormwater conveyance facilities may be permitted, provided that they are only located in the buffer when no practicable alternative exists outside the buffer. Stormwater facilities shall be planted with native plantings where feasible to provide habitat, and/or less intrusive facilities should be used.
- (j) Floodway-dependent Structures. Floodway-dependent structures or installations may be permitted within streams or their buffers if allowed or approved by other ordinances or other agencies with jurisdiction. See PMC 29.01.550, Flood Hazard Areas, for more information on allowed uses and activities within flood hazard areas.
- (k) Trails. The criteria for alignment, construction, and maintenance of trails within wetlands and their buffers shall apply to trails within stream buffers. Outer buffer trails may not exceed 20 feet in width and may be constructed with impermeable surface materials if on-site infiltration is utilized.
- (l) Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers and PMC 29.01.460, Utilities, shall apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer,

and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the waterbody where feasible. Crossings shall be contained within the existing footprint of an existing or new road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than 60 degrees to the centerline of the channel. The criteria for stream crossings shall also apply.

- (m) Native vegetation landscaping schemes shall be provided that do not require application of herbicides, pesticides, or fertilizer to maintain robust growth.
- (n) No net-effective impervious surfaces may be created in the outer buffer area beyond what is otherwise permitted.
- (o) No structures or related improvements, including buildings or decks, shall be permitted within the stream buffer, except as otherwise allowed in PMC 29.01.510, General Provisions, or in this SMP.

#### **29.01.540 Aquifer Recharge Areas**

- (1) Purpose. The purpose and intent of this section is to safeguard groundwater resources within the shoreline jurisdiction from hazardous substance and hazardous waste pollution by controlling or abating future pollution from new land uses or activities.
- (2) Aquifer Recharge Area Designation Criteria:
  - (a) Aquifer recharge areas shall be classified as following:



**Table 29.01.540 (2)(a): Designation of Aquifer Recharge Areas**

Aquifer Recharge Area Characteristic/Designation	Source
(1) Wellhead Protection Areas pursuant to WAC 246-290	WA Department of Health, US Environmental Protection Agency
(2) Areas designated for special protection pursuant to a groundwater management program, RCW 90.44, 90.48, and 90.54 and WAC 173-100 and 173-200	Ecology
(3) Areas overlying unprotected aquifers. Such aquifers shall be identified through any existing competent hydrogeologic study	USGS, WDNR
(4) Areas within identified unprotected aquifers but possessing the following characteristics: <ul style="list-style-type: none"> <li>Slopes less than 15%</li> <li>Coarse alluvium or sand and gravel in the soil profile and no known impermeable layers</li> </ul>	WDFW

(b) Any project area located within 200 feet of an area meeting the aquifer designation or soil classification criteria, or mapped as such, shall be treated as if it is located within the mapped area.

(c) All areas within the City of Pasco meeting these criteria, regardless of the presence or lack of any formal identification as such, are hereby designated as critical areas and are subject to the provisions of this Title.

(3) Aquifer Recharge Area Classification:

(a) Aquifer recharge areas are classified as high, moderate, or low significance aquifer recharge areas according to the following criteria:

**Table 29.01.540 (3)(a): Classification of Aquifer Vulnerability**

Vulnerability Classification	Documentation and Data Sources
High Vulnerability	High significance aquifer recharge areas are areas with slopes of less than 15% underlain by coarse alluvium or sand and gravel
Moderate Vulnerability	Moderate significance aquifer recharge areas are: (1) Areas with slopes of less than 15% underlain by fine alluvium, silt, clay, glacial till, or deposits from the electron mudflow (2) Areas with slopes of 15% to 30% underlain by sand and gravel
Low Vulnerability	Moderate significance aquifer recharge areas are: (1) Areas with slopes of 15% to 30% underlain by silt, clay, or glacial till (2) Areas with slopes greater than 30%

(4) Determination of Need for Aquifer Recharge Detailed Study:

- (a) The following information resources shall be utilized along with other documentation where noted:
  - (i) Studies from the USGS.
  - (ii) City of Pasco Wastewater Facility Plan.
  - (iii) Soil Survey for Franklin County (Conservation District).
- (b) Requirements for High Significance Aquifer Recharge Area. An Aquifer Recharge Area Detailed Study shall be required for any activity occurring on or adjacent to a site that is, or contains, a High Significance Aquifer Recharge Area if the activity involves one or more of the following uses:
  - (i) Hazardous substance processing or handling;
  - (ii) Hazardous waste treatment and storage facility;
  - (iii) Disposal of on-site sewage for subdivisions, short plats, and commercial and industrial sites; or
  - (iv) Landfills.
- (5) Aquifer Recharge Area Detailed Study. When required as described in PMC 29.01.540 (4), an Aquifer Recharge Area Detailed Study shall meet the following requirements:
  - (a) The Detailed Study shall be prepared by qualified consultant with experience in preparing hydrogeologic assessments. Evidence of these qualifications shall be provided with the Detailed Study.

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

- (b) The Detailed Study shall contain a map, of a scale no smaller than 1 inch = 200 feet, of the site and the extent of the High Significance Aquifer Recharge Area as determined by the criteria in PMC 29.01.540 (2).
  - (c) The Detailed Study shall contain a hydrogeologic assessment, including, at a minimum:
    - (i) Information sources;
    - (ii) Geologic setting;
    - (iii) Background water quality;
    - (iv) Location of, and depth to, water tables;
    - (v) Recharge potential of the facility site;
    - (vi) Groundwater flow direction and gradient;
    - (vii) Currently available data on wells within 1,000 feet of the site;
    - (viii) Currently available data on springs within 1,000 feet of the site;
    - (ix) Surface water location and recharge potential;
    - (x) Water source supply to the activity (e.g., high capacity well);
    - (xi) Any sampling schedules necessary;
    - (xii) Discussion of the effects of the proposed project on the groundwater resource; and
    - (xiii) Other information as may be required by the Town.
  - (d) The Detailed Study shall include a mitigation plan detailing how the activity will offset any impact on the resource and control risk of contamination to the aquifer.
- (6) Aquifer Recharge Area Detailed Study Special Exemptions. In addition to the exemptions listed in PMC 29.01.510 (3) and 29.01.770, Exemptions for Shoreline Substantial Development Permits, sewer lines and appurtenances shall be exempt from the requirement to prepare an Aquifer Recharge Area Detailed Study.
- (7) Performance Standards Basic Requirements:
- (a) Any activity listed in PMC 29.01.540 (4)(b) may only be permitted in a High Significance Aquifer Recharge Area if the Detailed Study documents

Formatted: Indent: Left: 1.5"

that the activity does not pose a threat to the aquifer system and the proposed activity will not cause contaminants to enter the aquifer.

