**AGENDA**
Planning Commission
City Council Chambers- Municipal Services Facility
3100 Belmont Blvd., West Richland
*Thursday, October 8, 2020 – 6:00 p.m.*

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| **Planning Commission Members:** | Chad Utecht, Chair<br>Nancy Aldrich, Vice Chair<br>Michael Peterson<br>Marv Bohling<br>Jerry Surdyk<br>Colton Brady<br>Zach Byrnes |
| **Staff:** | Eric Mendenhall, Community Development Director<br>Emily Weimer, Senior Planner<br>Tobie Webb, Staff Recorder |

**Notice to the public: This meeting will be a remote Zoom meeting per Governor Jay Inslee's Stay Home – Stay Healthy Directive. We encourage you to provide public comments on agenda items and public hearings in writing. If you want to provide public comments on any of the agenda items, please submit them in writing to twebb@westrichland.org by 3:00pm Thursday, October 8, 2020 to be read during the meeting. The Zoom meeting information is available on the City's website or can be obtained by emailing** twebb@westrichland.org**.**

1. **Call to order / attendance:**

2. **Approval of the agenda:** *(Approved by Motion)*

3. **Approval of minutes:** *(Approved by Motion)*

   **A.** September 10, 2020 Regular Meeting

4. **Old Business:**

5. **New Business:**
   A. Joint Public Hearing with Ecology to consider Code Amendment WRMC 18.08 (Shoreline Master Program)
   B. Public Hearing to consider Zoning Code Amendment (Ad 2020-11) Title 17 related to setbacks and fences
   C. Public Hearing to consider Code Amendment (AD 2020-09) WRMC 18.16 Flood Damage Prevention

6. **Announcements, Reports and Comments:**

7. **Adjourn:**

**Upcoming Meetings and Events:**
November 12, 2020

City of West Richland
Planning Commission Meeting Minutes
September 10, 2020
**Meeting was held via zoom and available to the public*

**1. Call to order / attendance:** Chair C. Utecht called the meeting to order at 6:05 pm.

Members Present:
Chad Utecht, Chair
Nancy Aldrich, Vice Chair
Marv Bohling, Commissioner
Jerry Surdyk, Commissioner
Colton Brady, Commissioner

Members Absent:
Michael Peterson, Commissioner
Zach Byrnes, Commissioner

Staff Present:
Emily Weimer, Senior Planner
Eric Mendenhall, Community Development Manager
Tobie Webb, Staff Recorder

**2. Approval of the agenda:** Commissioner C. Brady motioned to swap 5A with 5B on the agenda, seconded by Vice Chair N. Aldrich. The motion carried unanimously.

**3. Approval of the minutes of August 13, 2020:** Commissioner J.Surdyk moved to approve the August 13, 2020 minutes. Commissioner M. Bohling seconded and the motion carried unanimously.

**4. Old Business: None**

**5. New Business:**

**B. Public Hearing to consider File No. CUP 2020-04 Animal Control Facility**

Chair C. Utecht opened the Public Hearing at 6:10 p.m.

Senior Planner E. Weimer gave a presentation on the Conditional Use Permit CUP 2020-04 Animal Control Facility.

Staff issued a determination of non-significance for the environmental impact on this item. Staff recommends approval of the Conditional Use Permit (CUP) 2020-04 with two conditions of approval.

Public Comment: West Richland Chief of Police, B. Majetich also a resident of West Richland spoke on the use of the facility, stating that it is for temporary holding of animals with climate control and dog runs. Also noting the kennels will be located on the racetrack side of the building.

Chair C. Utecht closed the Public Hearing at 6:25 p.m.

DRAFT

Commission J. Surdyk motioned to adopt the findings of fact and conclusions as detailed in the staff report and approve Conditional Use Permit No. 2020-04 authorizing the city of West Richland to construct and operate an animal control facility located at the proposed police facility located on West Van Giesen St. subject to the following conditions of approval as noted in the staff report.

Vice Chair N. Aldrich seconded the motion and it carried unanimously.

**A. Public Hearing to consider File No. CUP 2020-03 Goodwill**

Chair C. Utecht opened the Public Hearing at 6:28 p.m.

Senior Planner E. Weimer gave a presentation on the 2020-03 Goodwill Warehouse.

There were three written comments received:
Adjacent property owner, Jason Barger, submitted questions and general comments about the proposal.

Adjacent property owner, Dave Shea, submitted four concerns of the proposal and the area.

Adjacent property owner, Marla Summers, submitted three concerns of the proposal, including potential abandonment of building, traffic, and light pollution.

Staff recommends approval of the 2020-03 Goodwill warehouse subject to two conditions of approval.

1. The conditional use permit is valid for two years from date of issuance
2. To construct a 6ft. tall masonry block wall on site along with a minimum of 10 ft landscaping strip from the wall to the sidewalk.

Public Comment: Jeff Maddison, Goodwill, is looking forward to being a part of West Richland.

Jason Archibald, architect, hoping to do well at this location. He voiced his concern about the two conditions of approval, hoping to change the wording from 10 ft vegetation <u>and</u> a block wall to 10 ft. vegetation <u>or</u> block wall.

Marcy, Goodwill, is excited to be in West Richland and actually own the land.

Chair C. Utecht closed the Public Hearing at 6;53 p.m.

Vice Chair N. Aldrich moved to approve CUP 2020-03 Goodwill authorizing an approximately 1200 sq ft. building at 3250 Kennedy Rd. subject to the conditions of approval.

1. This conditional use permit approval is valid for two years from date of issuance. Failure to obtain buiding permit approval within two years from the date of conditioanl use issuance shall result in expiration of the conditional use permit.
2. Construct a minimum 10ft width landscaping strip behind the sidewalk.

Commissioner J. Surdyk seconded the motion. The motion passed with four commissioner for, and Commissioner M. Bohling against.

Vice Chair N. Aldrich moved to strike the previous decision on CUP 2020-03, Commissioner C. Brady seconded the motion and it carried unanimously.

Vice Chair N. Aldrich moved to approve CUP 2020-03 Goodwill authorizing an approximately 1200 sq ft. building at 3250 Kennedy Rd. subject to the condition of approval.

1. This conditional use permit approval is valid for two years from date of issuance. Failure to obtain buiding permit approval within two years from the date of conditioanl use issuance shall result in expiration of the conditional use permit.

Commissioner J. Surdyk seconded the motion. The motion passed with four commissioners for, and Commissioner M. Bohling against.

**C. Discussion on Title 17 Setbacks**

Community Development Manager E. Mendenhall gave a presentation to discuss Title 17 Setbacks.

Community Development Manager E. Mendenhall recommends bringing back changes to a Public Hearing next month.

**6. Announcements, Reports and Comments:**

Community Development Manager E. Mendenhall announced that he will be bringing some items from Title 17 back to council for review. He will then bring the work plan back to Planning for review.

**7. Adjourn: 7:25 p.m.**

**8. Upcoming Meetings: October 8, 2020**

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_____ _____

Chad Utecht, Chair Tobie Webb, Staff Recorder

| WEST RICHLAND PLANNING COMMISSION AGENDA ACTION ITEMS | | | | | |
|---|---|---|---|---|---|
| ***AGENDA ITEM:*** | | ***TYPE OF ACTION NEEDED*** | | | |
| ***MEETING DATE:*** | October 8, 2020 | ***Open Record Hearing*** | X | | |
| ***SUBJECT:*** | Public Hearing to consider File No. AD 2020-12 Shoreline Master Program (SMP) Periodic Update | ***Recommend to Council*** | | ***Final Decision*** | |
| ***Prepared by:*** | Nicole Stickney, AICP - AHBL, Inc. | ***1st Discussion*** | | ***Other*** | |
| ***Re*** | Eric Mendenhall | ***2nd Discussion*** | | | |

The Mission of the Community Development Department is to proactively manage and facilitate enhanced vitality of the city's neighborhoods, business districts, and parks. We are committed to attracting and incentivizing high-quality development, creation of new jobs, diversity of housing opportunities, city financial growth to support quality services, and to the prevention of decay & degradation of neighborhoods, business districts, and parks.

***AMENDMENTS TO THE WEST RICHLAND COMPREHENSIVE PLAN AND MUNICIPAL CODE ARE SUBJECT TO THE CITY'S TYPE VII REVIEW PROCESS (LEGISLATIVE ACTION). THE RECOMMENDATION MADE BY THE PLANNING COMMISSION WILL BE FORWARDED TO THE CITY COUNCIL FOR THEIR REVIEW AND CONSIDERATION.***

***Attachments:***

- *Checklist as of June 2020 (A final checklist will be prepared prior to adoption)*
- *Comment matrix as of September 15, 2020 and comment letters received to date*
- *Copy of public notice*
- *The SMP update draft, as of September 17, 2020*

***DESCRIPTION OF PROPOSAL***

The City is conducting a periodic review and updating its Shoreline Master Program (SMP), along with all other jurisdictions in the State of Washington, to comply with State law and updated regulations (RCW 90.58 and WAC 173-26 and WAC 173-27). The State's Shoreline Management Act (RCW 90.58) requires each SMP to be reviewed and revised, if needed, on an eight-year schedule established by the Legislature (although it has been fewer than eight years since the last update, West Richland's update is due by June 30, 2021 and every eight years thereafter, on a cycle). The purpose of the Planning Commission hearing is to hear public testimony regarding the proposed changes to the SMP, which serves to regulate development located in the City's shoreline jurisdiction along the Yakima River.

***BACKGROUND***

As required by the State Shoreline Management Act, local governments must periodically review and update their shoreline master program which are based on the State's Shoreline Master Program Guidelines (WAC 173-26), but tailored to the specific circumstances and needs of the local community.

*History:* Following approval by the Washington State Department of Ecology, the City of West Richland adopted its original SMP in 1974. The SMP was not substantively amended again until 2014, following an extensive update effort that spanned three years and included the help and participation of consultants, private property owners, Planning Commissioners, and members of the City Council. The 2014 update was based on many factors, including an acknowledgement that over 40 years many things affecting the City's shoreline development, environmental conditions, and land uses had changed. Additionally, the update considered numerous state and federal regulatory changes, in areas such as stormwater management, critical areas protection, and flood hazard reduction, that affect the shoreline and aquatic areas. The revised policies, environmental designations, and regulations in the updated SMP were intended to address these changes and bring the SMP into compliance with current federal and state policies and regulations for shoreline and aquatic management.

*What is included in the SMP?* The SMP includes the City's vision of how shoreline areas can be used and provides the policy basis and regulations to guide shoreline development, public access, and habitat protection. The goals and policies of the SMP are be incorporated into the City's Comprehensive Plan, as required by the State Growth Management Act (RCW 36.70A). The shoreline regulations regulate shoreline areas in harmony with existing development regulations. The critical area regulations found in the appendix of the SMP regulate development that affects the City's critical areas within the shoreline jurisdiction.

*Affected area:* The Shoreline Management Act identifies the lands that fall within the Act's jurisdiction. Shoreline jurisdiction within the City of West Richland generally includes all adjacent lands within 200 feet of the ordinary high water mark of the Yakima River and associated floodway, contiguous floodplain within 200 feet of the floodway, and associated wetlands. The City's shoreline jurisdiction encompasses approximately 5.91 miles of riverine shoreline associated with the Yakima River and it is approximately 346 acres in size.

*How are items to be updated determined?* The update is largely based on a checklist provided by Ecology that details the changes to state laws / rules / guidance which may trigger the need for SMP amendments. The checklist was completed by the City's consultant, AHBL. The update also considers changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The City also considers comments from stakeholders and the public, as well as Ecology and other reviewers. Finally, the maps showing the approximate shoreline jurisdiction and Shoreline Environment Designations were modified to show updated background imagery.

*What's next?* At a future meeting and following the conclusion of the comment period, the Planning Commission will meet to issue a recommendation on the SMP update. After the Planning Commission forwards its recommendation to the City Council and the City Council adopts the SMP and associated documents, the Washington State Department of Ecology will have its final review of the SMP. Unlike other local regulations, Ecology has final review and approval authority over the City's SMP, including the ability to require changes. This also means that Ecology has the ability to review and require changes to the parts of our critical areas ordinance and any other ordinances incorporated into the SMP.

***RELATIONSHIP TO THE COMPREHENSIVE PLAN***

The City's adopted Comprehensive Plan includes the following goals from the "Environment" Element that relate to the SMP:

*Goal A - Preserve the natural environment when possible.*

*Goal C- Protect and manage natural resources.*
*Goal E - Protect environmentally sensitive natural areas and the functions they perform by the careful and considerate regulation of development.*

Applicable goals from the "Land Use" Element:
*Goal A - Demonstrate regard for private property owner's rights in all planning efforts.*
*Goal C- Enhance the environmental and aesthetic qualities of the City.*

Likewise, the policies and strategies from the Environment Element that apply include, but are not limited to:

*1. Review new development in the City with sensitivity to environmental issues.*
- *Comply with the State and Federal law.*
- *Comply with local development regulations.*

*2. Protect key habitats.*
- *Develop and maintain an inventory of environmental resources.*
- *Regulate the impact of filling or disturbance of wetlands and riparian areas and surrounding vegetation buffer area.*
- *Using the standards set by state and federal law review; update environmental and critical area protection rules affecting land use.*

*5. Preserve resident communities of endangered, threatened, or sensitive species as identified by state and federal authorities when possible or as required.*
- *Preserve habitat corridors.*
- *Utilize buffer zones, an area surrounding a critical area that is kept in or restored to a natural state to minimize impacts of adjacent land use, to mitigate impacts during construction on sensitive, threatened, and endangered species.*

*8. Enhance the natural environment where possible.*
- *Provide incentives for restoring or enhancing wetlands, stream corridors, and other important natural systems.*
- *Continue implementation of the city's Tree Planting Program.*
- *Remove noxious weeds and non-native plants and re-establish native plants where possible on city-owned lands.*

*16. Protect environmentally sensitive natural areas and the functions they perform by the careful and considerate regulation of development.*

*18. Protect wetlands to the extent that there is no net loss of size, functions, and values.*

*19. Protect and maintain stream flows and water quality within streams.*

*20. Preserve natural forms of flood control and stormwater storage, by avoiding alterations to drainage or stream flow patterns.*

*22. Protect, maintain, and enhance areas highly suited for wildlife, and lands with which threatened, endangered, or sensitive species are known to have a primary association.*

*23. Protect and maintain critical fish and wildlife habitat conservation areas and corridors so as to avoid the creation of isolated subpopulations.*

*24. Enhance degraded critical fish and wildlife habitat conservation areas.*

*25. Implement the goals, policies, and requirements of the Growth Management Act.*

Finally, policies and strategies from the Land Use Element that apply include, but are not limited to:

*2. Encourage property owner and resident participation in the creation of local plans for public improvements, zoning, and other planning concerns.*

*12. Protect views and features unique to the West Richland area.*

*22. Foster a harmonious relationship between the natural and developed environment.*

In addition, the SMP is a component of the City's Comprehensive Plan (cited as Appendix 5) and the SMP itself contains goals and objectives in its various elements named: Economic Development, Public Access, Recreation, Circulation, Shoreline Use, Conservation, Historic / Cultural/ Scientific/ Educational, and Flood Hazard Prevention.

***PUBLIC NOTICE/ COMMENTS***

Public participation is a very important cornerstone of this periodic update process.

This project was launched with Council's adoption of a public participation plan, which was followed by a letter mailed to stakeholders (person with property in the SMP jurisdiction, previous SMP update participants, tribes, etc.) to provide notice and information about the pending update, and gave the opportunity for people to "sign up" to be included on an email notification list. A webpage on the City's website was established at **https://www.westrichland.org/west-richland-shoreline-master-program-periodic-review-2020/** and it has been regularly updated.

Next, the city staff and consultant team hosted an Open House event (which had to be virtual due to circumstances with the current health crisis) via Zoom, providing outreach to interested parties on a first draft of the SMP. The event was advertised though the City's facebook page and on the City's main website page. The Open House was well-attended and included a presentation by Nicole Stickney of AHBL and many questions were answered at that forum pertaining to the update process as well as substance.

Public notice of the joint city/ Ecology October 8, 2020 public hearing included the following, on or by September 17, 2020:

- Posting of a notice to the city's website
- Email to the SMP update email list and to individuals/ agencies on the SEPA email list (Joint notice for the public hearing and for the SEPA determination)
- Notification completed by Ecology
- Publication in the Tri-City Herald

Additionally, a *Request for Expedited Review and Notice of Intent to Adopt Amendment*, as required under RCW 36.70A.106, was submitted to the Washington State Department of Commerce on September 17, 2020.

**It is important to note that the public hearing provides an opportunity for individuals or agencies to provide comments or feedback on the SMP, but it is not the only opportunity to do so. The official comment period for the SMP is open from September 17 – October 19, 2020.**

AHBL consultants are compiling comments received in writing or at the Public Hearing in a response matrix, which documents the comments as well as a response for each comment. So far, comments received from Skylar Marcum, Debbie Berkowitz (Lower Columbia Basin Audubon Society) and Teara Farrow Ferman (Confederated Tribes of the Umatilla Indian Reservation) have been received, and responses to many, but not all, have been prepared at this point.

***ENVIRONMENTAL REVIEW***

The proposal is subject to environmental review. The West Richland Community Development Department is the lead agency for the proposal under the State Environmental Policy Act (SEPA) and reviewed the proposed non-project action for probable adverse environmental impacts and issued a determination of non-significance (DNS) for this proposal on September 17, 2020 (City file number ER 2020-17 and SEPA register No. 202004803).

***PAST AND PROJECTED TIMELINE***

*The processing of this item has included the following thus far:*

| | |
|---|---|
| December 6, 2019: | Completed Final Public Participation Plan and submit to Ecology |
| December 13, 2019: | Completed Review of SMP Checklist |
| June 17, 2020: | Completed First Draft SMP Text/Map Amendments |
| June 17, 2020: | City solicits early feedback from Ecology |
| June 24, 2020: | Virtual Open House, Hosted by West Richland staff |
| September 17, 2020: | Newspaper notice published; Issue SEPA Threshold Determination; City and Ecology joint public comment period begins |

*The next step is:*

| | |
|---|---|
| October 8, 2020: | Joint Planning Commission/ DOE Public Hearing at 6:00 p.m. |

*The projected future timeline includes:*

| | |
|---|---|
| October 19, 2020: | Conclusion of public comment period and City responds to public comments |
| by November 9, 2020: | Complete Final SMP text / map amendments |
| by November 9. 2020: | Issue City's formal response to public comments |
| November 12, 2020: | Planning Commission meeting to issue recommendation on the SMP with findings and conclusions |
| November 13, 2020: | Submit application for "Initial Review/ Determination" to Ecology |
| December 1, 2020: | City Council SMP Adoption Tentative |
| By Dec. 10. 2020: | Submit Application for Final Determination from Ecology |
| TBD: | Final Ecology Approval *(anticipated by the end of 2020 / January 2021)* |

***FISCAL IMPACT***

The City was awarded a grant from Ecology to pay towards the costs associated with the SMP update. The grant funding was provided to only update the SMP itself (there was no funding for updates or changes to reports and research produced as a part of the previous update, such as the Shoreline

Inventory and Characterizations report).

***PRELIMINARY / DRAFT SUGGESTED FINDINGS AND CONCLUSIONS***

Suggested findings and conclusions to accompany a recommendation will be provided in the future; the following list is preliminary suggested findings that will be further developed but could be contemplated at this time, as the Planning Commission will need to adopt official findings and conclusions to support a recommendation:

**Findings:**

1. The State of Washington Shoreline Management Act of 1971 (Chapter 90.58 RCW) requires counties and cities to prepare SMPs to prevent the uncoordinated and piecemeal development on shoreline of the state.
2. Under RCW 90.58.050, the City and Ecology share joint authority and responsibility for the administration of the City's SMP. When the City's updated SMP is approved by Ecology, it has the authority of state law.
3. In 2003, Ecology adopted new rules based on RCW 90.58.200, that became effective January 17, 2004. These rules gave procedural and substantive direction to local jurisdictions for updating shoreline uses and regulations.
4. Ecology adopted and approved the existing City SMP in 2014.
5. The State's Shoreline Management Act (RCW 90.58) requires each SMP to be reviewed and revised, if needed, on an eight-year schedule established by the Legislature and the West Richland periodic update is due no later than June 30, 2021.
6. The SMP Guidelines (Chapter 173-26 WAC) are the standards and guidance that establish minimum standards for updating local SMPs.
7. The City was awarded a grant from Ecology to fund a portion of the update costs.
8. The proposed SMP is compatible with the City's adopted land use designations, policies, and goals contained with its Comprehensive Plan and its development regulations.
9. The proposed SMP recognizes private property rights and it is consistent with other property regulations and those rights afforded to property owners.
10. In accordance with the adopted Public Participation Plan, the City's Planning Commission held a series of public meeting in the City ***……DATES…….***to review and receive public comment on the proposed amendments to update the City's SMP.
11. The City completed environmental review under SEPA issued a Threshold Determination of Non-Significance on September 17, 2020.
12. The City filed a Growth Management Act 60-day notice of intent to adopt with the State of Washington Department of Commerce on September 17, 2020.
13. The proposed amendments to the City's SMP were placed on the City website prior to the City's Planning Commission public hearing for public review.
14. Public hearing notice was published in the Tri-Cities Herald on September 17, 2020.
15. A public hearing before the City's Planning Commission was held on ***DATE***.
16. Following completion of the public hearing before the City's Planning Commission, the City Council will hold a hearing to approve the updated SMP.
17. The City will formally adopt the SMP following review and approval by Ecology and it will then become effective.
18. The SMP is a component of the City's Comprehensive Plan (cited as Appendix 5).

**Conclusions:**

1. Ecology has reviewed and approved the final draft of the SMP.
2. Based upon Ecology's approval of the final draft of the SMP and the staff analysis of the update process, staff has determined that the updated SMP is ready for adoption by the City.
3. After the Planning Commission and the City Council approve the final draft of the SMP, it will be sent to Ecology for their final review and approval.

# Periodic Review Checklist

*Checklist version: September 20, 2017*

## Introduction

This document is intended for use by counties, cities and towns conducting the "periodic review" of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the Shoreline Management Act (SMA) at RCW 90.58.080(4). Ecology's rule outlining procedures for conducting these reviews is at WAC 173-26-090.

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2017 that may trigger the need for local SMP amendments during periodic reviews.

## How to use this checklist

See Section 2 of Ecology's *Periodic Review Checklist Guidance* document for a description of each item, relevant links, review considerations, and example language.

**At the beginning**: Use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

**At the end:** Use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

*Local governments should coordinate with their assigned Ecology regional planner for more information on how to use this checklist and conduct the periodic review.*

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
|---|---|---|---|
| 2017 | | | |
| **a.** | OFM adjusted the **cost threshold for substantial development** to $7,047. | *Optional SMP Amendment:*<br><br>In Chapter 6 Section G.2, the current SMP does not list all exemptions but instead references the exemptions in WAC 173-27-040. It is not required to make this amendment since the City relies on state statute.<br><br>The WAC still uses $5,000 as the cost threshold which is outdated, however there is a different document that the state uses to publish new threshold figures, which can change every two years. The City may choose to list all exemptions in the SMP, however this is unnessary. | OFM adjusted the threshold to $7,047 on September 2, 2017. The definition for "Substantial Development" has been updated to reflect the new cost threshold, and the effective date of that figure. |
| **b.** | Ecology amended rules to clarify that the **definition of "development"** does not include dismantling or removing structures. | ***Amend the SMP:***<br><br>The definition of "development" in Chapter 7 Section B needs to be updated to add the suggested Ecology language: *"Development" does not include dismantling or removing structures if there is no other associated development or re-development."* | Amendment Made to SMP:<br><br>Added suggested language to existing definition of "development". |
| **c.** | Ecology adopted rules that clarify **exceptions to local review under the SMA.** | ***Amend the SMP:***<br><br>While the SMP has a process for SSDP, CUP, variance, or exemptions, it does not list actions | Amendment Made to SMP:<br><br>Added Section "H" to Chapter 6 called "Exceptions to Local Review." This section lists |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
|---|---|---|---|
| | | which require no local review. A simple way to include the specific actions that do not require local review is to add an "exceptions to local review" section within Chapter 6, directly following the "Shoreline Letters of Exemption" section.<br><br>The new "exceptions to local review" section would include the following three exceptions with example language provided by Ecology:<br><br>• Remedial hazardous substance cleanup actions (1994 law),<br>• Boatyard improvements to meet NPDES requirements (2012 law), and<br>• Certain WSDOT maintenance and safety projects and activities (2015 law).<br><br>The City may choose to add other minor actions that do not require local review to this section as well, such as minor maintenance, landscaping activities, etc. | certain development that is do not require shorelines permits or local review. |
| **d.** | Ecology amended rules that clarify **permit filing procedures** consistent with a 2011 statute. | ***Amend the SMP:***<br><br>The current SMP should be updated so that permit filing procedures are clearly stated in a way that is consistent with the Ecology protocol.<br><br>Add to Chapter 6 Section I to clarify that certain decisions must be submitted to ecology and appeal periods start at the "date of filing". The | Amendment Made to SMP:<br><br>To clarify how permit decisions must be filed/mailed to Ecology, amendments were made to Chapter 6, Section I.3.b using sample language from the Ecology Checklist. |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
|---|---|---|---|
| | | Ecology Checklist provides sample language that can be incorporated. This section should include directions for filing a SSDP, CUP or Variance. | Language was also added to Chapter 6 Section I.5 to specifically address filing of appeals for SSDP, CUP and Variances. |
| **e.** | Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs. | *No Amendments Necessary:*<br><br>This provision simply states that timber cutting does not need an SSDP or exemption.<br><br>The City of West Richland does not have significant commercial forestry along shorelines and this amendment is not necessary. | None Taken |
| **f.** | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | *No Amendments Necessary:*<br><br>This amendment is optional, and would clarify that lands under exclusive federal jurisdiction, such as a military base, would not be subject to the City's SMP. Because the City of West Richland does not have any shorelands under exclusive federal jurisdiction, no amendment is necessary. | None Taken |
| **g.** | Ecology clarified "default" provisions for **nonconforming uses and development**. | ***Amend the SMP:***<br><br>Amendments are only necessary where a City does not have its owned tailored provisions for nonconforming uses and development. The City adequately addresses nonconforming uses and development in Chapter 6 section J, so no substantial changes are required. | Amendment Made to SMP:<br><br>Removed existing definition of "non conforming use or development" and replaced with separate definitions for "nonconforming use", "nonconforming development or nonconforming structure" and "nonconforming lot" consistent with Ecology suggested language. |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
|---|---|---|---|
| | | The City's Planning Commission should determine if they would like to re-visit the noncomforming provisions again, at their first workshop meeting,<br><br>The City should update the current definition of "Non-conforming use or development" in Chapter 7 to include separate definitions for "non-conforming use", "nonconforming development" and "nonconforming lot", as shown in the Ecology Checklist. | |
| **h.** | Ecology adopted rule amendments to clarify the scope and process for conducting **periodic reviews**. | *Optional SMP Amendment:*<br><br>The City already describes the process for reviewing or amending the SMP in Chapter 6 Section L. Specifically section L.d states that SMP updates shall be consistent with WAC Chapter 173-26. The SMP could be more specific by stating that *"the periodic review process should be done consistent with requirements of RCW 90.58.080 and WAC 173-26-090."* | Amendment Made to SMP:<br><br>Added specific reference to RCW and WAC in Chapter 6 Section L.d. |
| **i.** | Ecology adopted a new rule creating an **optional SMP amendment process** that allows for a shared local/state public comment period. | *No Amendment Necessary:*<br><br>This is an optional amendment. The current SMP does not have any language that would impede the City from using the shared local/state public comment period. The City may choose to use this shared comment period as there may be some advantages, however, not all jurisdictions utilize this process. | None Taken |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
|---|---|---|---|
| | | | |
| j. | **Submittal** to Ecology of proposed SMP amendments. | *No Amendment Necessary:*<br><br>The City does not describe the process of submitting SMP amendments to Ecology, but rather simply states that "revisions to the SMP…do not become effective until approved by Ecology."<br><br>The City may add detail to this statement, however, this is not necessary. When submitting for initial and final determination of consistency, the City can simply refer to statute for submittal requirements (see WAC 173-26-104(3)). | None Taken at this time. |
| 2016 | | | |
| a. | The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the **Americans with Disabilities Act**. | *No Amendment Necessary:*<br><br>As stated in item 2017(a) above, the City does not list all exemptions but references WAC 173-27-040. The City may want to list all exemptions in the SMP, however this is not necessary. | None Taken |
| b. | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | *No Amendment Necessary:*<br><br>Critical Area Provisions for the shoreline jurisdiction are located within Appendix 2 of the SMP. Appendix 2 Section E of the SMP, as well as the City's Critical Area Ordinance, talks about wetland delineation and rating, and references | None Taken |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
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| | | use of Ecology's 2014 Washington State Wetland rating System for Eastern Washington.<br><br>There do not appear to be any conflicts with the SMP or current CAO. We presume that the existing code adequately or accurately references wetland buffers, ratings, and mitigation measures. The City may wish to continue to review the CAO to ensure it is fully consistent with the Ecology guidance. | |
| 2015 | | | |
| **a.** | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects. | *Optional SMP Amendment:*<br><br>The SMP does not currently mention this provision, but it is optional to add. Because the City of West Richland has state owned highways within the shoreline jurisdiction (WA-224), it may make sense to add these provisions to ensure compliance with the 90-day review target. | Amendment Made to SMP:<br><br>Added provisions for 90-day review and commencing of construction of WSDOT projects in Chapter 6, section J.g. |
| 2014 | | | |
| **a.** | The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for **replacement docks on lakes and rivers** to $20,000 (from $10,000). | *Optional SMP Amendment:*<br><br>The City references the exemptions from WAC 173-26-040, which are consistent with the SMP checklist, however, the threshold was recently updated to $22,500 and $11,200 respectively. This update will likely be reflected in the WAC eventually, however, the City may consider listing permit exemptions with the SMP. | None Taken |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
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| | | AHBL recommends no changes on this item. | |
| **b.** | The Legislature created a new definition and policy for **floating on-water residences** legally established before 7/1/2014. | *No Amendment Necessary:*<br><br>The City does not have any existing floating on-water residences so no amendment is necessary. | None Taken |
| 2012 | | | |
| **a.** | The Legislature amended the SMA to clarify **SMP appeal procedures**. | *No Amendment Necessary:*<br><br>The City only outlines appeal processes for shoreline permits, but not for appeals to the actual SMP. No amendments are necessary. | None Taken |
| 2011 | | | |
| **a.** | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | *No Amendment Necessary:*<br><br>Appendix 2 Section E.1 correctly states that delineation of wetland boundaries must be done using the Federal Wetland Delineation Manual and applicable regional supplements. It is also within the definition of "Qualified wetland specialist." | None Taken |
| **b.** | Ecology adopted rules for new commercial **geoduck aquaculture**. | *No Amendment Necessary:*<br><br>No commercial geoduck aquaculture takes place in the City of West Richland; there are no saltwater shorelines. | None Taken |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
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| **c.** | The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011. | *No Amendment Necessary:*<br><br>There are no floating homes or areas that could be developed as floating homes within the City. | None Taken |
| **d.** | The Legislature authorized a new **option to classify existing structures as conforming**. | *Optional SMP Amendment:*<br><br>Non-conforming uses are addressed in Chapter 6 Section J of the SMP.<br><br>The SMP states that "nonconforming uses and structures may continue provided that it is not enlarged or expanded." The City may consider adding a subsection to J.2 with an amendment clarifying that existing *legally established* nonconforming uses are considered conforming even if they do not meet current bulk or dimensional standards. The rules then should clarify that redevelopment, expansion and replacement is allowed as long as it is consistent with the current SMP. This amendment is optional, however, it can be helpful to homeowners to who inherit legally established nonconforming structures.<br><br>AHBL recommends no changes on this item. | None Taken. |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
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| 2010 | | | |
| **a.** | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | *Optional SMP Amendment:*<br><br>The SMP was comprehensively updated after this law went into effect so no changes are required for consistency with the law, per Ecology's guidelines.<br><br>Ecology's checklist also mentions that if an SMP describes the "effective date" of SMP amendments, it should be revised to clarify SMPs are effect 14 days from Ecology's written notice of action. This language could be simply added to Chapter 6 Section M.2.b, but it is not necessary. | Amendment Made to SMP.<br><br>A sentence has been added to Chapter 6 Section M.2.b. stating that the effective date of the SMP shall be 14 days from Ecology's written notice of action. |
| 2009 | | | |
| **a.** | The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark. | *Optional SMP Amendment:*<br><br>An amendment here is optional. The Ecology Checklist provides two options. The first is to incorporate Ecology's rule for granting "relief" by reference. The second is to incorporate the provisions of the rule directly into the SMP.<br><br>Currently, the City follows option 1 with its existing language in Chapter 4 Section 7.b.4. The City may choose to elaborate more on this by following option 2. This would add clarifying language directly in the code for situations where a shoreline restoration project results in a | None Taken |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
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| | | landward shift in the OHWM, and list the criteria for granting relief to that shift.<br><br>AHBL recommends no changes on this item. | |
| **b.** | Ecology adopted a rule for certifying **wetland mitigation banks**. | *Optional SMP Amendment:*<br><br>The SMP is currently silent to Mitigation Banking and the City's CAO does not enable mitigation banking. The Ecology Guidance simply recommends that mitigation banks are authorized within shoreline jurisdiction, if they are available.<br><br>It is unlikely that the City will pursue a mitigation banking option so it is not necessary to amend the SMP at this time. However, if the City does expect to adopt a mitigation bank in the future, simple language could simply be added to enable that: *"Credits from a certified mitigation bank may be used to compensate for unavoidable impacts."* This would likely be added in Appendix 2 Section O or Section P of the SMP.<br><br>AHBL recommends no changes on this item. | None Taken |
| **c.** | The Legislature added **moratoria authority** and procedures to the SMA. | *Optional SMP Amendment:*<br><br>The SMP does not address moratoria. It is not required for the City to address moratorium, they can simply rely on statute. The City may elect to add a reference to the state statute (RCW 90.58.509). If desired, the City may also | None Taken |

| Row | Summary of change | Review<br>(Prepared by AHBL – June 2020) | Action |
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| | | incorporate the actually statutory language into the SMP.<br><br>AHBL recommends no changes on this item. | |
| 2007 | | | |
| **a.** | The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA. | AHBL recommends no changes on this item. | None Taken. |
| **b.** | Ecology amended rules to clarify that comprehensively updated SMPs shall include a **list and map of streams and lakes** that are in shoreline jurisdiction. | *No Amendment Necessary:*<br><br>The list and map of streams in West Richland that are in the shoreline jurisdiction will not change since the last update. | None Taken |
| **c.** | Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include **fish habitat enhancement projects** that conform to the provisions of RCW 77.55.181. | *No Amendment Necessary:*<br><br>The ecology guidelines state that SMPs that cite the RCW list of exemptions do not need to be updated. This should be reviewed if the City decides to list the exemptions in detail within the SMP. | None Taken |

## West Richland Shoreline Master Program

**Public Comment Response Matrix - Prepared September 15, 2020**

| From Skylar Marcum - 8/16/2020 | | |
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| 1. | Regarding specific changes in the SMP, I saw that the language in the proposed SMP update at page 4 tries to summarize RCW 90.58.030 is confusing and incorrectly summarized. There should be a semicolon after (OHWM) rather than a comma as is shown now. The comma makes it sound like shorelands include the area that is 200 feet from floodways, which is not correct.<br><br>Compare the SMP language with the Statutory language (which the SMP is trying to summarize):<br><br>SMP<br><br>Shorelands means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM), floodways, and contiguous floodplain areas landward two hundred (200) feet from such floodways; and additionally all wetlands and river deltas associated with such rivers, streams, lakes, and tidal waters (RCW 90.58.030).<br><br>RCW 90.58.030(2)(d):<br><br>"Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such | We agree with your observation that the colon after OHWM should be changed to a semi-color to match the RCW and we will direct AHBL to make that change on the SMP update draft version that is presented at the public hearing and for public comments. |

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| | floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.<br><br>Can you please track the statutory language. | |
| 2. | In your original update for 2007 guidance (pg. 12) you had a comment that Floodway should be defined in a single way. You subsequently took no action. Seems out of compliance with the legislature and Ecology. It would be beneficial if Floodway was defined in a single way according to the relevant FEMA maps. | In an initial checklist that was completed to scope out necessary changes to the update, AHBL flagged a potential modification to the definition of floodway for the update. (The Ecology checklist listed that in 2007 there were legislative action taken, where options for the defining "floodway" were given). Upon further review we found that no changes are necessary, as the most recent SMP adopted by the City of West Richland was worked on, and approved, following that legislative change. |
| 3. | In general, there are several updates to Wetlands. It would be great if more details or options on mitigation options are provided. As an example, Mitigation Banking. | Wetland mitigation banking provisions are not compulsory; however, they can be explored and considered if there is an earnest interest in potentially pursuing such a program by affected landowners. If you can confirm that such interest exists on your end please let us know, otherwise city staff does not wish to invest resources in exploring this optional topic at this time. |
| 4. | In 2012 the legislature amended the appeal process to the SMP. Can amendments be added to outline the appeal process to the SMP. | Because it is not necessary to detail the process for appealing the SMP which is per state law and is subject to change by the legislature, as you've noted, the city will not incorporate such language which would be unnecessary and could be a burden to update/ maintain. |
| 5. | Large portions of Michelle's 213 acres are placed in the "Urban Conservancy". This should be made to be Shoreline Residential. The Floodplain and Floodway development restrictions serve the necessary function of limiting development as needed. The property is zoned as Residential and the SMP designation should match that. | The Urban Conservancy Environment is not incompatible with the assigned zoning across the large area you describe, as the designation specifically is intended to allow "low intensity residential development" within the constraints of the SMP and other environmental regulations (as stated in the purpose statement found in Chapter 3, Section E.3). Furthermore, per the designation criteria, the designation is assigned to areas that "are appropriate and planned for low intensity agricultural, recreational, and residential development that is compatible with maintaining or restoring the ecological functions of the area in the shoreline jurisdiction and that are not generally suitable for water-dependent uses" and which "possess severe |