- (b) All activities located in an Aquifer Recharge Area shall minimize the creation of impervious surfaces to the extent practicable without creating a greater risk to the aquifer recharge area.
- (8) Storage Tanks. All Storage tanks located in an Aquifer Recharge Area must conform to the following requirements. Ecology also regulates and authorizes permits for underground storage tanks (WAC 173-360).
  - (a) Underground Tanks. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
    - (i) Prevent releases due to corrosion or structural failure for the operational life of the tank;
    - (ii) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and,
    - (iii) Use material in the construction or lining of the tank that is compatible with the substance to be stored.
  - (b) Aboveground Tanks:
    - (i) No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the soil, groundwater, or surface waters within an Aquifer Recharge Area.
    - (ii) No new aboveground tank or part thereof shall be fabricated, constructed, installed, used, or maintained without having constructed around or under it an impervious containment area enclosing or underlying the tank or part thereof.
    - (iii) New aboveground tanks will require a secondary containment system, either built into the tank structure or a dike system built outside the tank, for all tanks located within an aquifer recharge area.

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

#### 29.01.550 Flood Hazard Areas

- (1) Purpose. The purpose of this section is to promote the public health, safety, and welfare of the community by recognizing potential hazards that may be caused

by development in areas where severe flooding is anticipated to occur. The intent of this section is to assist with minimizing public and private losses due to flood hazards by avoiding development in hazard areas within the shoreline jurisdiction and or implementing protective measures contained in this SMP.

- (2) Classification. The following categories of frequently flooded areas are established for the purposes of classification:
- (a) Floodway. Floodways are defined as the channel of a stream and adjacent land areas, which are required to carry and discharge flood waters or flood flows of any river or stream associated with a regulatory flood.
  - (b) Special Flood Hazard Areas. The area adjoining the floodway, which is subject to a 1% or greater chance of flooding in any given year and determined by the Federal Insurance Administration.
  - (c) Floodplain. The floodway and special flood hazard areas.

These flood areas have been delineated based on studies completed by FEMA for the national Flood Insurance Program.

- (3) Designation:
- (a) All areas within the City meeting the frequently flooded designation criteria of PMC 29.01.550 (2) are hereby designated critical areas and are subject to the provisions of this section.
  - (b) The approximate location and extent of frequently flooded areas are shown on the Flood Insurance Rate Maps (FIRMs) prepared for the City of Pasco and Franklin County by FEMA, as part of the National Flood Insurance Program.
- (4) Management. Title 16 (Buildings and Construction) and Chapter 24.20 (Flood Hazard Protection) of the PMC regulate proposed activities in all areas of special flood hazards. If allowed, any structures permitted in the designated flood areas are subject to the flood-proofing regulations provided in Title 16 and Chapter 24.20.
- (5) Floodways. Special flood hazard areas established in this section are areas that are extremely hazardous due to the velocity of flood waters, which carry debris, potential projectiles, and erosion potential. The following provisions apply to special flood hazard areas:
- (a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in an increase in flood levels during the occurrence of the base flood discharge.

- (b) If PMC 29.01.550 (5)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of PMC 24.20.

#### **29.01.560 Geologic Hazard Areas**

- (1) Purpose. The purpose of this section is to reduce the threats to public health and safety posed by geologic hazards within the shoreline jurisdiction. The intent is to reduce incompatible development in areas of significant geologic hazard. Development incompatible with geologic hazards may not only place itself at risk, but also may increase the hazard to surrounding development. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction or altering mining practices so risks to health and safety are minimized. When technology cannot reduce the risks to acceptable levels, development in the hazard area is best to be avoided.
- (2) Geologic Hazard Area Designation. Geologic hazard areas within the City are those areas that are susceptible to significant erosion, landslide, flood hazards, seismic hazards, and surface mine collapse hazards. All areas within the City of Pasco meeting the criteria described in PMC 29.01.560 (3) for known or suspected risk or unknown risk, regardless of the presence or lack of any formal identification as such, are designated as critical areas and are subject to the provisions of this section.
  - (a) Volcanic Hazards. The GMA requires that volcanic hazards be addressed in local Critical Area Regulations. However, since no volcanic hazards exist in the City area, no volcanic hazards regulations are needed.
  - (b) Flood Hazard Areas. Generally, areas subject to flood hazard conditions are regulated by PMC 29.01.550 and the City of Pasco Flood Plain regulations (PMC Title 24) which regulates those areas identified and classified by the FEMA on their Flood Hazard Boundary/Flood Insurance Rate Maps.
- (3) Geologic Hazard Area Classification and Designation Criteria:
  - (a) Geologic hazard area classification criteria are listed in the table below, along with the source agencies that provide the guidelines for classification and designation:

**Table 29.01.560 (3)(a): Criteria for Classification of Geologic Hazard Areas**

Hazard Area	Classification and Designation	Source
(1) Erosion Hazard Areas	(a) Areas with soil type possessing erosion hazard of "moderate to severe," "severe," or "very severe." (Classification based on both soil type and slope)	NRCS
(2) Landslide Hazard Areas	(a) Areas with slopes of 30% or greater slope and with a vertical relief of 10 or more feet;	NRCS
	(b) Areas with slopes steeper than 15% on hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock where springs or groundwater seepage is present;	NRCS
	(c) Areas with slopes parallel or sub-parallel to planes of weakness in subsurface materials (e.g., bedding planes, joint systems, and fault planes);	NRCS
	(d) Areas with slopes having gradients steeper than 80% subject to rockfall during seismic shaking;	NRCS
	(e) Alluvial fans or canyon bottoms presently or potentially subject to inundation by debris flows or catastrophic flooding;	NRCS
	(f) Areas that have shown movement during the Holocene epoch or which are underlain or covered by wastage debris of this epoch;	NRCS
	(g) Evidence of or risk from snow avalanches;	NRCS
	(h) A "severe" limitation for building site development due to slope conditions;	NRCS
	(i) Areas of historic failure such as areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps or technical reports (e.g., topographic or geologic maps, or other authorized documents).	USGS, WDNR, or other government agencies
(3) Flood Hazard Areas	(a) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and Undercutting by wave action shall be addressed as a flood hazard	PMC Title 24

Note:

NRCS = U. S. Department of Agriculture, Natural Resource Conservation Service

- (4) Geologic Hazard Area Rating Criteria. All areas within the City shall be classified by the following risk categories for each geologic hazard type:

**Table 29.01.560 (4): Rating of Geologic Hazard Risk**

Risk Classification	Documentation and Data Sources
Known or Suspected Risk	Documentation or projection of the hazard by a qualified expert exists
No Risk	Documentation or projection of the lack of a hazard by a qualified expert exists
Risk Unknown	Data are not available to determine the presence or absence of a geologic hazard

- (5) Determination of Need for Geologic Hazard Area Detailed Study. A Geologic Hazard Area Detailed Study of a geologic hazard area shall be required if the following indicators are present:
- (a) If the project area is listed in the City of Pasco Critical Areas Map as possessing either a Known or Suspected Risk for erosion, landslide, flood, seismic, or mine hazard.
  - (b) If the project area is listed in the City of Pasco Critical Areas Map as possessing an Unknown Risk for erosion, landslide, flood, seismic, or mine hazard if any of the following are identified by the applicant or City:
    - (i) A qualified geologist finds that any of the following exist: evidence of past significant events of the hazard in question on or adjacent to the site; the presence of necessary and sufficient factors for events of the hazard in question on or adjacent to the site; or reasonable uncertainty concerning the hazard the potential for significant risk to or from the proposed activity; or
    - (ii) The Shoreline Administrator possesses a reasonable belief that a geologic hazard may exist. Such reasonable belief shall be supported by a site visit and subsequent consultation with a qualified geologist.
- (6) Geologic Hazard Area Detailed Study Requirements. The minimum requirements for a Geologic Hazard Area Detailed Study include the following in addition to the Basic Requirements identified in PMC 29.01.510 (10):
- (a) Basic Requirements. A Geologic Hazard Area Detailed Study shall meet the following:
    - (i) The Detailed Study shall be prepared by a qualified professional engineer or geologist. Evidence of qualifications shall be provided with the Detailed Study.
    - (ii) A map, of a scale no smaller than 1 inch = 200 feet, of the site and the extent of the geologic hazard area as determined by the criteria in PMC 29.01.560 (3).

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"



- (iii) An assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the subject property and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. The Study shall include a soils analysis consistent with the accepted regional taxonomic classification system, and a description of the vulnerability of the site to seismic events. Documentation of data and methods shall be included.
  - (iv) A geotechnical 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 shall be included.
  - (v) A mitigation plan, if appropriate, prepared by a professional engineer or geologist under the supervision of a professional engineer qualified to prepare a Detailed Study. The mitigation plan shall include a discussion on how the project has been designed to avoid and minimize the impacts discussed in the geotechnical analysis (see mitigation standards provided in PMC 29.01.510 (13)). The plan shall make a recommendation for the minimum building setbacks from any geologic hazard based on the geotechnical analysis. The plan shall also address the potential benefit of mitigation on the hazard area, the subject property, and affected adjacent properties.
  - (vi) Where more than one geologic hazard exists within, adjacent to, impacts, or is impacted by the activity site, then only one Detailed Study is required to be completed to conduct a geologic hazard Critical Area Review of the activity. The Critical Area Review report shall meet all of the requirements of each critical area ~~type~~, ~~but~~ type, but may present a unified mitigation plan.
  - (vii) Where a valid geotechnical report has been prepared within the last 5 years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the Detailed Study. The applicant shall submit a geotechnical assessment detailing any changed environmental conditions associated with the site.
- (b) Erosion and Landslide Hazard Areas. In addition to the requirements of PMC 29.01.560 (6)(a), an Erosion Hazard or Landslide Hazard Area Detailed Study must also meet the following requirements:
- (i) The map shall depict the height of slope, slope gradient, and cross section of the site. The site plan shall also include the location of springs, seeps, or other surface expressions of groundwater. The

Formatted: Indent: Left: 1.5"

Site Plan shall also depict any evidence of surface or stormwater runoff.

- (ii) A description of load intensity, including surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural development.
- (iii) An estimate of slope stability and the effect construction and placement of structures will have on the slope during the estimated life of the structure.
- (iv) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event.
- (v) An assessment describing the extent and type of vegetative cover.
- (vi) The geotechnical analysis shall specifically include:
  - (A) Slope stability studies and opinion(s) of slope stability;
  - (B) Proposed angles of cut and fill slopes and site grading requirements;
  - (C) Structural foundation requirements and estimated foundation settlements;
  - (D) Soil compaction criteria;
  - (E) Proposed surface and subsurface drainage;
  - (F) Lateral earth pressures;
  - (G) Vulnerability of the site to erosion;
  - (H) Suitability of on-site soil for use as fill; and,
  - (I) Building limitations.
- (vii) Mitigation proposals shall include the location and methods of drainage, surface water management, locations, and methods of erosion control, a vegetation management and/or restoration plan, and/or other means for maintaining long-term stability of slopes.

- (c) Flood Hazard Areas. Flood Hazard Areas are addressed through PMC 29.01.550, Flood Hazard Areas, and the City of Pasco Floodplain regulations (PMC Title 24). If evidence exists that the proposed development area is subject to flood hazards that are not indicated on the City's Flood Hazard Boundary Maps, and site characteristics do not

Formatted: Indent: Left: 1.5"

warrant an Erosion or Landslide Hazard Detailed Study, the City may require additional analysis and preparation of a mitigation plan to determine if the site is suitable for development.

- (d) Seismic Hazard Areas. In addition to the Basic Requirements PMC 29.01.560 (6)(a), a Detailed Study for a seismic hazard critical area shall also meet the following requirements:

- (i) The site map shall show all known and mapped faults in the project vicinity.
- (ii) The geotechnical analysis shall include a complete discussion of the potential impacts of seismic activity reasonably probable on the site (e.g., forces generated and fault displacement).