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| | | development limitations, due to the presence of critical environmental features including… flood hazard areas." |
| 6. | Can you please send me any updated draft for the SMP? I noticed language was moved from Title 14 that was redundant with SMP and would like to cross-reference or check if anything changed here. | The Draft SMP dated June 17, 2020 is currently included on the City's website and is our most recent draft (that version was provided for the Open House) and it features the new language you reference on page 93 (Chapter 6, Section C) that came from Title 14 previously. |
| From Debbie Berkowitz, Lower Columbia Basin Audubon Society (LCBAS) – 9/2/2020 | | |
| 7. | General comment. Some areas along Reach 1 are designated as FWHCAs on the Critical Areas map (Comp Plan 2017) including some with good shrub steppe habitat and some with small cliffs. They appear to be the types of areas that would need to be maintained as habitat to prevent the net loss of ecological functions along the Yakima River in the City. Why are none of these areas designated as 'Natural'? On P. 64, D1b2a states "Reserve appropriate areas in the shoreline jurisdiction for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health." Where are the areas reserved for protecting and restoring ecological functions? These areas would be needed so that if other areas are developed, there will be no net loss of ecological function. | Comment noted.<br><br>WAC 173-26-211 (5)(a)(c) provides a criteria for giving a "natural" shoreline environment designation.<br><br>The Shoreline Inventory and Characteristics Repot (SIC Report) from 2013 said that Reach 1 "in its undeveloped state, the shoreline reach's biological and physical character indicate that limited functions are present, but the reach provides habitat functions that can be protected. Restoration or potentially protection would be appropriate throughout the reach."<br><br>The report also assessed the functional assessment of the reach, which is included in Table 10 of the report. For all criteria, the reach scored either moderate or low, but never "high" for hydrologic, vegetation, hyporheic and functions. For habitat function, the reach ranked "moderate."<br><br>We suspect that this is why a natural environment was not established or assigned in the West Richland SMP. |
| 8. | General comment. From your response to a question at the open house as to which shoreline areas have been developed since the last update, it sounds like the City's Gateway area has been developed and that there have been some variances and conditional use permits. What was the mitigation for the Gateway area? Has there been an ecological impact as a result of the implementation of the variances and conditional use permits and, if so, what mitigation has been done? | Information on the Yakima River Gateway Project can be accessed at: https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=201504536<br>By accessing this link, you can view the Notice of Application and SEPA Determination of Non-Significance as well as the Shoreline Permit Application Form, Legal Description(s) of the project site, Vicinity and Project Area Maps, Project Design Drawings, SEPA Checklist and Habitat Management Plan (including proposed impacts and mitigation). Additionally, there is a Wetland Delineation Report and a copy of the Cultural Resources Inventory that was performed. |

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| 9. | P. 29-33, 43ff. Flood Hazard Reduction section and Shoreline Stabilization section. These sections should be strengthened to include the changes in State floodplain and CMZ regulations that further restrict development in these areas, subject to certain requirements. Some examples include: | [no response has been prepared] |
| a. | P. 30, 5b10 Change "Limit…" to "Prohibit" development and structural flood hazard reduction measures within the CMZ that would result in interference with the process of channel migration, i.e., an engineering analysis is required indicating no rise of the base flood elevation. "In areas where a floodway has not been designated, require that no new construction, substantial improvements or other development (including fill) shall be permitted within applicable flood zones unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community." | [no response has been prepared] |
| b. | The restrictions in (a) above should also be applied to P. 43, e3g. | [no response has been prepared] |
| c. | P. 30, c2. Change 'should' to 'shall' in (1) and (2). | [no response has been prepared] |
| d. | P. 32, c11f. Prohibit modifications or additions to an existing nonagricultural legal use that would result in interference with the process of channel migration; an engineering analysis is required that would indicate no rise of the base flood elevation. Any new development would require protection of existing ecological functions. | [no response has been prepared] |
| e. | P. 31, c6. This section should apply only to existing development (WAC 173-26-221(3)c(iii), not to new development. | [no response has been prepared] |

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| 10. | P. 136-156 Wetlands. Since the last SMP update in 2014, WDOE has provided new guidance for Eastern Washington wetlands (WDOE 1606002). Many criteria have changed and these should be incorporated so that West Richland is following the Best Available Science in one of the most important wetland areas in the City, i.e., along the Yakima River. A few examples of changes that would reflect current guidance are noted here: | We consulted the publication Wetland Guidance for CAO Updates: Eastern Washington Version (Publication # 16-06-002). |
| a. | P. 143. Land use impacts table. For example, hobby farms and golf courses in general are considered high intensity. Parks with biking/jogging are considered moderate intensity. Gravel driveways (not paved driveways) serving 1 or 2 residences are considered low intensity. | The publication (page 5) says "Of course, if your jurisdiction includes rural land uses, you should consider using the buffer tables in Appendix 8-D of Wetlands in Washington State, Volume 2 (revised October 2014)."<br><br>When we consult that publication, we see some of the updates that you mention, and we may make those changes in a future draft; ***we are looking into this further***.<br><br>***FLAGGING - City's Critical Areas Ordinance should be checked*** |
| b. | P. 145, J6. Wetland buffer increases. For example, change 'may' to 'shall' in first sentence. Include state or federally listed species (not just 'endangered, threatened, or sensitive species') | The first sentence refers to increased buffers widths "in accordance with recommendations…." and specifies that decisions are made on a "case-by-case" basis and accordingly the optional "may" instead of the compulsory "shall" is appropriate.<br><br>As for the species listings, we need time to conduct some research and evaluate if we be required to make changes in a future draft; ***we are looking into this further.***<br><br>***FLAGGING - City's Critical Areas Ordinance should be checked*** |
| c. | P. 147, K2e. The buffer width is not reduced to less than 75% (not 50%) of the standard buffer width or 75 ft for Category I and II, 50 ft for Category III and 25 ft for Category IV, whichever is greater. | we need time to conduct some research and evaluate if we be required to make changes in a future draft; ***we are looking into this further.***<br><br>***FLAGGING - City's Critical Areas Ordinance should be checked*** |
| d. | P. 148-149. Because of the importance of wetlands associated with the Yakima River for many functions | Change made: |

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| | including water quality and salmon recovery, alteration of these wetlands should be strongly discouraged. Mitigation must follow the prescribed sequence listed in Chap. 4 Section 4; a "combination of such measures" (new revision) weakens this requirement and should not be allowed. | The phrase "Mitigation may include a combination of the above measures" appears in WRMC 18.25.140 (ORD 16-17) and so we added the new phrase to match with that.<br><br>However, this phrase (while used in other SMPs such as the City of Walla Walla and Walla Walla County) could be misleading, and we recognize that The SEPA rules and Section 404 of the federal Clean Water Act both require that a sequence of actions be taken for proposals that will impact wetlands.<br><br>Therefore, we will dispense with this proposed change.<br><br>***FLAGGING - City's Critical Areas Ordinance should be checked*** |
| e. | P. 153. Table should include Rehabilitation. | The table in WRMC 18.25.170 (ORD 16-17) does not include rehabilitation. It is included in the model ordinance in publication 16-06-002.<br><br>We believe this is recommended guidance but is not required and so no action is planned at this time. |
| f. | P. 156. Wetland Monitoring Program. Several criteria in WDOE's latest guidance appear to be missing, including criteria for control of nonnative species, buffer vegetation, monitoring for 10 yrs, a performance bond, etc. These should be included | The current text mirrors what is included in WRMC 18.25.180 (ORD 16-17). At this time, the City does not intend to incorporate the latest guidance as it is not required. |
| g. | P. 92 ej4. 'A delineation of all wetland areas that will be altered or used as a part of the development' should come with a mitigation plan as part of the application so that there is no net loss of ecological function. As noted above, alteration of wetlands along the river should be strongly discouraged by the City because of their critical ecological functions. | Comment noted. |
| 11. | P. 157-161, 121. Critical fish and wildlife habitat conservation areas. | |
| a. | P. 157 R1. State priority habitats and areas associated with state priority species as well as DNR's natural heritage program species should be included | We need additional time to research this topic and look up the Richland and Benton County documents you cited, and determine if we will make those changes in a future draft; ***we are looking into this further***. |

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| | in all FWHCAs, not just on 'government and conservation land.' According to WAC 365-190-130 (4b), WDFW priority habitats and species should be considered by counties and cities as they include the best available science; DNR's natural heritage program can provide a list of high quality ecological communities and systems and rare plants. We are asking you to include these in all FWHCAs in the City as has been done by Benton County and by the City of Richland. (We should note that it is not clear from the City's Critical Areas map which parts of the FWHCAs are on government and conservation land; the only locations specifically mentioned in the text are in Willamette Heights, which we don't think are subject to shoreline jurisdiction.) | ***FLAGGING - City's Critical Areas Ordinance should be checked*** |
| b. | P. 157 R1. FWHCAs should also include documented habitat, other than accidental presence, of regional or national significance for migrating birds. | Change made: We have added "Documented habitat, other than accidental presence, of regional or national significance for migrating birds" as item g in that section. (Change made to the SMP update draft version that is going to be presented at the October Planning Commission public hearing.)<br>***FLAGGING - City's Critical Areas Ordinance should be checked*** |
| c. | P. 159. FWHCA. "Buffer shall not exceed 150 ft" (new revision). What is the Best Available Science basis for 150 ft? How will this result in no net loss of ecological function? The Department of Fish and Wildlife's priority habitats and species recommendations often call for buffers wider than 150 ft for many fish and wildlife habitats. The SMP should follow WDFW recommendations as documented in https://wdfw.wa.gov/species-habitats/at-risk/phs/recommendations. For example, the WDFW recommended buffer width for Type S streams is currently 250 ft. And individual species may have significantly larger recommended buffer widths. In the Benton County CAO, a Type F | Correction made: The phrase "but in no case shall exceed 150 feet" appeared in a 2014 draft and was subsequently deleted following a comment from Ecology. We inadvertently added it back in. Thank you for the close review; this proposed change will be eliminated.<br><br>(Change made to the SMP update draft version that is going to be presented at the October Planning Commission public hearing.)<br><br>***FLAGGING - City's Critical Areas Ordinance should be checked*** |

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| | stream has a 200 ft FWHCA buffer width; a Type S stream like the Yakima River shouldn't be less. | |
| d. | P. 161. FWHCA, Wildlife corridors. Again, the SMP should follow WDFW recommendations as documented in 'Landscape Planning for Washington's Wildlife: Managing for Biodiversity in Developing Area (Chap. 4, P. 3) or current version. WDFW recommends widths of 150 to 1,000 ft for wildlife corridors depending on the type and number of species likely to use it. | It is our understanding that Ecology (who works with FWHCA) supports the exiting buffers as we have established them in the SMP. |
| e. | P. 158. Habitat assessment should include an analysis of F&W habitat and species within 300 ft of the project site to account for potentially wider buffer widths. | Change made:<br>We have made a change as follows:<br><br>Habitat Assessment. **A habitat assessment, prepared by a qualified wildlife biologist, shall be submitted for any development activity proposed on a site which contains or is within: (A) 200 feet of a site or area that** ~~**If**~~ the City's Shoreline Administrator has reason to believe that critical fish and wildlife habitat exists on or within, or **(B) 300 feet of documented habitat for threatened, endangered, or sensitive fish or wildlife species.** ~~**200 feet of a property proposed for any development activity, a habitat assessment shall be prepared by a qualified wildlife biologist.**~~ The habitat assessment shall include, at a minimum, the following: 1) An analysis and discussion of critical species or habitats known or suspected to be located **on or** within 200 feet **(or within 300 feet, as applicable)** of the project site; 2) A site plan that clearly delineates the critical fish and wildlife habitats found on or within 200 feet **(or within 300 feet, as applicable)** of the site.<br><br>***FLAGGING - City's Critical Areas Ordinance should be checked*** |
| f. | P. 121. Definition of 'pristine shrub steppe habitat.' This is too restrictive a definition for any area of Benton County since there is so little shrub steppe left and very little of that could be classified as pristine (in fact, the County doesn't use 'pristine' in talking about shrub steppe habitat in their CAO). | Based on our consultations with WDFW, our definition is something they concur with. |

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| | Connectivity of disturbed shrub steppe is also very important as is the connection of shrub steppe to riparian areas. Shrub steppe should be based on WDFW's priority habitat designations. | |
| 12. | P. 20 3b3. Critical environmental features. Please add (d) Fish & wildlife habitat conservation areas; (a) should also include steep slopes or geologic hazards in general). | This is for the designation criteria or the Urban Conservancy shoreline environment. It says that the Urban Conservancy shoreline environment designation is assigned to areas that "Possess severe development limitations, due to the presence of critical environmental features including: a. Erosion hazard areas; b. Wetlands; and/or c. Flood hazard areas"<br><br>In comparison the Shoreline Residential Environment designation is assigned to areas that "do not contain significant environmental hazards or sensitive areas" and the High Intensity Environment designation is assigned where there are areas having "few biophysical limitations to development such as floodways, floodplains, **steep slopes**, or landslide hazard areas"<br><br>We feel that in the greater context, your concerns are already addressed. |
| 13. | P. 57. Note 2. Add – 'No net loss of ecological function shall be allowed.' | The SMP document is very clear on the standard of no net loss of ecological functions, and changing the footnote would only add unnecessary repetition.<br><br>The language in Chapter 3, Section (F)(2)(c) is applicable to all shoreline environment designations and states "Permitted uses shall result in no net loss of ecological functions and shall not degrade other values in the shoreline jurisdiction."<br><br>No footnote is needed, as it would be unnecessary repetition. |
| 14. | P. 38. Clearing and Grading. Please make it clear in this section (as you do in section 10b, P. 50-52) that clearing and grading is allowed only as part of a shoreline substantial development permit or as a conditional use. Given how often clearing occurs without a permit on our shorelines, stating this up front might help decrease the problem. | Suggestion noted. |

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| 15. | P. 68 4a. How are docks that serve fewer than 4 families regulated? Is the cumulative effect considered? | We don't think anyone will put a dock in the Yakima River (due to flows, flooding, functions) for residential purposes. |
| 16. | P. 93 Notice for SMP permits. Please add publication in the TCH legal notices. | The SMP specifies that notice may be made in "Any other manner deemed appropriate by the director to accomplish the objectives of reasonable notice to adjacent landowners and the public" and so publication in the TCH is not precluded.<br><br>Next, WAC 173-27-110 does not require such publication. |
| 17. | P. 110 BMP definition. This definition is very limited. It should include statements about agricultural and land management activities. It should also talk about protecting vegetation, habitats, and groundwater, as well as sustainability. | The model CAO ordinance says:<br>"Best Management Practices (BMPs) – Conservation practices or systems of practices and management measures that: (a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment; (b) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands; (c) Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and (d) Provide standards for proper use of chemical herbicides within critical areas."<br><br>The SMP says: [STORMWATER DEFINITION]<br>Best Management Practices (BMPs) – BMPs are the utilization of methods, techniques or products which have been demonstrated to be the most effective and reliable in minimizing environmental impacts. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater run-off and in receiving waters.<br><br>And the WRMC Chapter 18.25 does not have a definition.<br><br>In reading through the SMP we find that the stormwater definition fits the text the best (discussion about clearing and grading, etc.) and the term is never used in relation to conservation / farming activities / etc. |

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|---|---|---|
| 18. | Consider adding a statement that the City strongly encourages bird friendly buildings, especially in the shoreline area (and critical areas). Guidelines from the American Bird Conservancy are available. | Comment noted. |
| 19. | P. 170 Exception 1 (and 2). Where would an existing lot be found that would meet this exception? It should be clarified that an existing lot refers to a lot existing prior to the 2014 SMP (or if this paragraph existed in a previous SMP, then prior to that version). | There are very likely very few lots in shoreline jurisdiction that meet this criterion. Perhaps there could be a location along Reach 1 where there are some cliffs, as you have noted. The following section "g" prevents the creation of additional lots which should eliminate the necessity to cite or state specifically that "existing" lot means prior to the 2014 SMP. |
| 20. | P. 184 DD. Paragraphs 1 & 2. It would be useful to give this more 'teeth' by changing 'may' to 'shall' to maintain the standard of no net loss of ecological function. | *(correction, this is on page 176)* For the first paragraph, the Administrator "may" suspend or revoke approval for various items which do not necessarily meet the threshold of "no net loss of ecological function" and so it appears that this is already very protective.<br><br>For second paragraph – it is preferred to leave "may require or perform periodic monitoring" as this leaves options open for various cases and instances. |
| 21. | Appendix 3 is mentioned but we haven't been able to find it. Is it on the City's website? | <u>Change made:</u><br><br>There is no appendix 3 and we have removed the reference (page 7). |
| From the Confederated Tribes of the Umatilla Indian Reservation (CTUIP) – 9/11/2020 | | |
| 22. | The CTUIR would like the Shoreline Master Plan to specifically reference and include more information about tribal First Foods and the habitats those foods rely upon. | Comment noted. |
| 23. | The CTUIR would like the wapato (sagittaria latifolia) and dogbane hemp (Apocynum cannabinum) site I showed you on September 9, 2020 be included as a preservation area in the Plan. | <u>Change made:</u><br>We added "Private, noncommercial activities that do not include development (such as the harvesting of naturally occurring plants including the wapato -*Sagittaria latifolia* and dogbane hemp – *Apocynum cannabinum* by Confederated Tribes of the Umatilla Indian Reservation members) are not considered aquaculture in this SMP and as such are not subject to these policies." To Chapter 5, Section D, Subsection 3(a), and we made similar changes to the definition of "Aquaculture." |

| | | |
|---|---|---|
| | | "Foraging habitat" is included within the "Priority Habitat" definition.<br><br>Finally, we added "Areas where the wapato (Sagittaria latifolia) and dogbane hemp – (Apocynum cannabinum) occur, as these species are culturally significant to the Confederated Tribes of the Umatilla Indian Reservation members" to the list of "Habitats and species of local importance" in Appendix 2, Section R(1)(b)(1)(c).<br><br>(Note: no change to the City's CAO is necessary since the SMP Appendix 2 regulates uses and development in the City's Shoreline areas, which covers the location where these species occur) |
| 24. | The CTUIR would also like to ensure shoreline areas are accessible for tribal fishing. | <u>Change made:</u><br><br>The SMP already states the objective to "when and/or where appropriate, make access to such sites [having historic, cultural, scientific, or educational values] available to parties of interest. Design and manage access to such sites in a manner that gives maximum protection to the resource." Under Chapter 2, Section H Subsection 2(b).<br><br>We added "Shoreline areas shall be made available for tribal fishing and foraging activities, to the extent allowed under applicable laws and statutes." To Chapter 4, Section B, Subsection 2(c)(3). |
| 25. | Finally, the CTUIR would like to have access of CTUIR tribal members acknowledged for the exercise of reserved treaty rights to gather First Food resources and raw materials such as the dogbane hemp. | See response for comment #22.<br><br>While we did not refer to the treaty in the SMP, we have made some changes that support your request. |
| 26. | | |
| 27. | | |
| 28. | | |
| 29. | | |

# Comments on West Richland Shoreline Master Program

Patrick Paulson

Laurie Ness

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## Acronyms

CA Critical Areas ..... 11

CAO Critical Areas Ordinance ..... 12, 29, 34, 37

CAP SMP Appendix 2: Critical Area Provisions..... 11, 12, 37

PHS Priority Habitat and Species..... 2

RMZ Riparian Management Zone..... 26

SMP Shoreline Master Program..... 1

WAC Washington Administrative Code ..... 4

WDFW Washington Department of Fish and Wildlife ..... 2

WDOE Washington Department of Ecology..... 4

WMRC West Richland Municipal Code ..... 6

## Regulations

City of West Richland, Shoreline Master Program Draft for Planning Commission Public Hearing & Comment Period. September 17, 2020 (*SMP Update*) ..... 1, 2

Revised Code of Washington (RCW), Chapter 90.58 ..... passim

WAC Chapter 173-26, *State Master Program Approval/Amendment Procedures and Master Program Guidelines* (SMP Guidelines) ..... passim

## Other Authorities

Benton County*, Washington Natural Hazard Mitigation Plan 2019 Revision,* found in agenda packet for West Richland City Council Special Meeting, July 30, 2019. https://www.westrichland.org/download/City%20Council/Packets/2019/07-30-19-Special-Meeting.pdf..... 13

City of West Richland, *Comprehensive Plan 2017 Update (Comp. Plan)*..... 6

City of West Richland, *Cumulative Impacts Analysis; Yakima River, Revised Draft.* February 14, 2014. https://www.westrichland.org/download/Planning-

Community%20Development/shoreline_master_program/previous_documents/02112014_Draft_SMP_Cumulative_Impacts_Analysis_2120388_30.pdf ..... 2

City of West Richland, *Restoration Plan, Shoreline Master Program Update – West Richland, Washington.* August 5, 2014. https://www.westrichland.org/download/Planning-Community%20Development/shoreline_master_program/previous_documents/20140805_Final_West_Richland_Shoreline_Restoration_Plan_2120388.pdf..... 2

City of West Richland, *Shoreline Inventory and Characterization,* October 7, 2013 ..... 15

City of West Richland, *Shoreline Inventory and Characterization, Shoreline Master Program Update*, January 17, 2013 Draft from Planning Commission Packet for 2/14/2013. https://www.westrichland.org/download/Planning-Community%20Development/Planning-Commission-Minutes/2013/02%2014%2013%20Planning%20Commission%20Packet.pdf .... 5

City of West Richland, *Shoreline Master Program Update Public Participation Plan*, 2020. https://www.westrichland.org/download/Planning-Community%20Development/shoreline_master_program/2020_update/20200310_West_Richland_SMP_Public_Participation_Plan_2190707_Revised.pdf..... 2

Vermont Fish & Wildlife Department, Agency of Natural Resources, *Guidelines for Protection & Mitigation of Impacts to Great Blue Heron Rookeries in Vermont*. 2002. https://vtfishandwildlife.com/sites/fishandwildlife/files/documents/Conserve/RegulatoryReview/Guidelines/Guidelines_for_Protection_and_Mitigation_of_Impacts_to_Great_Blue_Heron_Rookeries_in_VT.pdf ..... 33

WDFW, *Land Use Planning for Salmon, Steelhead and Trout*. October 2009 ..... 20

WDFW, *PHS on the Web*. https://geodataservices.wdfw.wa.gov/hp/phs/ ..... 2

WDFW, *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications*, Chapter 5: Pollutant Removal. July 2020. ..... 28

WDFW, *Riparian Ecosystems, Volume 2: Management Recommendations, Public Review Draft*, May 2018. No link on currently on WDFW's site, available at https://drive.google.com/file/d/1ZzsnP0FDMq5U1gFflkoc4-P2guI-gt2O/view?usp=sharing . 27

WDOE, *Shoreline Master Programs Handbook,* Publication 11-06-010, December 2017 (SMP Handbook) ..... passim

WDOE, *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication No. 14-06-030), 2014, hereafter referred to as *Wetland Ratings* ..... 29

Thank you for this opportunity to comment on West Richland's periodic update of its Shoreline Master Program (SMP). These comments are based on City of West Richland's *Shoreline Master Program Draft for Planning Commission Public Hearing & Comment Period* dated September 17, 2020.[1] We have completed our comments on Chapters 1 through 4, Chapter 5 Sections A and B, and the section of Appendix B dealing with Fish and Wildlife Habitat conservations areas; we'll likely be submitting additional comments on the remaining sections.