Formatted: Indent: Left: 1.5"

- (e) Mine Hazard Areas. In addition to the Basic Requirements PMC 29.01.560 (6)(a), a Detailed Study for a mine hazard critical area shall also meet the following requirements:

- (i) The site plan shall delineate the existence of mine workings adjacent to or abutting the site, or nearby mine workings, which may impact the site; and
- (ii) The geotechnical analysis shall include a discussion of the potential for subsidence on the site.

Formatted: Indent: Left: 1.5"

- (f) Volcanic Hazard Areas. The City is located in an area of minimal risk from Volcanic Hazard Areas.

- (7) Performance Standards Minimum Requirements. This section describes the minimum performance standard requirements for Geologic Hazard Areas.

- (a) Basic Requirements:

- (i) Alteration of geologic hazard critical areas is permitted only if the development proposal can be designed so the hazard to the project and any increase of hazard to adjacent property is eliminated or mitigated, and the development proposal on the site is certified as safe by a geotechnical engineer licensed in the State of Washington.
- (ii) All proposals involving excavations and placement of fills shall be subject to structural review under Chapter 33, Site Work, Demolition and Construction, of the most current International Building Code.
- (iii) Essential public facilities as defined by RCW 36.70A.200 shall not be sited within designated geologic hazard areas.

Formatted: Indent: Left: 1.5"

(b) Erosion and Landslide Hazard Areas. Activities on sites containing landslide or erosion hazards shall also meet the following requirements:

(i) Alterations of the buffer and/or geologic hazard area may only occur for activities meeting the following criteria:

Formatted: Indent: Left: 1.5"

(A) No reasonable alternative exists; and

(B) A geotechnical report is submitted and certifies that:

- The development will not significantly increase surface-water discharge or sedimentation to adjacent properties beyond pre- development conditions;
- The development will not decrease slope stability on adjacent properties; and
- That such alterations will not adversely impact other critical areas.

(ii) A temporary Erosion and Sedimentation Control Plan, prepared in accordance with the requirements of the standard specification of the City of Pasco.

Formatted: Indent: Left: 1.5"

(iii) A drainage plan for the collection, transport, treatment, discharge and/or recycle of water in accordance with the standard specification of the City of Pasco.

(iv) Surface drainage shall not be directed across the face of a landslide hazard area (including riverine bluffs or ravines). If drainage must be discharged from the hazard area into adjacent waters, it shall be collected above the hazard and directed to the water by a tight line drain and provided with an energy dissipating device at the point of discharge.

(v) All infiltration systems, such as stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drain, are prohibited in landslide hazard areas and their buffers unless a geotechnical report indicates such facilities or systems or the failure of the same will not affect slope stability and the systems are designed by a licensed civil engineer.

(vi) A minimum standard buffer width of 30 feet shall be established from the top, toe, and all edges of landslide and erosion hazard areas. Existing native vegetation shall be maintained. The buffer may be reduced to a minimum of 10 feet when an applicant demonstrates the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject

critical area. The buffer may be increased by the Shoreline Administrator for development adjacent to a river bluff or ravine, or in other areas that circumstances may warrant, where it is determined a larger buffer is necessary to prevent risk of damage to proposed and existing development as in the case where the area potentially impacted by a landslide exceeds 30 feet.

- (vii) On-site sewage disposal systems, including drain fields, shall be prohibited within landslide and erosion hazard areas and related buffers.
- (viii) Development designs shall meet the following basic requirements, unless it can be demonstrated that an alternative design provides greater long-term slope stability while meeting all other criteria of this section. The requirement for long-term slope stability shall exclude designs that require periodic maintenance or other actions to maintain their level of function. The basic development design standards are:
  - (A) Structures and improvement shall be clustered to retain as much open space as possible and to preserve the natural topographic features of the site.
  - (B) Structures and improvements shall conform to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography.
  - (C) Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation.
  - (D) The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes.
  - (E) All development shall be designed to minimize impervious lot coverage.
- (c) Flood Hazard Areas. Activities in flood hazard areas shall comply with PMC 29.01.550, Flood Hazard Areas, and the City of Pasco Floodplain regulations (PMC Title 24).
- (d) Seismic Hazard Areas. Activities on sites containing seismic hazards shall also meet the following requirements:
  - (i) Mitigation is implemented, which reduces the seismic risk to a level equivalent to that which the activity would experience if it were not located in a seismic hazard area.

Formatted: Indent: Left: 1.5"

- (ii) Structural development proposals shall meet all applicable provisions of Chapter 16 of the most current addition of the International Building Code (Structural Forces/Structural Design Requirements).
    - (iii) No residential structures or Essential Public Facility shall be located on a Holocene fault line as indicated by USGS investigative maps and studies.
  - (e) Mine Hazard Areas. Activities on sites containing mine hazards shall also meet the following requirements:
    - (i) Mitigation is implemented which reduces the risk from mine hazards to a level equivalent to that which the activity would experience if it were not located in a mine hazard area.
  - (f) Volcanic Hazard Areas. No additional requirements.
- (8) Long-term Mitigation and Restoration Standards:
- (a) 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). Mitigation techniques providing long-term hazard reduction are those that do not require periodic maintenance or other actions to maintain their function.
  - (b) Mitigation may be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.
  - (c) Any required restoration shall meet the long-term hazard reduction standards. In the case of restoration, long-term shall be defined as the equivalent of natural function.

Formatted: Indent: Left: 1.5"

## Article VI. Existing Uses, Structures, and Lots

### 29.01.600 Applicability

- (1) All nonconformances in shoreline jurisdiction shall be subject to the provisions of this article. For nonconformance of use, structures, and lots within shoreline critical areas, PMC 29.01, Article V, Critical Areas, applies. When there is a conflict between this Section and the Critical Area Section as applicable to critical areas, the more restrictive standards shall apply.
- (2) The provisions of this SMP do not supersede or relieve a property owner from compliance with:
  - (a) The requirements of the International Building and Fire Codes; or
  - (b) The provisions of the SMP beyond the specific nonconformance addressed by this section.
- (3) A change in the required permit review process (e.g., Shoreline Substantial Development Permit versus a Shoreline Special Use Permit) shall not create a nonconformance.
- (4) Any nonconformance that is brought into conformance for any period of time shall forfeit status as nonconformance, except as specified in PMC 29.01.610, Nonconforming Uses.
- (5) A nonconforming lot, use, or structure may be deemed legally nonconforming by providing documentation that the use in question occurred prior to the effective date of this SMP, from two of the following:
  - (a) Local agency permit;
  - (b) Orthophotograph, aerial photograph, or planimetric mapping recognized as legitimate by the agency; or
  - (c) Tax record.