# 1 Introduction (SMP.1)[2]

## 1.1 Purposes of the Shoreline Master Program (SMP.1.C)

Remove: "The four purposes of the SMP are to: ~~1. Carry out the responsibilities imposed on the City by the SMA;~~". This is the *reason* the City is preparing the SMP, it is not the *purpose* of the SMP.

## 1.2 Shoreline Master Program Development (SMP.1.D)

> No changes were made to the *Shoreline Inventory and Characterization*, the *Cumulative Impacts Analysis*, the *No Net Loss Report* or the *Restoration Plan*, in 2020, as ~~no changes were necessary~~ *since these documents are not required to be revised for a periodic SMP update (WAC 173-26-090.2.c.iii)*[3].

This textual change makes clear the reason these documents were updated isn't because they are necessarily up-to-date but because it isn't a requirement of the Washington's Shoreline Management Act (SMA).[4]

---

[1] Hereafter referred to as the *SMP Update*.

[2] Each sub-section identifies the heading in the *SMP Update* that we are commenting on. For example, *SMP.1.D* refers to Section D of Chapter 1 of the *SMP Update*.

[3] "…There is no minimum requirement to comprehensively revise shoreline inventory and characterization reports or restoration plans".

[4] State of Revised Code of Washington (RCW), Chapter 90.58

Secondly, for substantive public comment, and to meet requirements of your Public Participation Plan[5], it needs to be clear to the public where these documents are located. We were able to locate the documents after contacting the City, but links from the SMP Update website would be less onerous on the public. Regardless of the requirements for an SMP Update, we note that the *Cumulative Impacts Report*[6] doesn't consider shrub steppe or wildlife corridors. Washington Department of Fish and Wildlife's (WDFW) Priority Habitat and Species (PHS) mapping tool[7] indicates the following occurrences of PHS in Reach 2: Biodiversity Areas And Corridor: Yakima River Delta (extends into West Richland), multiple areas of Freshwater Forested/Shrub Wetland, and (at township level) Townsend Ground Squirrel and Ferruginous Hawk. Reach 1includes multiple instances of Freshwater Forested/Shrub Wetland, multiple instances of Shrub Steppe and Aquatic Habitat, occurrences of Burrowing Owl, and the possibility of Ferruginous Hawk (in addition to the fish species already identified in the report). Further, the *Restoration Plan*[8] includes no restoration plan for Shrub Steppe, the primary ecosystem of our area.

---

[5] "VI. Public Participation Opportunities A. Communication Program: "Website: The City will use their website, www.westrichland.org, to allow for interested citizens to access draft documents and maps, view the project schedule, check for meeting notices and materials, see submitted public comments, obtain contact information, and submit comments." P. 5, *City of West Richland Shoreline Master Program Update Public Participation Plan*, 2020. https://www.westrichland.org/download/Planning-Community%20Development/shoreline_master_program/2020_update/20200310_West_Richland_SMP_Public_Participation_Plan_2190707_Revised.pdf.

[6] *City of West Richland Cumulative Impacts Analysis; Yakima River, Revised Draft.* February 14, 2014. https://www.westrichland.org/download/Planning-Community%20Development/shoreline_master_program/previous_documents/02112014_Draft_SMP_Cumulative_Impacts_Analysis_2120388_30.pdf

[7] PHS on the Web. https://geodataservices.wdfw.wa.gov/hp/phs/

[8] *Restoration Plan, Shoreline Master Program Update – West Richland, Washington.* August 5, 2014. https://www.westrichland.org/download/Planning-Community%20Development/shoreline_master_program/previous_documents/20140805_Final_West_Richland_Shoreline_Restoration_Plan_2120388.pdf

### 1.3 Section E. Shoreline Master Program Basics (SMP.1.E)

In the description of the process for applying for shoreline development permits, it would be informative to the public to add the state agencies that are likely to be involved in the permitting process for shoreline development.

> … contiguous floodplain areas landward two hundred (200) feet from such floodways; and additionally all wetlands and river deltas associated with such rivers, streams, lakes, and tidal waters (RCW 90.58.030). ~~Buffers for these associated wetlands and floodplains outside of two hundred (200) feet of the floodway are not included in the City's shoreline jurisdiction.~~ Within the City, the Yakima River, and its associated wetlands and floodways are within SMA shoreline jurisdiction and the Yakima River is a Shoreline of Statewide Significance.
>
> *Buffers for any critical area, including those for associated wetlands and floodplains, outside of two hundred (200) feet of the floodway are not included in the City's shoreline jurisdiction.*

Added text so that all critical area buffers are treated consistently.

## 2 Master Program Elements (SMP.2)

### 2.1 Conservation Element (SMP.2.G)

Add a third objective stating:

> *c. Identify sites that have potential for shoreline restoration within the shoreline jurisdiction and prioritize for grants*

### 2.2 Historic, Cultural, Scientific, and Educational Element (SMP.2.H.1; Goal)

> Ensure the recognition, protection, preservation, and restoration of areas in the shoreline jurisdiction and create a unique 'sense of place …

This goal is opaque. The mention of 'public facilities' and 'recreation' seems to imply that development of facilities and recreation opportunities is one of the goals of this section; such development is contrary to the first goal of protection of historical/cultural/educational resources. Either remove this goal or make it clear. Perhaps a statement like: "Foster a "unique sense of place" through public outreach and passive recreational opportunities". Alternately, adopt model

language for this goal from the Washington Department of Ecology's (WDOE) Shoreline Master Programs Handbook:[9]

> *Shoreline features of historic, cultural, archaeological, or scientific value as determined by the Washington Department of Archaeology and Historic Preservation should be protected to prevent the destruction of, or damage to, any site having archaeological, historic, cultural, or scientific value through coordination and consultation with the appropriate local, state and federal authorities, including affected Indian tribes.10*

### 2.3 Chapter 2, Section I, subsection 1: Flood Hazard Prevention Element; Goal

> Provide for the statewide interest to prevent and minimize flood damages. ~~Recognize statewide interests over individual interests in the prevention and minimization of flood damages.~~

Our proposed language is based on RCW 90.58.100.2.h: "An element that gives consideration to the statewide interest in the prevention and minimization of flood damages; …"

## 3 Chapter 3: Environment Designations

### 3.1 Chapter 3, Section A: Summary

> The intent of a shoreline environment designation is to regulate development in a way that preserves and enhances ecological functions in the shoreline jurisdiction and improves the character of the City's shoreline…
>
> ~~The intent of a shoreline environment designation is to preserve and enhance ecological functions in the shoreline jurisdiction and to encourage development that will improve the present or desired future character of the City's shoreline jurisdiction.~~ ….

The SMP is required to ensure "no net loss of ecological functions necessary to sustain shoreline natural resources".[11] The intent of environment designations is to ensure "no net loss" to ecological functions in a way that accommodates "appropriate and necessary shoreline uses

[9] *Shoreline Master Programs Handbook,* Washington Department of Ecology Publication 11-06-010, December 2017, hereafter referred to as *SMP Handbook*.
[10] Appendix B, "Model Language for cultural resources and forest practices", SMP Handbook, P. 2.
[11] Washington Administrative Code (WAC), 173-26-201.c

and development". That is, the intent of the designations is not to *encourage* development, but instead to ensure that development results in no net loss of ecological function.

> Based on the four (4) criteria found in the SMP Guidelines, the SMP establishes ~~four (4)~~ *five (5)* shoreline environments for the City. They ~~include~~ are:

The "natural" environmental designation suggested by the *SMP Guidelines*[12] is missing, even though an early draft of the Shoreline Inventory and Characterization report specifically mentions shoreline that

> Reach 1 is currently undeveloped and consists primarily of upland shrub/scrub range land. Irrigated agriculture occurs in the vicinity of Reach 2, though very little land within the shoreline jurisdiction itself is cultivated; the remainder of the reach consists primarily of undeveloped wetlands and their associated buffers.[13]

Further, in its Summary Table, the Draft Inventory Report notes under entries for "Restoration Opportunities" and "Protection/Restoration/Development Areas" for Reach 1 that "Reach is currently undeveloped and therefore provides habitat functions that can be protected…restoration or potentially protection would be appropriate throughout the reach".

The *SMP Guidelines* state

> The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use.[14]

---

[12] WAC Chapter 173-26, *State Master Program Approval/Amendment Procedures and Master Program Guidelines*, hereafter referred to as *SMP Guidelines*.

[13] *Shoreline Inventory and Characterization, Shoreline Master Program Update – West Richland, Washington*, January 17, 2013 Draft from Planning Commission Packet for 2/14/2013, hereafter referred to as *Draft Inventory Report.* https://www.westrichland.org/download/Planning-Community%20Development/Planning-Commission-Minutes/2013/02%2014%2013%20Planning%20Commission%20Packet.pdf.

[14] WAC 173-26-211.5.a.i

Further, West Richlands Comprehensive Plan[15] assigns the "Urban Transition" land use to the area upland of Reach 1. This land use "is assigned to lands that are to be held in a transition status during the 20-year planning period of the comprehensive plan…Uses of land designated Urban Transition are intended to be temporary to provide the City a basis to evaluate future needs for additional land in other land use designations."[16]

This area is part if the urban transition zoning district, which is "intended to be applied to all properties of importance to the future growth of the city but which are outside of the 2017 – 2037 planning horizon… The purpose of the district is to allow those lands which were annexed into the city prior to the adoption of the Growth Management Act to remain within the city and continue to be used for farming and agricultural activities until such time that demand dictates a change in land use."[17]

By assigning the "Natural" designation to areas within Reach 1, the City can prevent premature development of areas which might better be reserved for open space, wildlife, or parks. The Natural Designation may also be suitable for areas with an associated land use of "Low-Density Residential", such as the shoreline near the sewage treatment plant.

## 3.2 Shoreline Areas Not Mapped or Designated (SMP.3.B)

> Any undesignated areas of the City's shoreline jurisdiction in the City are assigned automatically an Urban Conservancy shoreline environment designation. This includes any areas annexed into the City that would fall within the City's shoreline jurisdiction. ~~Currently no part of the City's Urban Growth Area (UGA) falls within the shoreline jurisdiction of the SMA~~. *Currently no part of the shoreline jurisdiction of the SMP falls outside of the City's Urban Growth Area (UGA).*

[15] *City of West Richland Comprehensive Plan 2017 Update*, hereafter referred to as the *Comp. Plan.*
[16] Comp. Plan p. 23.
[17] West Richland Municipal Code (WRMC) 17.23.010.

The modified text provides justification for using "Urban Conservancy" designation as default rather than "Rural Conservancy", see WAC 173-26-211.2.e. It's clearly untrue that "no part of the [UGA] falls within the [shoreline jurisdiction]", see Figure 1.

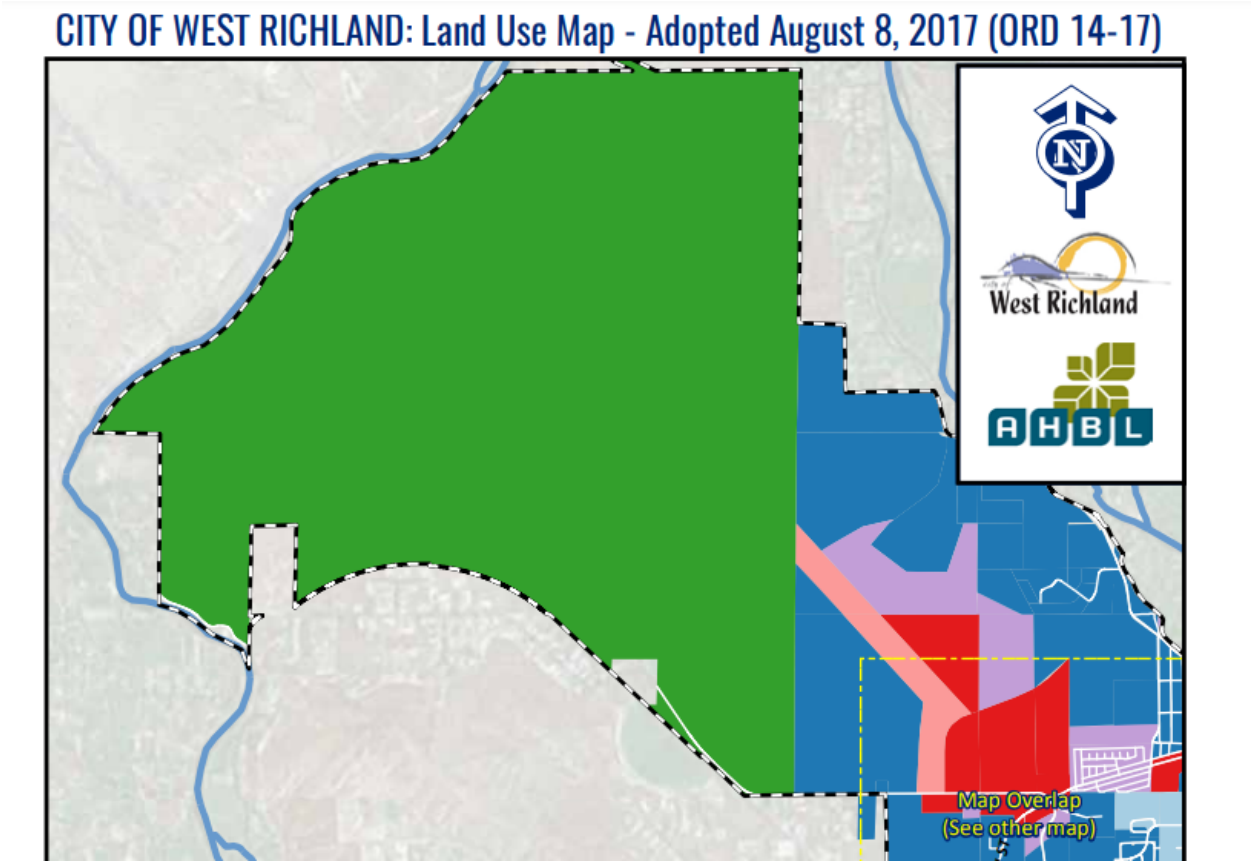


*Figure 1. Land Use Map, West Richland comprehensive Plan.*

## 3.3 Designations and Policies (SMP 3.E)

### 3.3.1 (SMP 3.E.1)

a. Purpose

The purpose of the High Intensity shoreline environment designation is to provide for high intensity water-oriented commercial and transportation uses while protecting existing ecological functions and restoring ecological functions in areas in the shoreline jurisdiction that have been

degraded. ~~Where water-dependent uses are not possible within this designation, because the Yakima River is unnavigable, or where this designation is used as a parallel designation that is not adjacent to the ordinary high water mark, the City allows for non-water-related uses within this designation to meet the requirements of the GMA.~~

The stricken text is more clearly covered in the given policy statements.

#### 3.3.1.1.1 Management Policies (SMP 3.E.1.d)

2. Allow the development of new non-water-oriented uses on sites where ~~there is no direct physical access to the City's shoreline jurisdiction or where~~ the applicant can demonstrate that the use will not conflict with or limit opportunities for water-oriented uses.

The stricken text is confusing even though it is appears to be based on the SMP Guidelines.[18] Not all water-oriented uses--such as aesthetic enjoyment--require direct physical access to the shoreline.

Additionally, add a policy based on WAC 117-26-211.d.2.E:

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

### 3.3.1.2 Natural Environment (SMP 3.E.5?)

As noted above, the City should include a "natural" environment based on the guidelines given in WAC 117-26-211.5.a. This designation should be used for shoreline that is ecologically intact, especially where the land use is "Urban Conservancy" or "Low-Density Residential". Add the following language based on the *SMP Guidelines*:

*5. Natural Environment*

*a. Purpose*

*The purpose of the Natural shoreline environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline*

[18] WAC 117-26-211.5.d.2.A

*functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes.*

*b. Designation Criteria*

*A Natural environment designation should be assigned to shoreline areas if any of the following characteristics apply*

1. *The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;*
2. *The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or*
3. *The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.*

*c. Designated Areas*

*The Natural shoreline environment designation is assigned to*[19]

1. *Those areas in the shoreline jurisdiction within Reach 1 north of Overlook Drive, excluding parcels 130072010729001 and 109074000000000; and*
2. *Those areas in the shoreline jurisdiction within Reach 2 east of N. 46th avenue and north of the Van Giesen Bridge, excluding parcels 132082013345005, [parcels immediately north of Van Giesen that are already developed or have potential – approximately anything south of the northern most point on Fallon Drive].*

*d. Management Policies*

1) *Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.*
2) *The following new uses should not be allowed in the Natural environment:*
    a) *Commercial uses.*
    b) *Industrial uses.*
    c) *Non-water-oriented recreation.*
    d) *Roads, utility corridors, and parking areas that can be located outside of Natural designated shorelines.*
3) *Single-family residential development may be allowed as a conditional use within the Natural environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.*

[19] These designated areas are a suggested starting point. They include undeveloped portions of the jurisdiction including Fox Island and areas adjacent to shrub steppe. The specified parcels have already been developed.

4) *Agricultural uses of a very low intensity nature may be consistent with the natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.*

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

6) *New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.*

# 4 General Regulations (SMP 4)

## 4.1 Introduction (SMP 4.1.A)

> ~~These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the governing principles of the SMP Guidelines as established in WAC 173-26-186.~~
>
> These provisions implement the requirements given in the SMP guidelines regarding master program regulations (WAC 173-26-191.2.a.ii).

This given text doesn't make sense in this section. RCW 90.58.100 (2) describes the elements to be addressed by the SMP, which were addressed in SMP Chapter 2. WAC 173-26-186 describes the governing principles of the *SMP Guidelines*—the rules given in WAC 172-26. The revised text points to the WAC that specifies the contents of the regulations an SMP needs to contain.

## 4.2 Policies and Regulations (SMP 4.B)

### 4.2.1 Universally Applicable Policies and Regulations (SMP 4.B.1)

Under policy 4 ("Periodically review conditions…") add

*f. Ensure adequate shoreline vegetative cover for riparian ecosystem processes to function.*

### 4.2.2 Archeological and Historic Resources (SMP 4.B.2)

The given regulations only require that an evaluation be done when work is done in an area "documented to contain archeological resources" but does not specify what is to be done with the result of the regulation. Further, the regulation only applies to tribal resources and does not address other resources identified by the DAHP. Given these and other shortcomings, the City should adopt WDOE's *Cultural Resources Model Language for Shoreline Master Programs.*[20]

### 4.2.3 Critical Areas (SMP 4.B.3)

Make textual change to policy 3:

> Promote human uses and values in critical area provisions, such as public access and aesthetic values, provided they do not ~~significantly~~ adversely impact ecological functions.

The SMA doesn't allow impact to ecological functions or a judgement call as to what is 'significant'.

#### 4.2.3.1 (Critical Area) Regulations (SMP 4.B.3.c)

Make textual change:

> 1. If there is a conflict between the provisions of SMP Appendix 2: Critical Area Provisions *(CAP)* in the Shoreline Jurisdiction and other parts of the SMP, the provisions *most protective of the ecological functions* of the City's shoreline jurisdiction shall apply, as determined by the City's Shoreline Administrator.

Add regulations and clarifications regarding buffers for critical areas that lie outside of the shoreline jurisdiction and for Critical Areas (CA) within the shoreline jurisdiction with buffers that extend outside the shoreline jurisdiction. Here's what my understanding of RCW 36.70A.480.6) results in: [21]

---

[20] https://fortress.wa.gov/ecy/publications/parts/1106010part20.pdf

[21] Based on our understanding of guidance given in the *SMP Handbook* (https://fortress.wa.gov/ecy/publications/parts/1106010part18.pdf). Note that the SMP explicitly

> 2. *When a Critical Area (CA) within the shoreline jurisdiction requires buffers--as determined by the CAP--that extend outside of the shoreline jurisdiction, then the CA and its buffers are regulated by the Critical Areas Ordinance (CAO) [WRMC 18.25]. In addition, all regulations of the SMP will apply to the portion of the CA and its buffers that occur within the shoreline jurisdiction.*
>
> *3. Any area within the shoreline jurisdiction that is within a buffer for a CA that lies outside the shoreline jurisdiction is subject to the regulations given in the CAO as well as all critical area provisions of the SMP*

Sorry it's so confusing, but you see why this has got to be made clear. And in order to reduce further confusion we should make sure that the CAO is amended to include all the critical areas defined in the SMP Update and require buffers at least as great as those required by the SMP. Otherwise, the SMP might require a buffer outside its jurisdiction that isn't enforced by the CAO.

### 4.2.4 Environmental Impacts (SMP 4.B.4)

Modify the regulations;

> The environmental impacts of development proposals shall be analyzed. *The analysis will include the impact of the development on the indicators given in Table [indicate accompanying table]* and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the SMP and other applicable regulations. When applicable, development shall meet the requirements of the State Environmental Policy Act of 1971 (SEPA), as amended.

Add table with selected indicators drawn from the *SMP Handbook*[22]; possible indicators include:

---

excludes areas required for buffers from the shoreline jurisdiction in Chapter 1, Section E: "Buffers for these associated wetlands and floodplains outside of two hundred (200) feet of the floodway are not included in the City's shoreline jurisdiction." See our comments for that section suggesting that the buffers for all critical areas be treated the same way.

[22] "Potential No Net Loss Indicators for Shoreline Master Programs", Table 4-1, Chapter 4, No Net Loss of Shoreline Ecological Functions, *Shoreline Master Program Handbook.* https://fortress.wa.gov/ecy/publications/parts/1106010part4.pdf

- "Shoreline stabilization: Linear length or area of bulkheads, revetments, …" These "interrupt habitat-forming processes [resulting in] loss of nesting sites [and other functions]".
- "Marine & freshwater riparian vegetation: Linear measurement of mature native riparian vegetation of a given width (buffer width) or percent cover of different vegetation classes". Removal results in loss of multiple ecological functions, including "capacity of riparian vegetation to filter surface flows, sediment, phosphorous and toxics; subsurface removal or conversion of nitrogen, pathogens".
- Loss of "Acres of permanently protected areas, with no or limited development"

Other indicators to include are number of overwater structures (increased predation), length of roads and impermeable surfaces (increased sediment and toxins), road crossings (results in channel confinement), water quality measures, levees and dikes (impacts floodplain) and other flood plain impairments, effects on nesting eagles, ospreys, and herons, introduction of invasive vegetation, and loss of wetland acreage.

### 4.2.5 Flood Hazard Reduction (SMP 4.B.5)

Note that most areas subject to flooding in West Richland[23] lie in areas which we have proposed to be designated as "Natural" and have little existing development. Also note that in the largest area of flood risk—within Reach 1 north of Van Giesen—the flood plain extends beyond the shoreline jurisdiction. Since flood plains are a critical area, this means any projects in this

[23] Based on *Benton County, Washington Natural Hazard Mitigation Plan 2019 Revision,* found in agenda packet for West Richland City Council Special Meeting, July 30, 2019. https://www.westrichland.org/download/City%20Council/Packets/2019/07-30-19-Special-Meeting.pdf

area are subject to West Richland's Critical Areas Ordinance in addition to the regulations in the SMP.

### 4.2.6 Public Access (SMP 4.B.6)

Modify this text from Policy 3:

> Protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water *unobscured by development*, consistent with the overall best interest of the state and the people generally, to the greatest extent feasible.

Note that "view protection does not allow for excessive vegetation removal to create views or enhance existing views."[24]

### 4.2.7 Restoration (SMP 4.B.7)

> The City shall prepare a Restoration *Plan* as part of the SMP update process. The plan shall guide the City's voluntary efforts to achieve overall improvements over time when compared to the baseline condition at the time of the adoption of the SMP update.

This text is inconsistent with the text in SMP 1.D, which says that no changes were made to the Restoration Plan. Perhaps distinguish a *comprehensive* SMP update from a *periodic* SMP update?

The SMP Guidelines stipulate that:

> For counties and cities containing any shorelines with impaired ecological functions, master programs shall include goals and policies that provide for restoration of such impaired ecological functions. These master program provisions shall identify existing policies and programs that contribute to planned restoration goals and identify any additional policies and programs that local government will implement to achieve its goals. These master program elements regarding restoration should make real and meaningful use of established or funded nonregulatory policies and programs that contribute to restoration of ecological functions, and should appropriately consider the direct or indirect effects of other regulatory or nonregulatory

[24] Chapter 9, Shoreline Public Access. *SMP Handbook*, p. 11. https://fortress.wa.gov/ecy/publications/parts/1106010part9.pdf.

> programs under other local, state, and federal laws, as well as any restoration effects that may flow indirectly from shoreline development regulations and mitigation standards.[25]

The Shoreline Inventory Report notes that segments of the Yakima River have been listed as 'impaired' by WDOE.[26] The City should include policies and regulations to address these impairments as required by the SMA.

### 4.2.8 Shoreline Modification (SMP 4.B.8)

#### 4.2.8.1 Table 1.

Having a table that says "Clearing and Grading" is Permitted seems like it will lead to trouble. Change the text of the key:

> P = Permitted Use, *but only if zoning allows and done in accordance with regulations in SMP Chapter 4.B.10.*

Also, saying something is 'prohibited' where it is not possible isn't very useful. Add an additional key:

> N/A = Not Applicable

Change the 'X's in the table to 'N/A'. Also, add a column for Natural Environment, prohibiting Fill, making Clearing and Grading a conditional use, and marking Dredging as Not Applicable.

Under Regulations, correct the following:

> The City's Shoreline Administrator shall base all shoreline modification decisions on all available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant as detailed below.~~, as stated in WAC 173-26-231.~~

[25] WAC 173.26.186.8c

[26] p. 34, City of West Richland, *Shoreline Inventory and Characterization,* October 7, 2013, hereafter referred to as the *Shoreline Inventory*.

Here we added the word "all" to be consistent with RCW 90.58.100: "Utilize *all* available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data". WAC 173-26-231 does not describe "a comprehensive analysis of site-specific conditions"; it instead specifies what provisions for shoreline modifications must be implemented by the SMP.

#### 4.2.8.2 Dredging (SMP 4.B.8.d)

Alter regulation:

> Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats. Dredging and dredge disposal shall not create a net loss of ecological functions in the shoreline jurisdiction as determined by the analysis described in SMP 4.B.4. ~~Dredge disposal within CMZs is discouraged, and in the limited instances when it is allowed, requires a shoreline conditional use permit.~~

The stricken text is redundant, already stated in regulation c. in this section.

---

#### 4.2.8.3 Fill (SMP 4.B.8.e)

Add the following policies from the SMP Guidelines:

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

Add the following regulations from the SMP Guidelines:

b) Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support one of the following uses:
    a. Water-dependent use;
    b. public access;
    c. cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
    d. disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources;

e. expansion or alteration of transportation facilities of statewide significance currently located on the shoreline, but only upon demonstration that alternatives to fill are not feasible;

f. mitigation action;

g. environmental restoration;

h. beach nourishment; or

i. enhancement project.

The SMP Guidelines stipulate that "Fills waterward of the ordinary high-water mark for any use except ecological restoration require a conditional use permit." This is redundant in the code because a conditional use permit is required for all fill activity, but it would be advisable to somehow express that conditional permits for any activity other than 'ecological restoration' require special scrutiny.

#### 4.2.8.4 Shoreline Stabilization (SMP 4.B.8.f)

Add the following design criteria to regulation SMP 4.B.8.f.3.k:[27]

*5) Use measures designed to assure no net loss of shoreline ecological functions.*

#### 4.2.8.5 Piers and Docks (SMP 4.B.8.g?)

Add a section giving policies and regulations regarding Piers and Docks as a shoreline modification based on the *SMP Guidelines.*[28]:

*e. Piers and docks*

*1. Purpose*

*The purpose of these shoreline stabilization general regulations is to prevent impacts to ecological functions and processes that may occur because of installation and maintenance of piers and docks within the City's shoreline jurisdiction.*

*2. Policies*

[27] See *SMP Guidelines,* WAC 173-26-231.3.a.iii.E, first bullet: "Use measures designed to assure no net loss of shoreline ecological functions".

[28] WAC 173-26-231.3.b.

*a. New piers and docks shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section.*

*b. Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use.*

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

*3. Regulations*

*a. New pier or dock construction, excluding docks accessory to single-family residences, will be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses.*

*b. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction.*

*c. Docks or piers constructed for new residential development of two or more dwellings must provide joint use or community dock facilities rather than allow individual docks for each residence.*

*d. Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions, critical areas resources such as fish habitats, and processes such as currents.*

*e. All docks and piers shall be made of materials that have been approved by applicable state agencies.*

### *4.2.9 Shorelines of State Significance, Policies (SMC 4.B.9.b)*

Adopt language from the *SMP Guidelines* to further clarify the policies:

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

   a. Make all information associated with the SMP and proposed amendments publicly available, and consider comments and opinions from groups and individuals representing statewide interests when developing and amending the SMP.

*b. Consult with applicable state agencies, affected Indian tribes, and statewide interest groups and consider their recommendations in preparing shoreline master program provisions.*

*c. Recognize and take into account state agencies' policies, programs, and recommendations in developing use regulations.*

*d. Base public access and recreation requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shore- lines with special scenic qualities or cultural or recreational opportunities*

2. Preserve the natural character of the City's shoreline jurisdiction.

*a. Prepare and administer master program provisions on the basis of preserving the shorelines for future generations;*

*b. Where natural resources of statewide importance are being diminished over time, include and administer SMP provisions to contribute to the restoration of those resources;*

c. Designate and administer shoreline environments and use regulations to protect and restore the City's shoreline jurisdiction's ecology and character and the diversity of vegetation and habitat associated with areas of the shoreline jurisdiction; and

d. All development and redevelopment activities within the City's shoreline jurisdiction should be designed to achieve no net loss of the ecological functions of the shoreline jurisdiction.

…

### 4.2.10 *Vegetative Conservation (SMC 4.B.10)*

Remove text "(Clearing and Grading)" from heading, since 'Clearing and Grading' is not the same thing as "Vegetative Conservation".

Also, use the concept of 'buffer' separately from 'setback' as suggested by the *SMP Handbook.*[29] This will allow the City to better regulate vegetation modification where it most affects shoreline ecological functions. Below we suggested prohibiting modifying shoreline riparian buffers where they are required.

[29] Chapter 11, Vegetation Conservation, Buffers and Setbacks, *SMP Handbook*

***Purpose***

> The Intent of vegetation conservation in the shoreline jurisdiction is to protect and restore the ecological functions and ecosystem-wide processes performed by vegetation in the City's shoreline jurisdiction. Provisions for vegetation conservation in the shoreline jurisdiction include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and non-native species.
>
> ~~Clearing and grading includes the activities associated with developing any kind of development. Clearing involves the removal of vegetation and /or topsoil, while grading means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.~~

Definitions for "clearing" and "grading" are given in SMP 7; having definitions in multiple places is inconsistent. While the definition of clearing in SMP 7 includes the removal of woody debris, this definition doesn't. Note that the SMP Guidelines direct that

> In establishing vegetation conservation regulations, local governments must use available scientific and technical information, as described in WAC 173-26-201 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the department and Management Recommendations for Washington's Priority Habitats, prepared by the Washington state department of fish and wildlife where applicable.[30]

And that WDFW recommends cities should:

> Prohibit removal, relocation, or modification of large woody debris in aquatic habitats and adjacent banks except when posing an immediate threat to public safety or critical facilities. Assessments of safety threat posed by LWD should be determined in consultation with a qualified geomorphologist.[31]

***a. Policies***

1. Allow clearing and grading only in concert with permitted development in the shoreline jurisdiction.
2. Require clearing and grading activities to be minimized to the extent necessary to accommodate the scope of work within the City's shoreline jurisdiction.

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[30] WAC 173-26-221.5.b, p. 79.

[31] "Large Woody Debris Recruitment Management Recommendations", Table 3.2.6 in WDFW, *Land Use Planning for Salmon, Steelhead and Trout*, WDFW, October 2009. Hereafter referred to as *Planning for Salmon.* p. 59. .

3. Require that BMPs be utilized during clearing and grading activity consistent with the City's stormwater management program and the SMP.
4. Prohibit speculative clearing, grading, or vegetation removal within the *shoreline jurisdiction* ~~required shoreline setback from the ordinary high water mark~~.

Clearing and grading is to be done only as part of approved development plan or activity.

5. Conserve native riparian vegetation in the shoreline jurisdiction by restricting clearing and grading within shoreline setback from the ordinary high water mark to maintain ecological functions in the shoreline jurisdiction.
6. Allow clearing activities associated with dike or levee maintenance as necessary to provide protection from flood hazards.
7. Explore opportunities for weed management to eliminate invasive non-native vegetation invasives and encourage the planting and enhancement of native vegetation along the Yakima River.

***c. Regulations***

~~1. Allow clearing and grading as a permitted or conditional use in all shoreline environments as noted in SMP Chapter 4: General Regulations, Section B.8 - Table 1: Shoreline Modifications.~~

…

This is a policy, not a regulation. Also, doesn't make clear that clearing is only allowed as part of an approved development plan or activity.

1. *When replanting is required under the provisions of the SMP, the following requirements must be met:*
    a. *Only native plant materials that are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used;*
    b. *Replanted areas in the shoreline jurisdiction shall be planned and maintained such that, within three (3) years, the vegetation is at least ninety (90) percent reestablished, and that the reestablished vegetation is monitored and maintained in perpetuity.*

The city needs some way to ensure that the replantings are done properly and maintained; added this here so it didn't have to be repeated everywhere replanting is required. Also making sure the provisions given below in regulation (11) apply to all replanting.

.

2. Clearing and grading shall be minimized in the shoreline jurisdiction and areas cleared of vegetation and not developed shall be replanted as soon as possible

3. Clearing and grading activities associated with the necessary maintenance of flood hazard prevention structures for the purposes of maintaining flood protection are allowed.

4. During construction, vegetation in the shoreline jurisdiction shall be protected by placement of a temporary barricade at the location of the shoreline setback from the ordinary high water mark and implementation of appropriate erosion and sedimentation controls.

5. Surface water runoff related to clearing and grading associated with development in the shoreline jurisdiction shall be minimized and comply with the City's stormwater management program and all applicable regulations.

6. *Outside of riparian buffers, n*~~N~~ormal maintenance, if found to comply with SMP Chapter 6: Administration, including pruning and trimming of vegetation, shall be allowed within the City's shoreline jurisdiction *subject to the following regulations:*

    a. *Topping of trees shall not be allowed;*

    b. *Pruning does not affect ecological functions;*

    c. *Pruning shall comply with the National Arborist Association pruning standards; and*

    d. *No more than twenty percent (20%) of the limbs on any single tree may be removed and no more than twenty percent (20%) of the canopy cover in any single stand of trees may be removed in a given five-year period, unless the tree is a hazard tree as* certified by an arborist and approved by the Shoreline Administrator.

These regulations are meant to ensure that pruning doesn't alter the nature of the shoreline; adapted from Island County's SMP.

7. Clearing of invasive non-native vegetation in the shoreline jurisdiction as identified by the State of Washington and/or Benton County as a noxious weed is allowed in the City's shoreline jurisdiction *when replaced with native vegetation meeting the requirements of 4.B.10.c.1 under an approved and monitored mitigation plan.*

8. Removal of invasive non-native vegetation in the shoreline jurisdiction is allowed if only hand-held equipment is used and native vegetation *meeting the requirements of SMP 4.B.10.c.1* is promptly reestablished in the disturbed area *under an approved and monitored mitigation plan*.

9. Clearing and grading activities and related alteration of the natural landscape shall only be allowed in association with a permitted use or development in the shoreline jurisdiction or a letter of exemption with limited exceptions as set forth below:

   c. Removal of noxious weeds as listed by the state in WAC Chapter 16-750, provided such activity must be conducted in a manner consistent with BMPs and the City's engineering standards and stormwater management program. Native vegetation shall be promptly reestablished in the disturbed area *as specified in SMP 4.b.10.c.1 under an approved and monitored mitigation plan.*~~; or~~

(The hanging 'or' probably left over from a previous draft)

   d. Pruning consistent with accepted arboricultural practices, maintenance of existing ornamental landscapes and other activities allowed pursuant to these regulations *outside of riparian buffer zones.*~~, if said~~ *M*odifications *must be* conducted in a manner consistent with the SMP and results in no net loss to ecological functions or critical fish and wildlife habitats.

   ~~e. Mosquito abatement activities specifically authorized by the Benton County Mosquito Control District.~~

These activities shouldn't require clearing. If they do, then the activity should be mitigated under normal SEPA processes.