### 29.01.610 Nonconforming Uses

- (1) If, at the effective date of the SMP and any amendment thereto, a lawful use of land exists that is made no longer permissible under the terms of this SMP, or amendments thereto, such use may be continued as a nonconforming use so long as it remains otherwise lawful subject to the following conditions:
  - (a) No nonconforming use shall be intensified, enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of the SMP or the amendment that made the use no longer permissible. Provided that a nonconforming use may be enlarged,

increased, or extended in conformance with applicable bulk and dimensional standards of this SMP upon approval of a Shoreline Special Use Permit.

- (b) No nonconforming use shall be moved in whole or in part to any other portion of the lot that contains the nonconforming use.
- (c) If any nonconforming use of land ceases for any reason for a period of 1 year or more, any subsequent use of such land shall conform to the regulations specified by this SMP for the use environment in which such land is located.
- (d) A structure, which is being or has been used for a nonconforming use, may be used for a different nonconforming use only upon a finding that:
  - (i) No reasonable alternative conforming use is practical;
  - (ii) The proposed use is equally or more appropriate to the shoreline environment than the existing nonconforming use, and is at least as consistent with the policies and provisions of the act and the SMP; and
  - (iii) Such a change of use shall be subject to a Shoreline Special Use Permit approval. Conditions may be attached to the permit as are deemed necessary to ensure compliance with the above findings and the requirements of the SMP and the SMA, and to ensure the use will not become a nuisance or a hazard.

Formatted: Indent: Left: 1.5"

#### 29.01.620 Nonconforming Structures

- (1) If, at the effective date of the SMP or any amendment thereto, a lawful structure or other improvement exists, which is made no longer permissible under the terms of this SMP or amendment thereto, such structure or other improvement may be continued as a nonconforming structure or other improvement so long as it remains otherwise lawful, subject to the following conditions:
  - (a) No nonconforming structure or other improvement shall be altered or changed in a way which increases its nonconformity except as allowed in PMC 29.01.620 (1)(b).
  - (b) Expansions of structures that are nonconforming with respect to a required shoreline buffer:
    - (i) May not encroach any farther waterward into the required shoreline buffer.
    - (ii) Expansions parallel to or landward of shoreline may be allowed provided that said enlargement does not increase the extent of

Formatted: Indent: Left: 1.5"



nonconformity by farther encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

- (c) All expansion, extension, maintenance, or repair activities of nonconforming structures or improvements shall be consistent with all other provisions of this SMP, provided the cumulative cost of such maintenance or repair shall not exceed 20% of the assessed valuation of such building, structure, or land (as applicable) at the time such maintenance is completed.
  - (d) When damaged, a nonconforming structure may be restored to the configuration existing immediately prior to the time that the structure was damaged, provided that:
    - (i) The structure is damaged to an extent not exceeding 50% of the replacement cost of the original development.
    - (ii) The applicant applies for permits needed to restore the development within 6 months of the date the damage occurred.
    - (iii) Reconstruction is started within 12 months and is completed within 24 months of the date of damage, unless an extension of time is granted by the Shoreline Administrator upon written petition substantiating to the satisfaction of the Administrator due cause for such extension.
    - (iv) The degree of the nonconforming use, building, or structure is not increased.
  - (e) Nothing in this section will prohibit vertical expansion up to the height allowed in the applicable use environment, provided all other applicable requirements of City's development regulations are met.
  - (f) Upkeep, repairs, and maintenance of a nonconforming structure or other improvement shall be permitted.
- (2) Should such structure or other improvement be moved for any reason for any distance, it shall thereafter conform to the regulations for the use environment in which it is located. Conformance shall be required when:
- (a) A change of use is proposed;
  - (b) The use is terminated or discontinued for more than one year, or the structure(s) that houses the use is vacated for more than one year; or
  - (c) The structure(s) or activity that occurs on the land in which the use is conducted is proposed for relocation.

Formatted: Indent: Left: 1.5"

- (3) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following, shall be considered a conforming structure: setbacks, buffers, or yards; area; bulk; height; or density.
- (4) For purposes of this section, “appurtenant structures” refer to garages, sheds, and other legally established structures. Appurtenant structures do not include bulkheads and other shoreline modifications or overwater structures.

#### 29.01.630 Nonconforming Lots

- (1) A nonconforming lot 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 the applicable master program and the act.

**Formatted:** Heading 5, Outline numbered + Level: 5 +  
Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left +  
Aligned at: 0.63" + Tab after: 1.13" + Indent at: 1.13"

## Article VII. Administration and Enforcements

### 29.01.700 Roles and Responsibilities

- (1) Shoreline Administrator:
  - (a) The Community and Economic Development Director of the City of Pasco or his/her designee shall serve as the Shoreline Administrator. The Shoreline Administrator shall issue written Shoreline Exemptions as appropriate, and in the case of a Shoreline Substantial Development Permit grant or deny the permit. The Shoreline Administrator shall administer the shoreline permit and notification ~~systems, and~~ systems and shall be responsible for coordinating the administration of shoreline regulations with zoning enforcement, building permits, and all other regulations regarding land use and development in the City.
  - (b) The Shoreline Administrator shall be familiar with regulatory measures pertaining to shorelines and their use, and, within the limits of his or her authority, shall cooperate in the administration of these measures. Permits issued under the provisions of this shoreline regulation shall be coordinated with other applicable land use and development regulatory measures of the City. The Shoreline Administrator shall establish procedures that advise all parties seeking building permits or other development authorization of the need to consider possible shoreline applications. It is the intent of City, consistent with its regulatory obligations, to simplify and facilitate the processing of Shoreline Substantial Development Permits.
  - (c) The Shoreline Administrator shall ensure proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Shoreline goals and policies should be pursued through the regulation of development of private property only to an extent that is consistent with all relevant constitutional and other legal limitations (where applicable, statutory limitations such as those contained in RCW 82.02 and RCW 43.21C.060) on the regulation of private property.
  - (d) The Shoreline Administrator shall apply PMC 29.01.500, Critical Areas.
- (2) Hearing Examiner:
  - (a) The Hearing Examiner shall have the authority to decide on appeals from administrative decisions issued by the Shoreline Administrator of this SMP.
  - (b) The Hearing Examiner may grant or deny Shoreline Variances following a public hearing.

- (3) Planning Commission:
  - (a) The Planning Commission is vested with the responsibility to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program and make recommendations for amendments thereof to the City Council.
  - (b) The Planning Commission reviews Shoreline Special Use Permits, following an open record hearing, and sends a recommendation to the City Council.
- (4) City Council. The City Council is vested with authority to:
  - (a) Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.
  - (b) Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Substantive amendments shall become effective immediately upon adoption by Ecology.
  - (c) Approve or deny all shoreline Special Use Permits forwarded by the Planning Commission pursuant to PMC 25.86.090.
  - (d) Conducts closed record appeal of any recommendation of the Planning Commission pursuant to PMC 25.86.080.
  - (e) Decide on appeals from the administrative decisions issued by the Shoreline Administrator.

**29.01.710 Interpretation**

- (1) Under the administrative provisions, the Shoreline Administrator shall have authority to interpret this SMP, when such interpretation is clearly consistent with the goals and policies of this SMP and the SMA.
- (2) The Shoreline Administrator shall consult with Ecology if formal written interpretations are developed as a result of a lack of clear guidance in the SMA, the SMP guidelines, or this SMP to ensure any are consistent with the purpose and intent of RCW 90.58 and 173-26 WAC.

**29.01.720 Statutory Noticing Requirements**

- (1) At a minimum, the Shoreline Administrator shall provide notice in accordance with WAC 173.27-110 and may provide for additional noticing requirements.

**29.01.730 Application Requirements**

- (1) A complete application for a Shoreline Substantial Development, Shoreline Special Use, or Shoreline Variance Permit shall contain, at a minimum, contain the information listed in WAC 173-27-180.
- (2) The Shoreline Administrator shall provide written informational materials, procedures, instructions, and forms required to submit an application for a Shoreline Substantial Development Permit, Variance Permit, or Special Use Permit.
- (3) These materials should include: a plan coversheet; a Joint Aquatic Resource Permits Application (JARPA) form; a SEPA checklist; a fee schedule; review criteria; and the process and timelines to assist potential applicants and interested parties on the permit application submittal and review process.
- (4) The Shoreline Administrator may vary or waive these requirements according to administrative application requirements on a case-by-case basis.
- (5) The Shoreline Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other applicable requirements and the provisions of this SMP.

**29.01.740 Shoreline Substantial Development Permits**

- (1) A Shoreline Substantial Development Permit shall be required for all development on shorelines, unless the proposal is specifically exempted per PMC 29.01.770. Shoreline Substantial Development permits shall be processed as an administrative permit.
- (2) The Shoreline Administrator shall review Substantial Development Permit applications, as required in PMC 29.01.730, and approve or deny the permit.
- (3) The Shoreline Administrator shall provide notice in accordance with WAC 173.27-110 and may provide additional notice, according to the City's noticing requirements.
- (4) A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:
  - (a) The policies and procedures of the SMA, RCW 90.58;
  - (b) The applicable provisions of WAC 173-27; and
  - (c) This SMP.

- (5) The Shoreline Administrator may attach conditions to the approval of permits as necessary to ensure consistency of the project with the SMA and this SMP.
- (6) Nothing shall interfere with the City's ability to require compliance with all other applicable plans and laws.

**29.01.750 Shoreline Special Use Permits**

- (1) Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Shoreline Administrator and Ecology. Applications for a Shoreline Special Use Permit shall be processed pursuant to PMC 25.86.
- (2) Other uses, which are not classified or listed or set forth in this SMP, may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.
- (3) Uses that are specifically prohibited by this SMP may not be authorized as a conditional use.
- (4) Review Criteria for Shoreline Special Use Permit. Uses that are classified or set forth in the applicable SMP 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 SMP;
  - (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 SMP;
  - (d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - (e) That the public interest suffers no substantial detrimental effect.
- (5) In the granting of all Shoreline Special Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Special 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.

- (6) In authorizing a conditional use, special conditions may be attached to the permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to ensure consistency of the project with the SMA and this SMP.
- (7) Nothing shall interfere with the City's ability to require compliance with all other applicable plans and laws.

#### **29.01.760 Shoreline Variance Permits**

- (1) The purpose of a variance is to grant relief to specific bulk, dimensional, or performance requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Applications for Shoreline Variance Permits shall be processed pursuant to PMC 25.84.020 and PMC 29.01.760 (2).
- (2) Review Criteria:
  - (a) Shoreline Variance Permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
  - (b) Shoreline Variance Permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland, as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
    - (i) That the strict application of the bulk, dimensional, or performance standards set forth in the SMP precludes, or significantly interferes with, reasonable use of the property;
    - (ii) That the hardship described in criterion PMC 29.01.760 (2)(b)(i) 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 SMP, and not, for example, from deed restrictions or the applicant's own actions;
    - (iii) 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 SMP and will not cause adverse impacts on the shoreline environment;
    - (iv) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

Formatted: Indent: Left: 1.5"

- (v) That the variance requested is the minimum necessary to afford relief; and
- (vi) That the public interest will suffer no substantial detrimental effect.
- (c) Shoreline Variance Permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland, as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
  - (i) That the strict application of the bulk, dimensional, or performance standards set forth in the applicable SMP precludes all reasonable use of the property;
  - (ii) That the proposal is consistent with the criteria established under PMC 29.01.760 (2)(b) (i)-(iv) above can be met; and
  - (iii) That the public rights of navigation and use of the shorelines will not be adversely affected.
- (d) In the granting of all Shoreline Variance Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if 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 RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

Formatted: Indent: Left: 1.5"

#### **29.01.770 Exemptions from Shoreline Substantial Development Permits**

- (1) An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. All proposed uses, activities, or development occurring within shoreline jurisdiction must conform to the intent and requirements of RCW 90.58, the SMA, and this SMP, whether or not a permit or other form of authorization is required.
- (2) Letters of exemption shall be issued by the Shoreline Administrator when an exemption applies or when a letter of exemption is required by the provisions of WAC 173-27-050 and as follows:
  - (a) Any person claiming exemption from the Substantial Development Permit requirements shall make an application to the Shoreline Administrator for such an exemption in the manner prescribed by the Shoreline Administrator, except that no written statement of exemption is required for emergency development pursuant to WAC 173-27-040(2)(d).