10. Restoration of any part of the shoreline jurisdiction that has been disturbed or degraded shall use native plant materials, unless such restoration occurs within a developed and maintained ornamental landscape, in which case non-invasive plant materials, similar to that which most recently occurred on-site, may be used.

11. Surfaces cleared of vegetation and not developed must be replanted with native species as specified in SMP 4.b.10.c.1. ~~or by other species as approved by the City's Shoreline Administrator within one (1) year. Replanted areas in the shoreline jurisdiction shall be planned and maintained such that, within three (3) years, the vegetation is at least ninety (90) percent reestablished.~~

12. Aquatic vegetation control shall only occur where native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington State Department of Fish and Wildlife (WDFW) requirements.

13. *Natural features such as snags, stumps, logs, drift logs, beaver dams, or uprooted trees shall be left undisturbed to support fish and other aquatic systems, except where they would adversely affect navigation or represent a human health or safety risk.*

14. *A shoreline permit or written statement of exemption shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline, or any specific feature near or far.*
15. *Subdivision of property shall be in a configuration that will not require significant vegetation removal or shoreline modification and that will not adversely impact ecological functions. Each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.*
16. *Clearing and grading shall be timed to minimize disturbance to nesting birds,*
17. *Clearing and grading in critical area or shoreline buffers is prohibited.*

These last provisions clarify that downed wood can't be cleared and that cutting for 'views' is not allowed. While the provisions in this section apply to all areas of the shoreline jurisdiction, areas designated as buffers should be left alone in order to ensure ecological functions are maintained. Also ensure that new plats are examined to make sure that they won't require excess removal of vegetation.

# 5 Use Specific Regulations (SMP 5)

## 5.1 Allowed Shoreline Uses (SMP 5.B)

### 5.1.1 Table 2: Permitted, Conditional, and Prohibited Uses

Add a key for Not Applicable and add a column for 'Natural' Environment. Result will be like Table 1.

| Shoreline Uses (1,2) | High Intensity | Shoreline Residential | Urban Conservancy | Aquatic (3) | Natural |
|---|---|---|---|---|---|
| **Agriculture** | P | P | P | ~~X~~ *N/A* | C |
| **Aquaculture** | ~~X~~ *N/A* | ~~X~~ *N/A* | ~~X~~ *N/A* | C | N/A |
| **Boating Facilities – Boat Launches and Docks** | C | C | C | C | *X* |
| **Civic** | P | P | C | ~~X~~ *N/A* | *C* |
| **Commercial (6)** | P | X | X(7) | ~~X~~ *N/A* | *X* |
| **Forest Practices** | X | X | X | ~~X~~ *N/A* | *X* |
| **In-Stream Structures** | | | | | |
| As Part of a Fish Habitat Enhancement Project | ~~X~~ *N/A* | ~~X~~ *N/A* | ~~X~~ *N/A* | C | *N/A* |
| **Industry** | X | X | X | X | *X* |
| **Mining** | X | X | X | X | *X* |
| **Parking (4)** | P | P | P | ~~X~~ *N/A* | *C* |
| **Recreational Development** | | | | | |
| Water-Oriented | P | P | P | P(5) | *C* |
| Non-Water-Oriented | C | C | C | ~~X~~ *N/A* | *X* |
| **Residential Development (6)** | P | P | P | ~~X~~ *N/A* | *C* |
| **Signs** | P | P | P | ~~X~~ *N/A* | *C* |
| **Transportation Facilities** | | | | | |
| New Roads related to Permitted Activities in the Shoreline Jurisdiction | P | P | P | P | *C* |
| Bridges for Motorized and Non-Motorized Uses | C | C | C | C | *C* |
| Expansions of Existing Circulation Systems outside of New Roads related to Permitted Activities in the Shoreline Jurisdiction | C | C | C | X | *X* |
| **Utilities (Primary)** | | | | | |
| Solid Waste Disposal or Transfer Sites | X | X | X | X | *X* |
| Other | C | C | C | C | *C* |
| **Utilities (Accessory)** | | | | | |
| Local Public Water, Electric, Natural Gas Distribution, Public Sewer Collection, Cable and Telephone Service, and Appurtenances | P | P | P | C | *C* |

*Table 1. Modified Use Matrix*

## 5.2 Basic Shoreline Development Standards (SMP 5.C)

*1. Riparian Buffers and Setbacks*

***a.*** Interpretation of the Minimum Shoreline Setback from the Ordinary High Water Mark Table

**…**

[Note that the formatting and headings of this section differs from the others, we've made it bold here, since that's the way other headings at this level are formatted.]

***b.*** *Unless otherwise specified in Table 3, the Riparian Buffer Width is 150 ft. from the OHWM and the required setback is 20 feet landward of the riparian buffer.*

### 5.2.1 Table 3 – Minimum Shoreline Setbacks from the Ordinary High Water Mark

Modify the table, adding the key '- = *unspecified*'. Add a column for 'Natural', and set most entries to 'N/A', since development should be limited in natural areas. Entries for Shoreline Residential, Urban Conservancy, and Natural should be '-' for the following rows (where the current entry isn't 'N/A'): 'New agricultural activities only', all rows with labels containing 'Non-water-oriented structures' , 'Off-Street Parking Lots or Structures as an Accessory Use', and 'Freestanding Sign Structures'.

### 5.2.2 Riparian Management Zones (RMZ), Buffer widths, and Setbacks

This section provides the argument for 150-foot Riparian buffers with additional setbacks. This buffer width should be used for areas designated 'Urban Conservancy' and 'Natural'. It might be possible to decrease the buffer for Shoreline Residential if development density is controlled, but any reduction should be justified by WDFW management recommendations. Note that the 150-foot buffer width is also consistent with recommendations from the *SMP Handbook*:[32]

[32] WDOE, *SMP Handbook*, Chapter 11 Vegetation Conservation, Buffers and Setbacks, p. 27. https://fortress.wa.gov/ecy/publications/parts/1106010part11.pdf

- Undeveloped shorelines with largely intact ecological functions should be protected with buffers of 150 feet to 200 feet…
- Rural residential development, where houses and appurtenances such as garages and sheds cover about 25 – 35 percent of the ground, some area is landscaped, and the rest is in native vegetation, would likely need buffers of 150 feet to protect existing functions.

We treat the width of the 'riparian buffer' separately from 'setback' as suggested by the *SMP Handbook.*[33] This will allow the City to better regulate vegetation modification where it most affects shoreline ecological functions.

The SMP Guidelines require that

> In establishing vegetation conservation regulations, local governments must use available scientific and technical information, as described in WAC 173-26-201 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the department and *Management Recommendations for Washington's Priority Habitats*, prepared by the Washington state department of fish and wildlife where applicable.[34]

The latest recommendations from WDFW regarding riparian areas[35] state that the goal of regulations should be "avoiding and minimizing activities within the RMZ". The RMZ is measured from the ordinary high-water mark or channel migration zone.[36] However, where "reestablishing a functional forest is currently impossible, we suggest protecting and restoring existing riparian functions".[37] Note, however, that "the RMZ is the area in which full riparian function can potentially occur, and is thus not synonymous with *buffers* … The RMZ differs

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Chapter 11, Vegetation Conservation, Buffers and Setbacks, *SMP Handbook*

[34] WAC 173-26-221.5.b.

[35] *Riparian Ecosystems, Volume 2: Management Recommendations, Public Review Draft,* WDFW, May 2018. No link on currently on WDFW's site, available at https://drive.google.com/file/d/1ZzsnP0FDMq5U1gFflkoc4-P2guI-gt2O/view?usp=sharing; hereafter referred to as *Riparian Ecosystems*.

[36] Ibid., p. 33.

[37] Ibid., p. 24.

from buffers in one important way. Buffers are established through policy, whereas the RMZ a scientifically based description of the area adjacent to rivers and streams that has the potential to provide full function based on the SPTH200 conceptual framework."[38]

As for the width of the RMZ, WDFW "recommends the width of RMZs in the Columbia Plateau ecoregion be based on the widest of three riparian functions: shade, wood (large and small), or pollutant removal."[39] The recommendations use "site potential tree height" (SPTH) as a measurement of the 'wood' function. We weren't able to determine a value for SPTH for West Richland given the methods outlined in *Riparian Ecosystems*; the best we could find was about 150 ft: the average 3rd quartile of this measurement in eastern Washington counties for which data was available.[40]

For pollutant removal, although *Riparian Ecosystems* states that "runoff containing excess nitrogen is a concern and a 95% removal efficacy is desired, then a 220 ft wide RMZ may be needed", we did our best to plow through WDFW's analysis of the science[41] and couldn't convince ourselves that an RMZ wider than 150 ft. is required.

The recommendations do not seem to provide an easy answer to the question of buffer widths, but only provide general guidelines like: "buffers, which are often vegetated, protect the stream from the impact of adjacent land uses and should be established within the RMZ. The best buffer provides riparian functions similar to old forest conditions."[42]

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[38] Ibid., p. 20, emphasis added.
[39] Ibid, p. 22.
[40] Ibid., p. A2-20.
[41] WDFW. July 2020. *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications*, Chapter 5: Pollutant Removal.
[42] Ibid., p. 28.

Recommendations regarding *setbacks* are more straightforward: "Include a building setback of at least 15 feet from habitat buffers".[43]

# 6 Critical Area Provisions in the Shoreline Jurisdiction (SMP A.2)

## 6.1 Wetlands – Identification and delineation (SMP A.2.E)

The inclusion of the definitions of wetland rating categories is redundant and might become inconsistent with the categories given in WDFW's rating system,[44] which the SMP includes by reference as the rating system to be used.

## 6.2 Wetlands – Regulated activities (SMP A.2.F)

c. Draining, flooding, or disturbing the water level or water table;

*d. Driving, piling or placing obstructions;*

'Driving, piling, or placing obstructions' prohibited by CAO 22.10.070

e. ~~d.~~ Constructing, reconstructing, demolishing, …

f. Destroying or altering native vegetation through clearing, harvesting, cutting, intentional burning, shading, or planting ~~non-native~~ vegetation that would negatively alter the functions of the wetland; and

Text from CAO 22.10.070 ensures that *native* plants that would alter the functions of the wetland aren't introduced.

*g. Activities that result in significant changes in water temperature, physical or chemical characteristics of wetland water sources, introduction of pollutants, including water quantity and quality as stated in Chapter 90.03 RCW and Chapter 173-201 WAC;*~~Activities from construction or development that result in significant, adverse changes in water temperature, physical or chemical characteristics of wetland water sources, including quantity and pollutants~~

[43] *Planning for Salmon*, p. 86.

[44] *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication No. 14-06-030), 2014, hereafter referred to as *Wetland Ratings*. https://fortress.wa.gov/ecy/publications/documents/1406030.pdf.

*h. Activities from construction or development that result in significant, adverse changes in water temperature, physical or chemical characteristics of wetland water sources, including quantity and pollutants*

*i. Any other activities affecting a wetland or wetland buffer not otherwise exempt from the provisions of this section*

Regulate all actions that cause damage, not just construction or development; ensure storm-water doesn't alter wetlands; make sure you haven't missed something.

> Buffers shall be measured from the wetland edge as delineated using the 1987 Army Corps of Engineers Wetlands Delineation Manual and the Arid West Regional Supplement, as may be amended. Buffers shall be marked in the field.

## 6.3 Wetlands – Buffer areas (SMP A.2.J)

Add buffer widths for "Wetlands of High Conservation Values" as specified by *Wetland Ratings*.[45] Buffer widths should be specified as 125 ft. for low impact uses, 190 ft. for Medium impact, and 250 ft. for High impact uses.

[We're skipping ahead to FWHCA, will submit comments on the remaining provisions regarding wetlands later…]

## 6.4 Critical Fish and Wildlife Habitat Conservation Areas (SMP A.2.R)

Many of our recommendations in this section are based on the City of Richland's Critical Area Ordinance, which was revised after a review by the Growth Management Board.

> Critical ~~f~~*F*ish and *W*~~w~~ildlife *H*~~h~~abitat *C*~~c~~onservation *A*~~a~~reas *(FWHCA)* are those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife, and natural vegetation. Areas that are identified or classified as FWHCA ~~critical fish and wildlife habitat conservation areas~~ shall be subject to the requirements of this section.

'Fish and Wildlife Habitat Conservation Area' is the term used in the GMA; reduces confusion. Be more precise about what is listed by federal and state:

[45] *Wetland Ratings*, p. 6.

a. Areas with which federal or state endangered, threatened, and sensitive species ~~of fish or wildlife~~ have a primary association ~~and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term~~;

*1) Federal designated endangered and threatened species are those fish, wildlife and plant species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted as necessary for current listing status.*

*2) State designated endangered, threatened and sensitive species are those fish, wildlife and plant species native to the state of Washington identified by the State Department of Fish and Wildlife and/or State of Washington Natural Heritage Program that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. The state of Washington's Department of Fish and Wildlife and/or Natural Heritage Program maintains the most current listings and should be consulted as necessary for current state listing status;*

The GMA requires that plant species be protected. Better to define "areas associated" with these species as FWHCA; the determination of what alterations might cause a loss of ecological function is done when an action is proposed that may affect the FWHCA, otherwise you'll be going around in circles.

b. *Areas associated with h*~~H~~abitats and species of local importance, …

…

*2) Priority Habitats and Species (PHS) identified by the Washington State Department of Fish and Wildlife*

The purpose of this section is to define critical areas, and a 'species of local importance' is not an area. The GMA requires a determination what habitats and species are to be considered as "of local importance" must be based on the Best Available Science (BAS), and that WDFW is a recognized source of BAS.

c. *The areas listed as a national wildlife refuge, national park, natural area preserve or any preserve or reserve designated under WAC 332-30-151;*

*d. Documented habitat, other than accidental presence, of threatened or endangered species;*

*e.* Naturally occurring ponds …

*f.* Waters of the state*;*~~, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031;~~

The term 'Waters of the state', defined by WAC 173-226-030.27, is not limited to 'surface waters', so this definition is inconsistent. Since 'Waters of the State' is one of the areas required by the GMA to be declared a FWHCA, it's probably best to leave it as 'Waters of the state' to stay in compliance.

*g.* Lakes, ponds and streams planted with fish by a governmental agency, agency-sponsored group, or tribal entity;

i. State natural area preserves and natural resource conservation areas *and state wildlife areas*.

Many of the definitions of FWHCA that the City is required to protect under the GMA are given in WAC 365-190-130.

2. Mapping. *To determine the location and extent of fish and wildlife habitat conservation areas, the city shall use best available science.* The following documents, …

This text makes sure the City examines science documenting existence of FWHCA, if available, and not just the WDFW and WDNR maps.

3. Regulation. ~~Critical fish and wildlife habitat conservation areas are to be managed by maintaining the subject species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all critical habitat or individuals of all species at all times, but does mean coordinated planning and development to ensure no net loss of ecological function.~~

The stricken text might be appropriate for a policy statement, but isn't a regulation and is unnecessary here.

a. Habitat Assessment. *When development is proposed within a fish and wildlife habitat conservation area or its buffer, or where development is proposed to be located adjacent to a fish and wildlife habitat conservation area or its buffer or close enough to the FWHCA so as to likely impact critical area ecosystem functions and values, a*~~ A~~ habitat assessment *report*, prepared by a qualified wildlife biologist, shall be submitted. ~~for any development activity proposed on a site which contains or is within: (A) 200 feet of a site or area that the City's~~

~~Shoreline Administrator has reason to believe that critical fish and wildlife habitat exists on or within, or (B) 300 feet of documented habitat for threatened, endangered, or sensitive fish or wildlife species.~~

The Growth Management Hearing Board found the City of Richland non-compliant with the GMA when they used language similar to what we replaced here. The problem is that the specified distances are not necessarily enough to ensure the identification of all FWHCAs that might be affected by the proposed development; Nesting Great Blue Herons, for example, can be disturbed by activity at distances up to 1300 feet.[46] While the language we propose is not as precise, in practice it allows the administrator to consult with WDFW biologists and others to ensure that FWHCAs are properly assessed so that the timing and scope of projects can be modified.

The habitat assessment shall include, at a minimum, the following:

1) An analysis and discussion of FWHCA which may have impacts to critical ecosystem function and values as a result of the project ~~critical species or habitats known or suspected to be located on or within 200 feet (or within 300 feet, as applicable) of close enough to the project site~~

2) A site plan that clearly delineates the critical fish and wildlife habitats which may have impacts to critical ecosystem functions and values as a result of the project. ~~found on or within 200 (or within 300 feet, as applicable) feet of the site.~~

Again, putting an artificial limit on which critical areas are assessed isn't acceptable under the GMA.

b. Habitat Assessment Review. The habitat assessment review shall be forwarded for review and comment to agencies with expertise or jurisdiction on the proposal, including, but not limited to, the:

1) WDFW;

[46] p. 8, *Guidelines for Protection & Mitigation of Impacts to Great Blue Heron Rookeries in Vermont*, Vermont Fish & Wildlife Department, Agency of Natural Resources. 2002. https://vtfishandwildlife.com/sites/fishandwildlife/files/documents/Conserve/RegulatoryReview/Guidelines/Guidelines_for_Protection_and_Mitigation_of_Impacts_to_Great_Blue_Heron_Rookeries_in_VT.pdf

2) United States Fish and Wildlife Service, if any federal endangered or threatened species are involved.

Comments received by the requested review agencies within 45 days of the submittal of the assessment shall be considered by the City's Shoreline Administrator. If it is determined, based upon the comments received, that *the project will have no impact on the critical ecosystem functions and values of an FWHCA* ~~critical fish and wildlife habitat does not occur on or within 200 feet of the site;~~ the development may proceed without any additional requirements under this section. ~~If it is determined that a critical fish and wildlife habitat is on or within 200 feet of the site,~~ *Otherwise,* a habitat management plan shall be prepared.

c. Habitat Management Plan. Habitat management plans required under this section shall be prepared by a qualified wildlife biologist. The habitat management plan must be prepared in coordination with and reviewed by the WDFW, and if any federal endangered or threatened species are involved, by the United States Fish and Wildlife Service. A habitat management plan shall contain, at a minimum, the following:

1) Analysis and discussion on the project's effects on critical fish and wildlife habitat;

2) An assessment and discussion on special management recommendations that have been developed for *FWHCA that have critical ecosystem functions and values which the project might impact* ~~critical species or habitat located on the site~~ by any federal or state agency;

3) *A discussion of measures, including avoidance, minimization and mitigation proposed to preserve existing habitats or restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with WAC 197-11-768 (mitigation sequencing);* ~~Proposed mitigation measures that could minimize or avoid negative impacts;~~

…

Mostly want to make sure that mitigation sequencing is considered.