- (b) The Shoreline Administrator is authorized to grant or deny requests for statements of exemption from the Shoreline Substantial Development Permit requirement for uses and developments within shorelines that are specifically listed in PMC Section 29.01.770 (4). The statement shall be in writing and shall indicate the specific exemption of this SMP that is being applied to the development and shall provide a summary of the Shoreline Administrator's analysis of the consistency of the project with this SMP and the SMA. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.
  - (c) Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this SMP and the SMA.
  - (d) A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The Shoreline Administrator's decision may be appealed pursuant to PMC 29.01.810, Appeals.
  - (e) Exempt activities requiring a JARPA shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator.
- (3) Interpretations of Exemptions:
- (a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
  - (b) A development or use that is listed as a conditional use pursuant to this SMP, or is an unlisted use, must obtain a Shoreline Special Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional, and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance Permit.
  - (c) The burden of proof that a development or use is exempt from the permit process is on the applicant.
  - (d) If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.
  - (e) The Shoreline Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to ensure consistency of the project with the SMA and this SMP. Additionally, nothing shall

interfere with each responsible local government's ability to require compliance with all other applicable laws and plans.

- (4) The City shall exempt from the Shoreline Substantial Development Permit requirement the shoreline developments listed below:
- (a) Any development of which the total cost or fair market value does not exceed ~~eighteen thousand, five hundred, fourty-seven dollars~~ (\$8,5047.047.00)6,416 or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, as well as equipment, or materials.
  - (b) Normal maintenance or repair of existing legally established structures or developments, including damage by accident, fire, or elements. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development, including, but not limited to, its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.
  - (c) Construction of a normal protective bulkhead common to single-family residences. A normal protective bulkhead includes those structural and non-structural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than 1 cubic yard of fill per one 1 foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no farther waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or near the actual OHWM. Bioengineered erosion-control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by WDFW.

- (d) Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this SMP. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, and upon abatement of the emergency situation, the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to RCW 90.58 these regulations, or this SMP, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this section, RCW 90.58, and this 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.
- (i) The following criteria shall exist to qualify any action under an emergency provision:
- (A) There must be an immediate threat to life, or public or private property, or an immediate threat of serious environmental degradation arising from a natural condition, or non-natural accident or incident;
  - (B) The emergency response shall be confined to the action necessary to protect life or property from damage;
  - (C) The scope of the emergency response must be limited to the work necessary to relieve the immediate threat; and
  - (D) The emergency response applies only to the period of time in which the actual emergency exists.
- (ii) Once the emergency is abated or dissipated as deemed by jurisdictional authorities, compliance with the requirements of this section is required.
- (iii) Emergency actions shall use reasonable methods that minimize the impact to critical areas and their buffers. Persons who take emergency action shall notify the Shoreline Administrator within 1 working day following commencement of the emergency activity. Following such notification, the Shoreline Administrator shall determine if the action taken was within the scope and definition of emergency actions as defined above. If the Shoreline Administrator determines the action taken or any part of the action taken was beyond the scope and definition of allowed

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

emergency actions, then the enforcement provisions of PMC 29.01.830 shall apply.

- (e) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands and the construction and maintenance of irrigation structures, including, but not limited to, head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling, other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.
- (f) Construction or modification of navigational aids such as channel markers and anchor buoys.
- (g) Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the City, other than requirements imposed pursuant to RCW 90.58. Construction authorized under this exemption, shall be located landward of the OHWM.
- (h) Construction of a dock, including a community dock designed for pleasure craft only and for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies when the fair market value of the dock does not exceed:
  - a. Twenty-two thousand five hundred dollars (\$22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or
  - b. Eleven thousand two hundred (\$11,200) dollars for all other docks constructed in fresh waters.
  - (h) c. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter. ~~eleven thousand two hundred dollars (\$11,200), 10,000, but if subsequent construction having a fair market value exceeding \$2,500.00 occurs within 5 years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this section. However, if subsequent construction occurs within five (5) years of completion of the prior construction, and the combined fair market value of the subsequent~~

Formatted: Indent: Left: 1.5", No bullets or numbering

Formatted: Indent: Left: 1", Hanging: 0.5", No bullets or numbering

~~and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.~~

- (i) Operation, maintenance, repair, 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 from the irrigation of lands.
- (j) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
- (k) Operation and maintenance of existing and future system of dikes, drains, or other facilities existing on September 8, 1975 (where water is being drained from irrigation runoff or shallow groundwater levels artificially recharged through irrigation, and that), which are created, developed or utilized primarily as a part of an agricultural drainage or diking system.

~~(l) Any project with a certification from the governor pursuant to RCW 80.50 (certification from the State Energy Facility Site Evaluation Council).~~

~~(m)~~(l) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this section, if:

- (i) The activity does not interfere with the normal public use of surface waters;
- (ii) The activity will have no significant adverse impact on the environment, including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
- (iii) The activity does not involve the installation of any structure and, upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity; and
- (iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure the site is restored to preexisting conditions.

~~(n)~~(m) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Departments of

Formatted: Indent: Left: 1.5"

Agriculture or Ecology jointly with other state agencies under RCW 43.21C.

~~(n)~~ Watershed restoration projects as defined in RCW 89.08.460.

~~(o)~~ A public or private project that is designed to improve fish or wildlife habitat or fish passage, consistent with RCW 90.58.147 and RCW 77.55, ~~when all of the following apply:~~

- ~~(i)~~ The project has been approved by WDFW;
- ~~(ii)~~ The project has received HPA by WDFW pursuant to RCW 77.55;
- ~~(iii)~~ The City has determined that the project is substantially consistent with the local SMP. The City shall make such determination in a timely manner and provide it by letter to the applicant; and
- ~~(iv)~~ Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local SMPs.

~~(q)~~ Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D or to Ecology when it conducts a remedial action under RCW 70.105D.

~~(p)~~ Other than conversions to non-forest land use, forest practices regulated under RCW 76.09 are not subject to additional regulations under the SMA or this SMP (90.58.030(2)(d)(ii)).

~~(q)~~ 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.