The City of Richland's CAO includes a set of 'performance standards' for development within an FWHCA. The SMP could adopt some or all of these standards:

*4. Performance standards.*

*Development or any regulated activity occurring within a designated habitat conservation area or within its respective protection buffer, or development or any regulated activity proposed to occur adjacent to, or close enough to, a habitat conservation area so as to likely impact critical area ecosystem functions and values, shall only be permitted in accordance with the conditions of an approved habitat conservation area report. Such report shall be based on the following standards using the best available science:*

*a. Consider habitat in site planning and design;*

*b. Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat areas, including use of bird-friendly building design and use of dark sky lighting standards;*

*c. Integrate retained habitat into open space and native plantings, consistent with the provisions of all open space and landscaping requirements;*

*d. Activity within or close to a habitat conservation area shall not result in the degradation of the functions and values of the habitat;*

*e. Nonindigenous species shall not be introduced into a habitat conservation area;*

*f. Contiguous corridors through a project area shall be maintained. Measures necessary to mitigate impacts within a habitat conservation area shall attempt to achieve contiguous functioning habitat corridors in order to minimize the isolating effects of development on habitat;*

*g. Identify habitat contiguous to other habitat areas, open space or landscape areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas and allows movement of wildlife;*

*h. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat areas;*

*i. Emphasize heterogeneity and structural diversity of vegetation in landscaping and food producing plants beneficial to wildlife;*

*j. Width of riparian corridors shall be in accordance with buffer widths suggested by BAS, including WDFW publication Riparian Ecosystems, Volume 2: Management Recommendations, May 2018, or as revised. Riparian corridors shall also meet the minimum requirements as established in RMC Title 26 and wetland buffer requirements as established in RMC 22.10.110;*

*k. Activities within a habitat conservation area shall be conditioned as identified in the habitat conservation area report to avoid, minimize, or mitigate potential adverse impacts. Conditions shall include protective buffers based on the State of Washington Department of Fish and Wildlife management recommendations for Washington's priority species modified for local conditions and the recommendations of the Department of Fish and Wildlife biologists and may include, but are not limited to, the following measures:*

*1) Establishment of undisturbed habitat areas;*

*2) Staking of undisturbed habitat areas prior to any construction, including clearing, grading and filling taking place on site;*

*3) Fencing of undisturbed habitat areas;*

*4) Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;*

*5) Preservation of critically important vegetation;*

*6) Supplemental planting of native tree or shrub cover;*

*7) Removal and/or control of any noxious or undesirable species of plants and animals;*

*8) Preservation of significant trees and/or snags, preferably in groups, consistent with achieving the objectives of these standards;*

*9) Replanting of disturbed areas and/or areas where noxious weed species were removed with native vegetation types, including ongoing plans for weed control and irrigation as appropriate;*

*10) Limitation of access to an identified habitat area, including fencing to deter unauthorized access;*

*11) Seasonal restriction on construction activities;*

*12) Implementation of a schedule for periodic review of completed mitigation measures for a specified time period;*

*13) Posting of a bond or other financial surety to ensure completion and success of proposed mitigation measures. Such bond or other security device shall be required to assure successful establishment of required planting for an appropriate monitoring period. The amount of the bond or other security device shall equal 125 percent of the cost of the mitigation project for a period of five years. The administrator may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.*

Richland also has a section dealing with alteration of FWHCA. This might be useful especially for situations where the alteration was done without notifying the City:

*5. Fish and wildlife habitat conservation area alteration.*

*a. Adverse impacts to habitat functions and values shall be mitigated to the extent feasible and reasonable. Mitigation actions by an applicant or property owner shall occur in the following preferred sequence:*

*1) Avoiding the impact altogether by not taking a certain action or parts of actions;*

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

*3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;*

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

*5) Compensating for the impact by replacing, enhancing, or providing similar substitute resources or environments. Preference shall be given to measures that replace the impacted functions on site or in the immediate vicinity of the impact;*

*6) Monitoring the impact over time and taking corrective measures to minimize additional impacts.*

*b. Where impacts cannot be avoided, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards and criteria of this section. In an individual case, these actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and/or implementation of the performance standards listed in [above].*

We appreciate West Richland's desire to go beyond the minimum required by the state in the protection of habitat. However, the text below has several issues. The first is trivial: the references to other sections of the CAP weren't updated when this was copied from the CAO. Secondly, there are matters of terminology. If these lands are 'included as fish and wildlife habitat and species of local importance' then they are, by definition, FWHCA and the GMA would require them to be fully protected from impacts to their ecological functions and values. So, the City can't classify them as FWHCA without making them subject to all regulations that protect those values and functions. We think you need to use a new term for these lands. We use the term 'Wildlife Habitat Conservation Lands' below, but other terms might be as good or better.

6. *Wildlife Habitat Conservation Lands* ~~Government and Conservation Land~~ – Protection. In addition to the critical fish and wildlife habitat conservation areas protected in subsection ~~A~~*1* of this section, the city of West Richland hereby recognizes the benefit of undeveloped government and conservation lands that may not otherwise qualify as critical fish and wildlife conservation areas, but which still provide beneficial wildlife habitat. The land development patterns of Section 6 and Section 8 of Willamette Heights, combined with the undeveloped government-owned land in those sections and elsewhere throughout the city, contribute significantly to the habitat inventory and wildlife corridors of several species that are not endangered, threatened, or sensitive, but which are listed as state candidate and state monitored species. To recognize the benefit of these lands, the following areas are *designated as Wildlife Habitat Conservation Lands* ~~included as fish and wildlife habitat and species of local importance~~:

a. Lands owned by a government entity or conservation group that have all of the following characteristics:

1) Are not ~~otherwise~~ classified as critical fish and wildlife habitat;

2) Are not public road right-of-way;

3) Have a primary association with a federal candidate species, state candidate species, federal species of concern, or state monitored species, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term; and

4) Are mapped as "Government and Conservation Land" on the city of West Richland's map titled "Critical Fish and Wildlife Habitat Conservation Areas."

The lands so classified are not subject to the provisions of subsections ~~A~~*1* through *4*~~D~~ of this section. However, if development of the government land is proposed, a habitat assessment shall be performed by a qualified wildlife biologist to help the city determine if the property, or a portion thereof, must be protected for the purpose of serving as a wildlife corridor or habitat to prevent the likelihood of the subject species from becoming listed as endangered, threatened, or sensitive. Private lands adjacent to such government and conservation lands shall observe a 35-foot setback and buffer.

### 6.4.1 Requirements for Mitigations for FWHCA

While the SMP currently requires mitigation when the functions of values of FWHCA are affected by a project, the requirements are not nearly as specific as they are for wetland mitigations. Here's some possible text to address that shortcoming (Drawn from Island County's SMP):

*9. When compensatory mitigation measures are required, all of the following shall apply:*

*a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources;*

*b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time;*

*c. The mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Shoreline Master Program;*

*d. The mitigation shall replace the functions as quickly as possible following the impacts to ensure no net loss; and*

*e. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values.*

# Comments on West Richland Shoreline Master Program – Shoreline Buffers and Frequently Flooded Areas, and Use-specific regulations

Patrick Paulson

Laurie Ness

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## Acronyms

OHWM Ordinary High Water-Mark 1

RHA Riparian Habitat Area 2

RMZ Riparian Management Zone 2, 3

SMP Shoreline Master Program passim

WDFW Washington state department of fish and wildlife 2, 3, 6, 11

WDOE Washington Department of Ecology 1

## Regulations

City of West Richland, Shoreline Master Program Draft for Planning Commission Public Hearing & Comment Period. September 17, 2020 (*SMP Update*) ..... 1

WAC Chapter 173-26, *State Master Program Approval/Amendment Procedures and Master Program Guidelines* (SMP Guidelines..... 2

## Other Authorities

City of West Richland, *Comprehensive Plan 2017 Update (Comp. Plan)*..... 4

WDFW, *Land Use Planning for Salmon, Steelhead and Trout*. October 2009. ..... 3

WDFW, *Riparian Ecosystems, Volume 2: Management Recommendations, Public Review Draft*, May 2018. No link on currently on WDFW's site, available at https://drive.google.com/file/d/1ZzsnP0FDMq5U1gFflkoc4-P2guI-gt2O/view?usp=sharing ... 2

WDOE, *Shoreline Master Programs Handbook,* Publication 11-06-010, December 2017 (SMP Handbook) ..... 1, 3, 4

WDOE, *Wetland Guidance for CAO Updates Eastern Washington Version,* June 2016, Publication No. 16-06-002, (*Wetland Guidance).* https://fortress.wa.gov/ecy/publications/documents/1606002.pdf. ..... 11

# 1 Introduction

Thank you for this opportunity to comment on West Richland's periodic update of its Shoreline Master Program (SMP). These comments are based on City of West Richland's *Shoreline Master Program Draft for Planning Commission Public Hearing & Comment Period* dated September 17, 2020.[1] We previously submitted comments on Chapters 1 through 4, Chapter 5 Sections A and B, and the section of Appendix B dealing with Fish and Wildlife Habitat conservations areas.

In these comments we review our previous recommendation of shoreline buffer width with additional setbacks. We then analyze of the potential ramifications of this recommendation.

## 1.1 Terminology

We use the term *shoreline buffer* for the buffer—the distance from the Ordinary High Water-Mark (OHWM) and associated wetlands-- necessary to ensure the ecologic functions of the shoreline. Following the guidance from the SMP Handbook, [2] we treat the shoreline buffer separately from 'setback'[3], which is an additional area separating development and uses from the shoreline buffer. The draft SMP, on the other hand, uses the term 'setback' as the distance between the OHWM and shoreline uses and, in the case of some specified uses, requires that some of the setback consist of a vegetative buffer.

# 2 Science and Recommendations for Shoreline Buffer Width and Setbacks

## 2.1 Buffer width recommendations from State Agencies

The Washington Department of Ecology (WDOE) recommends that:[4]

- Undeveloped shorelines with largely intact ecological functions should be protected with buffers of 150 feet to 200 feet…

---

[1] Hereafter referred to as the *SMP* .

[2] *Shoreline Master Programs Handbook,* Washington Department of Ecology Publication 11-06-010, December 2017, hereafter referred to as *SMP Handbook*.

Chapter 11, Vegetation Conservation, Buffers and Setbacks, *SMP Handbook*

[4] WDOE, *SMP Handbook*, Chapter 11 Vegetation Conservation, Buffers and Setbacks, p. 27. https://fortress.wa.gov/ecy/publications/parts/1106010part11.pdf

- Rural residential development, where houses and appurtenances such as garages and sheds cover about 25 – 35 percent of the ground, some area is landscaped, and the rest is in native vegetation, would likely need buffers of 150 feet to protect existing functions.

The *SMP Guidelines*[5] require that

> In establishing vegetation conservation regulations, local governments must use available scientific and technical information, as described in WAC 173-26-201 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the department and *Management Recommendations for Washington's Priority Habitats*, prepared by the Washington state department of fish and wildlife [WDFW] where applicable.[6]

Current WDFW recommendations for Riparian areas state that the Riparian Habitat Area (RHA) for shorelines of statewide significance, such as the Yakima River, extend to 250 feet landward of the ordinary high-water mark, and that:

> The scientific literature supports the maintenance of riparian habitat areas as restricted-use zones. The restricted-use area should apply to all future developments that affect riparian habitat, and it should guide restoration of degraded areas. Activities that may affect riparian habitat features important to fish and wildlife should be carefully conducted within the RHA. Activities that degrade the structural and functional integrity of riparian habitat and associated aquatic systems should be minimized. Examples of activities that may affect riparian habitat features include tree cutting, road building, agriculture, grazing, clearing, earth moving, mining, filling, burning, or construction of buildings or other facilities. [7]

The latest recommendations from WDFW haven't been released, but in their draft form[8] they state the goal of regulations should be "avoiding and minimizing activities within the RMZ [Riparian Management Zone]". The RMZ "is the area in which full riparian function can potentially occur, and is thus not synonymous with *buffers* … The RMZ differs

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[5] WAC Chapter 173-26, *State Master Program Approval/Amendment Procedures and Master Program Guidelines* (SMP Guidelines)

[6] WAC 173-26-221.5.b.

[7] Knutsen, K. Lea and Naef, Virginia L. 1997. *Management Recommendations for Washington's Priority Habitats: Riparian*. WDFW. https://wdfw.wa.gov/sites/default/files/publications/00029/wdfw00029.pdf. p. 87.

[8] *Riparian Ecosystems, Volume 2: Management Recommendations, Public Review Draft,* WDFW, May 2018. No link on currently on WDFW's site, available at https://drive.google.com/file/d/1ZzsnP0FDMq5U1gFflkoc4-P2guI-gt2O/view?usp=sharing; hereafter referred to as *Riparian Ecosystems*.

from buffers in one important way. Buffers are established through policy, whereas the RMZ a scientifically based description of the area adjacent to rivers and streams that has the potential to provide full function based on the SPTH200 conceptual framework."[9]

As for the width of the RMZ, WDFW "recommends the width of RMZs in the Columbia Plateau ecoregion be based on the widest of three riparian functions: shade, wood (large and small), or pollutant removal."[10] The recommendations use "site potential tree height" (SPTH) as a measurement of the 'wood' function. We weren't able to determine a value for SPTH for West Richland given the methods outlined in *Riparian Ecosystems*; the best we could find was about 150 ft: the average 3rd quartile of this measurement in eastern Washington counties for which data was available.[11]

For pollutant removal, *Riparian Ecosystems* states that "runoff containing excess nitrogen is a concern and a 95% removal efficacy is desired, then a 220 ft wide RMZ may be needed". [12]

WDFW recommendations regarding *setbacks* are more straightforward: "Include a building setback of at least 15 feet from habitat buffers".[13]

## 2.2 Our recommendations for shoreline buffer width

Evaluating the various sources of buffer-width recommendations we've concluded that the most straightforward recommendations for shoreline buffer width are from the SMP Handbook: 200 feet for areas designated 'Natural' and 150 feet for areas designated "Urban Conservancy" or "Shoreline Residential". In addition, based on WDFW recommendations, a setback of at least 15 feet should be required between the edge of the shoreline buffer and new structures, impermeable surfaces, or other uses. Although this differs from our previous comments, which said that 150 feet would be okay for areas designated 'Natural', we now feel that according to current agency guidance 150 feet would be insufficient.

We suggest that buffer widths be specified in something like the following table, perhaps in SMP 4.B.4, "Environmental Impacts"

---

[9] Ibid., p. 20, emphasis added.
[10] Ibid, p. 22.
[11] Ibid., p. A2-20.
[12] Ibid., p. 22.
[13] WDFW, *Land Use Planning for Salmon, Steelhead and Trout*. October 2009. p. 86.

| Environmental Designation | Shoreline Buffer Width in feet, measured landward from OHWM |
|---|---|
| **High Intensity** | 100 |
| **Shoreline Residential** | 150 |
| **Urban Conservancy** | 150 |
| **Natural** | 200 |

Add the note: *Shoreline buffers are not required for water-oriented structures and uses, including bridges.*

The definition of 'shoreline buffer' should be added to the Definitions chapter the definition of 'setback' should be updated.

# 3 Ramifications of Shoreline Buffers for the SMP and Future Development

The first point we would like to make is that a shoreline buffer cannot be required for most uses that are water-oriented; the buffer recommendation is not applicable for those uses. We also note that the shoreline buffer will also have no effect in those areas the SMP designates as "High Intensity" or "Shoreline Residential" because, as shown in Figure 1, those areas have already been developed and "SMP regulations are not retroactive, so legally existing uses and structures can remain in place".[14]

The requirement for a shoreline buffer will also have little effect on the rest of the shoreline Jurisdiction, whether it is designated "Urban Conservancy" or "Natural". West Richland's Critical Areas Map shows that most of the shoreline jurisdiction in Reach 1 is on critical areas – either because it is critical fish and wildlife conservation habitat, geologically unstable, or both (Figure 1).[15] Similarly, the portion of Reach 2 that is designated as Urban Conservancy is on the 100 year flood plain (Figure 3).

[14] *SMP Handbook*, Chapter 11, p. 6.
[15] City of West Richland, *Comprehensive Plan 2017 Update (Comp. Plan)*

*Figure 1. Approximate extent 150 shoreline buffer on areas designated as "High Intensity" or "Shoreline Residential".*

These circumstances make it unlikely that the adoption of shoreline buffers will impede development. However, the shoreline buffer requirement is still necessary, since it's possible that an application will be made for development with adequate mitigations for critical areas but which will still affect ecological functions of the shoreline which a buffer could protect.

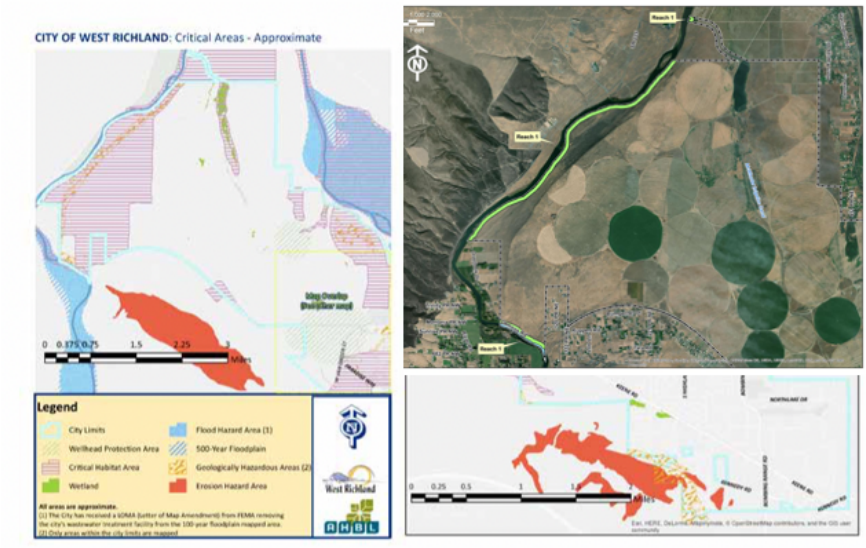


*Figure 2. Critical Areas Map shows Reach 1 overlaying critical habitat and geological hazardous areas*

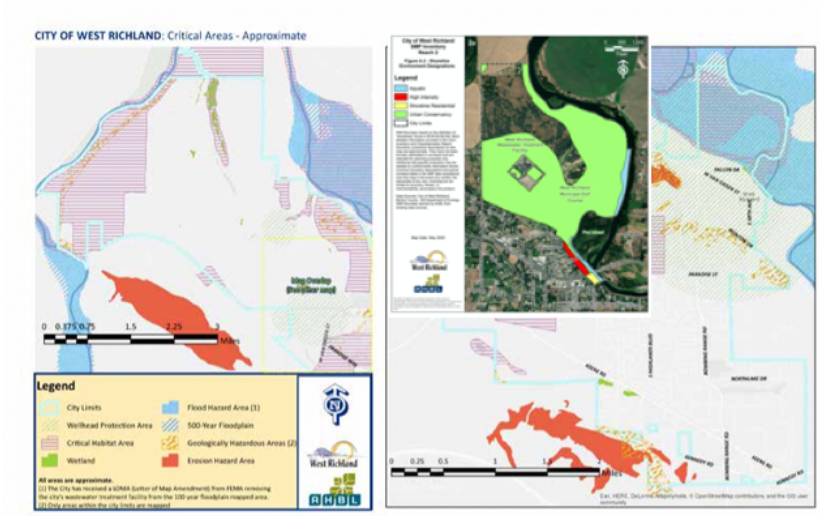


*Figure 3. Right hand panel of Critical Areas Map overlaid with Reach 2*

# 4 Use Specific Regulations

## 4.1 Basic Shoreline Development Standards (SMP 5.C)

Our previous comments on the setback table had some issues and wasn't clearly stated. Here we provide a table with setbacks. The setbacks are given in terms of distance from the OHWM and any required shoreline buffer. In our suggested shoreline buffer table, no buffer is required for water-oriented uses; for those, we've copied values from the current SMP. The setbacks we've given for non-water-oriented uses are more arbitrary, but they should probably all be at least 20 feet, based on guidance from WDFW.

| KEY |
|---|
| **N/A = Not Applicable** |
| |

| Minimum Shoreline Setback measured landward from OHWM and any required shoreline buffer | High Intensity | Shoreline Residential | Urban Conservancy | Natural | Aquatic |
|---|---|---|---|---|---|
| **Agriculture** | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| New agricultural activities only | 20 | 30 | 30 | 30 | N/A |
| **Boating Facilities – Boat Launches and Docks** | | | | | |
| Water-dependent structures | 0 | 0 | 0 | 0 | N/A |
| **Civic** | | | | | |
| Water-dependent structures | 0 | 0 | 0 | N/A | N/A |
| Water-related and water-enjoyment mixed- use structures | 30 | 30 | 30 | N/A | N/A |
| Non-water-oriented structures | 20 | 30 | 30 | N/A | N/A |
| **Commercial** | | | | | |
| Water-dependent structures | 0 | N/A | N/A | N/A | N/A |
| Water-related and water-enjoyment mixed- use structures | 30 | N/A | N/A | N/A | N/A |
| Non-water-oriented structures | 20 | N/A | N/A | N/A | N/A |
| **Parking** | | | | | |
| Parking Off-Street Parking Lots or Structures as an Accessory Use (4) | 30 | 30 | 30 | N/A | N/A |
| **Recreational Development** | | | | | |
| Water-dependent structures and uses | 0 | 0 | 0 | 0 | N/A |
| Water-related and water-enjoyment | 30 | 30 | 30 | 30 | N/A |

| | | | | | |
|---|---|---|---|---|---|
| structures and uses | | | | | |
| Non-water-oriented structures | 20 | 30 | 30 | 30 | N/A |
| **Residential Development** | | | | | |
| Non-water-oriented structures (5) | 20 | 30 | 30 | 30 | N/A |
| **Signs** | | | | | |
| Freestanding Sign Structures | 20 | 30 | 30 | N/A | N/A |
| **Transportation Facilities** | | | | | |
| New Roads related to Permitted Activities in the Shoreline Jurisdiction | 20 | 50 | 50 | N/A | |
| Bridges for Motorized and Non-motorized Uses | 0 | 0 | 0 | 0 | N/A |
| Expansions of Existing Circulation Systems outside of New Roads related to Permitted Activities in the Shoreline Jurisdiction | 30 | 30 | 50 | 50 | N/A |
| **Utilities (Primary and Accessory)** | | | | | |
| Water-dependent structures | 0 | 0 | 0 | 0 | N/A |
| Water-related structures | 30 | 30 | 30 | 30 | N/A |
| Non-water-oriented structures | 20 | 30 | 30 | 30 | N/A |

## 4.2 Shoreline Use Policies and Regulations (SMP 5.D)

### 4.2.1 General Use Policies (SMP 5.D.1)

Under policies, add a policy to determine required mitigation for developments. This seems to have been only specified for 'agriculture'.