#### **29.01.780 Duration of Permits**

- (1) The duration of permits shall be consistent with WAC 173-27-090 as follows:

- (a) Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within 2 years of the effective date of a substantial development permit. The City may authorize a single extension for a period not to exceed 1 year based on reasonable factors if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the department.
- (b) Authorization to conduct development activities shall terminate 5 years after the effective date of a Substantial Development Permit. However, the City may authorize a single extension for a period not to exceed 1 year based on reasonable factors if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.

#### **29.01.790 Initiation of Development**

- (1) Each permit for a Substantial Development, Shoreline Special Use, or Shoreline Variance issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until 21 days from the date of ~~filing~~ receipt with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within 21 days from the date of ~~filing~~ receipt of the decision. The date of filing for a Substantial Development Permit is the date of actual receipt by Ecology of a local government's final decision on the permit. With regard to a permit for a Shoreline Variance or a Shoreline Special Use, date of filing means the date a responsible local government or applicant receives the written decision of Ecology. When a Substantial Development Permit and a Special Use or Variance Permit are required for a development, the submittal on the permits shall be made concurrently.
- (2) Permits for Substantial Development, Shoreline Special Use, or Shoreline Variance may be in any form prescribed and used by the City, including a combined permit application form. Such forms will be supplied by the City.
- (3) A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.

#### **29.01.800 Review Process**

- (1) After the City's approval of a Shoreline Special Use or Variance Permit, the City shall submit the permit to Ecology for approval, approval with conditions, or denial. Ecology shall render and transmit to the City and the applicant its final decision approving, approving with conditions, or disapproving the permit within 30 days of the date of submittal by the City pursuant to WAC 173-27-110.

- (2) Ecology shall review the complete file submitted by the City on Shoreline Special Use or Variance Permits and any other information submitted or available that is relevant to the application. Ecology shall base its determination to approve, approve with conditions, or deny a Special Use Permit or Variance Permit on consistency with the policy and provisions of the SMA and except as provided in WAC 173-27-210 and the criteria in WAC 173-27-160 and 173-27-170.
- (3) The City shall provide timely notification of the Ecology's final decision to those interested persons having requested notification from local government pursuant to WAC 173-27-130.

**29.01.810 Appeals**

- (1) Appeals of Shoreline Permit Decisions. The City's decisions on shoreline permits may be appealed to the following bodies in this sequence:
  - (a) Pasco City Council in accordance with PMC 25.86.080.
  - (b) State Shorelines Hearings Board (SHB) in Tumwater.
  - (c) SHB decisions may be appealed to superior court.
  - (d) Superior court decisions may be appealed to the Court of Appeals.
  - (e) Appeals Court decisions may be appealed to the Washington Supreme Court.
  - (f) Appeals to the SHB and courts are governed by RCW 90.58.180, RCW 43.21B.001, RCW 34.05 Part V, and WAC 461.08.
- (2) All requests for review of any final permit decisions under RCW 90.58 and WAC 173-27 are governed by the procedures established in RCW 90.58.180, WAC 461-08, and the rules of practice and procedure of the SHB.

**29.01.820 Amendments to Permits**

- (1) A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the SMP, and/or the policies and provisions of RCW 90.58. Changes that are not substantive in effect do not require approval of a revision.
- (2) Revisions to permits shall be considered consistent with WAC 173-27-100.



**29.01.830 Enforcement**

- (1) The SMA provides for a cooperative program between the City and Ecology to implement and enforce the provisions of the SMA and this SMP. This section provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, and orders to take corrective action, in accordance with WAC 173-27-270, 173-27-280, 173-27-290, and 173-27-300, and PMC 25.08. The enforcement means and penalties provided herein are not exclusive and may be taken or imposed in conjunction with, or in addition to, any other civil enforcement actions and civil penalties, injunctive or declaratory relief, criminal prosecution, actions to recover civil or criminal penalties, or any other action or sanction authorized by this section, or any other provision of the PMC, or any other provision of state or federal law and regulation.
- (2) The Shoreline Administrator, with the assistance of the City Attorney, shall have authority to commence and prosecute any enforcement action authorized by this section. In determining the appropriate enforcement actions to be commenced and prosecuted, the Shoreline Administrator shall consider the following factors:
  - (a) The nature of the violation;
  - (b) The extent of damage or potential future risk to the shoreline environment and its ecological functions or to the public health and safety, caused by or resulting from, whether directly or indirectly, the alleged violation;
  - (c) The existence of knowledge, intent, or malice on behalf of the violator;
  - (d) The economic benefit or advantage that accrued to the violator(s) as a result of the violation; and
  - (e) The estimated actions and costs of providing adequate mitigation, restoration, rehabilitation, or enhancement to repair or minimize any substantial adverse impacts upon the shoreline environment and its ecological functions or the public health and safety.
- (3) The Shoreline Administrator may commence and prosecute enforcement action jointly with Ecology. Pursuant to WAC 173-27, Ecology may initiate and prosecute enforcement action separate from the Shoreline Administrator.

**29.01.840 Cumulative Effects of Shoreline Developments**

- (1) The City will periodically evaluate the effectiveness of the SMP update for achieving no net loss of shoreline ecological functions with respect to shoreline permitting and exemptions. At the end of the first full year after adoption, and at the end of every other year thereafter, the Shoreline Administrator shall prepare a report documenting shoreline Substantial Development Permits, Special Use Permits, and Variances, including the exempt use activity approvals and the

locations and effects of each by type and classifications. The report should include activities involving development, conservation, restoration, mitigation, and enforcement. It should summarize the net change of developments (including new development and decommissioning of structures and protected areas) using indicators such as linear length of stabilization and flood hazard structures, number of overwater structures (e.g., piers and docks), road length within shoreline, number of waterbody road crossings, number of levees/dikes, acres of impervious surface areas, acres of vegetation, acres of permanently protected areas, or areas with limited development. Compliance and enforcement activity will also be tracked.

- (2) The Shoreline Administrator [Official](#), will, to the extent feasible, coordinate with other City departments or as adjacent jurisdictions, to assess cumulative effects of shoreline development.

**29.01.850 Amendments to Shoreline Master Program**

- (1) Amendments to the SMP shall be processed as legislative decisions pursuant to PMC 24.88 and WAC 173-26-110.
- (2) Any locally approved amendments to the SMP will not become effective until approved by Ecology.

**29.01.860 Shoreline Environment Designation Maps or Official Shoreline Map**