> Condition all ~~significant~~ new ~~agricultural~~ development and uses to be consistent with the shoreline environment designation and located and designed to assure no net loss of ecological functions and to not have ~~significant~~ adverse impact on other resources and values in the shoreline jurisdiction. The City's Shoreline Administrator will consult the provisions of the SMP and determine the applicability and extent of ecological mitigation *necessary to restore ecological function.* ~~The extent of ecological mitigation shall be that which is reasonable given the specific circumstances of an agricultural development.~~

In regulations, add provisions describing determination and composition of setbacks. This also seems to be only mentioned under 'Agriculture' in the draft SMP. We take that regulation as a starting point:

> ~~As part of the required setbacks from Table 3, a setback of natural or planted permanent native vegetation not less than twenty (20) feet in width, measured perpendicular to ordinary high water mark, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters and associated wetlands.~~ *For all uses, a setback, if required by [the setback table] shall be maintained between the OHWM (or shoreline buffer, if required) and any development or use. The extent and composition of the required setback will be sufficient to protect the ecological functions of the shoreline as determined by the City's Shoreline Administrator based on the analysis required by SMP 4.B.4 [Environmental Impacts]. The width of the setback shall not be less than the value given in [the setback table].* ~~shall determine the extent and composition of the setback based on the requirements of BAS and site-specific criteria for establishing efficacy of the vegetated setback (slope, rainfall, surface uniformity, etc.) when the applicant applies for a shoreline permit or letter of exemption.~~

### 4.2.2 Agriculture (SMP 5.D.2)

#### 4.2.2.1 Policy 4:

> ~~Condition all significant new agricultural development to be consistent with the shoreline environment designation and located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other resources and values in the shoreline jurisdiction. The City's Shoreline Administrator will consult the provisions of the SMP and determine the applicability and extent of ecological mitigation The extent of ecological mitigation shall be that which is reasonable given the specific circumstances of an agricultural development.~~

Move to general use policies.

#### 4.2.2.2 Regulations

1. All new agricultural development shall conform to applicable state and federal policies and regulations~~, provided they are~~ *and be* consistent with the SMA and the SMP to ensure no net loss of ecological function.

All agricultural development has to conform to state and federal law no matter what.

~~1.~~ 3. ~~As part of the required setbacks from Table 3, a setback of natural or planted permanent native vegetation not less than twenty (20) feet in width, measured perpendicular to ordinary high water mark, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters and associated wetlands. The City's Shoreline Administrator shall determine the extent and composition of the setback based on the requirements of BAS and site-specific criteria for establishing efficacy of the vegetated setback (slope, rainfall, surface uniformity, etc.) when the applicant applies for a shoreline permit or letter of exemption.~~

Move to general use regulations.

### 4.2.3 Civic (SMP 5.D.5)

Under regulations make the following change:

2. Non-water-oriented civic uses along the edge of the ordinary high water mark are prohibited unless they meet the following criteria:
    a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration;
    b. ~~Navigability is~~ *Water-oriented uses are* severely limited at the proposed site; and the civic use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or

…

Water-oriented uses are to take precedence over non-water oriented uses; navigability is not an indicator for all water-oriented uses.

2. …
    c. The site is physically separated from the ordinary high water mark by another property or public right of way~~ or is outside the shoreline setback from the ordinary high water mark~~.

*All* non-water-oriented uses will be required to be outside of the setback. Wouldn't the stricken clause allow non-water-oriented uses anywhere, without giving precedence to water oriented uses?

#### 4.2.4 Commercial (SMP 5.D.6)

Under regulations make the same changes suggested for Civic uses regarding non-water-oriented uses.

# 5 Administration (SMP 6)

## 5.1 Application – Notices (SMP 6.C)

**The requirements for notice are inadequate!** These are shorelines of statewide significance; notice should be given to all members of the public and all pertinent agencies, including, at a minimum WDOE and WDFW. As written, the City might supply notice only to property owners in the immediate vicinity. This section should meet the same standards for notification as other permit applications as given in WRMC Chapter 14.03 – there's too much missing here to adequately address in these comments.

## 5.2 Shoreline Conditional Use Permits (SMP 6.E)

Just unneeded commas in item 3:

> Uses~~,~~ which are specifically prohibited by the SMP~~,~~ may not be authorized.

# 6 Critical Area Provisions in the Shoreline Jurisdiction (SMP A.2)

## 6.1 Wetlands – Identification and delineation (SMP A.2.E)

We covered some of the wetland provisions in our previous comments. We make some additional points here.

## 6.2 Wetlands – Alteration of Buffers (SMP A.2.K)

Current guidance from WDOE provides specific mitigation measures that allow for reduced buffer width.[16] The City should adopt these standards rather than allow ad-hoc decreases in buffer widths.

## 6.3 Performance Bonding (SMP A.2.CC)

Item 5:

> Public development proposals shall be relieved from having to comply with the bonding requirements of this section

[16] WDOE, *Wetland Guidance for CAO Updates Eastern Washington Version,* June 2016, Publication No. 16-06-002, hereafter known as *Wetland Guidance.* https://fortress.wa.gov/ecy/publications/documents/1606002.pdf. Tables XX.1 and XX.2, p. 28-29.

‘Public development proposal’ is not well defined. Searching other municipal codes in Washington, the clause is usually stated as:

> Public development proposals shall be relieved from having to comply with the bonding requirements of this section *if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.*

## Emily Weimer

**From:** Skylar Marcum <skylar.marcum@gmail.com>
**Sent:** Sunday, August 16, 2020 8:30 PM
**To:** Emily Weimer; Nicole Stickney
**Subject:** SMP Comments

**Follow Up Flag:** Follow up
**Flag Status:** Completed

Hi Emily,

In addition to the comments I provided during the public meeting on the SMP I am including some comments below.

1. Regarding specific changes in the SMP, I saw that the language in the proposed SMP update at page 4 tries to summarize RCW 90.58.030 is confusing and incorrectly summarized. There should be a semicolon after (OHWM) rather than a comma as is shown now. The comma makes it sound like shorelands include the area that is 200 feet from floodways, which is not correct.

Compare the SMP language with the Statutory language (which the SMP is trying to summarize):

SMP

Shorelands means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM), floodways, and contiguous floodplain areas landward two hundred (200) feet from such floodways; and additionally all wetlands and river deltas associated with such rivers, streams, lakes, and tidal waters (RCW 90.58.030).

RCW 90.58.030(2)(d):

"Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

Can you please track the statutory language.

2. As for other general comments:
2.1 In your original update for 2007 guidance (pg. 12) you had a comment that Floodway should be defined in a single way. You subsequently took no action. Seems out of compliance with the legislature and Ecology. It would be beneficial if Floodway was defined in a single way according to the relevant FEMA maps.
2.2 In general there are several updates to Wetlands. It would be great if more details or options on mitigation options are provided. As an example, Mitigation Banking.
2.3 In 2012 the legislature amended the appeal process to the SMP. Can amendments be added to outline the appeal process to the SMP.

3. Large portions of Michelle's 213 acres are placed in the "Urban Conservancy". This should be made to be Shoreline Residential. The Floodplain and Floodway development restrictions serve the necessary function of limiting development as needed. The property is zoned as Residential and the SMP designation should match that.

4. Can you please send me any updated draft for the SMP? I noticed language was moved from Title 14 that was redundant with SMP and would like to cross-reference or check if anything changed here.

Thank you,
-Skylar

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This is an external email and did not originate from the City of West Richland's email system.

**Lower Columbia Basin Audubon Society**
A CHAPTER OF THE NATIONAL AUDUBON SOCIETY
P.O. Box 1900 • Richland, WA 99352

September 1, 2020

Eric Mendenhall
City of West Richland
Community Development Manager
3100 Belmont Blvd
West Richland, WA 99353

Dear Mr. Mendenhall:

The Lower Columbia Basin Audubon Society (LCBAS) thanks you for the opportunity to review this document. While we appreciate that you have a good public participation plan, Covid restrictions have made it more difficult to have a robust public discussion absent the one-on-one interactions that open houses normally provide to ask questions and look at maps.

The Yakima River is considered a 'shoreline of statewide significance.' As such, two of the major elements to be included in a Shoreline Master Program are (a) the preservation of the natural character of the shoreline and (b) protection of the resources and ecology of the shoreline. Protecting the functions and values of riparian areas and associated critical areas is an important goal necessary to attaining these elements. Functions and values include water filtration and water quality protection; stream temperature moderation; stream channel stabilization, flood water storage and reduction of flood damage; protection of fish, other aquatic species, birds and other terrestrial wildlife and facilitation of fish and wildlife movement. As the state of science advances, management recommendations to attain these goals can change. An SMP update such as this is an opportunity to bring the document into agreement with current guidelines from WDOE and WDFW which are based on Best Available Science. Several of these guidelines have been changed since the previous update and a number of our comments are a request to take advantage of this option to strengthen the SMP.

Comments, questions, and concerns (page numbers are based on the June 17, 2020 draft on the City's website):

1. General comment. Some areas along Reach 1 are designated as FWHCAs on the Critical Areas map (Comp Plan 2017) including some with good shrub steppe habitat and some with small cliffs. They appear to be the types of areas that would need to be maintained as habitat to prevent the net loss of ecological functions along the Yakima River in the City. Why are none of these areas designated as 'Natural'? On P. 64, D1b2a states "Reserve appropriate areas in the shoreline jurisdiction for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health." Where are the areas reserved for protecting and restoring ecological functions? These areas would be needed so that if other areas are developed, there will be no net loss of ecological function.
2. General comment. From your response to a question at the open house as to which shoreline areas have been developed since the last update, it sounds like the City's Gateway area has been developed and that there have been some variances and conditional use permits. What was the mitigation for the Gateway area? Has there been an ecological impact as a result of the implementation of the variances and conditional use permits and, if so, what mitigation has been done?

3. P. 29-33, 43ff. Flood Hazard Reduction section and Shoreline Stabilization section. These sections should be strengthened to include the changes in State floodplain and CMZ regulations that further restrict development in these areas, subject to certain requirements. Some examples include:
    a. P. 30, 5b10 Change "Limit…" to "Prohibit" development and structural flood hazard reduction measures within the CMZ that would result in interference with the process of channel migration, i.e., an engineering analysis is required indicating no rise of the base flood elevation. "In areas where a floodway has not been designated, require that no new construction, substantial improvements or other development (including fill) shall be permitted within applicable flood zones unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community."
    b. The restrictions in (a) above should also be applied to P. 43, e3g.
    c. P. 30, c2. Change 'should' to 'shall' in (1) and (2).
    d. P. 32, c11f. Prohibit modifications or additions to an existing nonagricultural legal use that would result in interference with the process of channel migration; an engineering analysis is required that would indicate no rise of the base flood elevation. Any new development would require protection of existing ecological functions.
    e. P. 31, c6. This section should apply only to existing development (WAC 173-26-221(3)c(iii), not to new development.
4. P. 136-156 Wetlands. Since the last SMP update in 2014, WDOE has provided new guidance for Eastern Washington wetlands (WDOE 1606002). Many criteria have changed and these should be incorporated so that West Richland is following the Best Available Science in one of the most important wetland areas in the City, i.e., along the Yakima River. A few examples of changes that would reflect current guidance are noted here:
    a. P. 143. Land use impacts table. For example, hobby farms and golf courses in general are considered high intensity. Parks with biking/jogging are considered moderate intensity. Gravel driveways (not paved driveways) serving 1 or 2 residences are considered low intensity.
    b. P. 145, J6. Wetland buffer increases. For example, change 'may' to 'shall' in first sentence. Include state or federally listed species (not just 'endangered, threatened, or sensitive species')
    c. P. 147, K2e. The buffer width is not reduced to less than 75% (not 50%) of the standard buffer width or 75 ft for Category I and II, 50 ft for Category III and 25 ft for Category IV, whichever is greater.
    d. P. 148-149. Because of the importance of wetlands associated with the Yakima River for many functions including water quality and salmon recovery, alteration of these wetlands should be strongly discouraged. Mitigation must follow the prescribed sequence listed in Chap. 4 Section 4; a "combination of such measures" (new revision) weakens this requirement and should not be allowed.
    e. P. 153. Table should include Rehabilitation.
    f. P. 156. Wetland Monitoring Program. Several criteria in WDOE's latest guidance appear to be missing, including criteria for control of nonnative species, buffer vegetation, monitoring for 10 yrs, a performance bond, etc. These should be included.
    g. P. 92 ej4. 'A delineation of all wetland areas that will be altered or used as a part of the development' should come with a mitigation plan as part of the application so that there is no net loss of ecological function. As noted above, alteration of wetlands along the river should be strongly discouraged by the City because of their critical ecological functions.
5. P. 157-161, 121. Critical fish and wildlife habitat conservation areas.
    a. P. 157 R1. State priority habitats and areas associated with state priority species as well as DNR's natural heritage program species should be included in all FWHCAs, not just on 'government and conservation land.' According to WAC 365-190-130 (4b), WDFW priority habitats and species should be considered by counties and cities as they include the best available science; DNR's natural heritage program can provide a list of high quality ecological communities and systems and rare plants. We are asking you to include these in all FWHCAs in the City as has been done by Benton County and by the City of Richland. (We should note that it is not clear from the City's Critical Areas map which parts of the FWHCAs are on government and conservation land; the only locations specifically mentioned in the text are in Willamette Heights, which we don't think are subject to shoreline jurisdiction.)

b. P. 157 R1. FWHCAs should also include documented habitat, other than accidental presence, of regional or national significance for migrating birds.
c. P. 159. FWHCA. "Buffer shall not exceed 150 ft" (new revision). What is the Best Available Science basis for 150 ft? How will this result in no net loss of ecological function? The Department of Fish and Wildlife's priority habitats and species recommendations often call for buffers wider than 150 ft for many fish and wildlife habitats. The SMP should follow WDFW recommendations as documented in https://wdfw.wa.gov/species-habitats/at-risk/phs/recommendations. For example, the WDFW recommended buffer width for Type S streams is currently 250 ft. And individual species may have significantly larger recommended buffer widths. In the Benton County CAO, a Type F stream has a 200 ft FWHCA buffer width; a Type S stream like the Yakima River shouldn't be less.
d. P. 161. FWHCA, Wildlife corridors. Again, the SMP should follow WDFW recommendations as documented in 'Landscape Planning for Washington's Wildlife: Managing for Biodiversity in Developing Area (Chap. 4, P. 3) or current version. WDFW recommends widths of 150 to 1,000 ft for wildlife corridors depending on the type and number of species likely to use it.
e. P. 158. Habitat assessment should include an analysis of F&W habitat and species within 300 ft of the project site to account for potentially wider buffer widths.
f. P. 121. Definition of 'pristine shrub steppe habitat.' This is too restrictive a definition for any area of Benton County since there is so little shrub steppe left and very little of that could be classified as pristine (in fact, the County doesn't use 'pristine' in talking about shrub steppe habitat in their CAO). Connectivity of disturbed shrub steppe is also very important as is the connection of shrub steppe to riparian areas. Shrub steppe should be based on WDFW's priority habitat designations.

6. P. 20 3b3. Critical environmental features. Please add (d) Fish & wildlife habitat conservation areas; (a) should also include steep slopes or geologic hazards in general).
7. P. 57. Note 2. Add – 'No net loss of ecological function shall be allowed.'
8. P. 38. Clearing and Grading. Please make it clear in this section (as you do in section 10b, P. 50-52) that clearing and grading is allowed only as part of a shoreline substantial development permit or as a conditional use. Given how often clearing occurs without a permit on our shorelines, stating this up front might help decrease the problem.
9. P. 68 4a. How are docks that serve fewer than 4 families regulated? Is the cumulative effect considered?
10. P. 93 Notice for SMP permits. Please add publication in the TCH legal notices.
11. P. 110 BMP definition. This definition is very limited. It should include statements about agricultural and land management activities. It should also talk about protecting vegetation, habitats, and groundwater, as well as sustainability.
12. Consider adding a statement that the City strongly encourages bird friendly buildings, especially in the shoreline area (and critical areas). Guidelines from the American Bird Conservancy are available.
13. P. 170 Exception 1 (and 2). Where would an existing lot be found that would meet this exception? It should be clarified that an existing lot refers to a lot existing prior to the 2014 SMP (or if this paragraph existed in a previous SMP, then prior to that version).
14. P. 184 DD. Paragraphs 1 & 2. It would be useful to give this more 'teeth' by changing 'may' to 'shall' to maintain the standard of no net loss of ecological function.
15. Appendix 3 is mentioned but we haven't been able to find it. Is it on the City's website?

Thank you for considering our comments.

Sincerely,

Debbie Berkowitz

Debbie Berkowitz
Conservation Committee, Lower Columbia Basin Audubon Society

**Confederated Tribes** *of the*
**Umatilla Indian Reservation**

Department of Natural Resources

46411 Timíne Way
Pendleton, OR 97801

www.ctuir.org TearaFarrowFerman@ctuir.org
Phone (541) 276-3447 Fax (541) 429-7230

September 11, 2020

Eric Mendenhall
Community Development Manager
City of West Richland
3100 Belmont Blvd.
West Richland, Washington 99353

Submitted Electronically to: emendenhall@westrichland.org

Dear Mr. Mendenhall:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR), Department of Natural Resources (DNR), Cultural Resources Protection Program (CRPP) provides the following comments on the West Richland Shoreline Master Program Periodic Review 2020. The CTUIR would like the Shoreline Master Plan to specifically reference and include more information about tribal First Foods and the habitats those foods rely upon. The CTUIR would like the wapato (*sagittaria latifolia*) and dogbane hemp (*Apocynum cannabinum*) site I showed you on September 9, 2020 be included as a preservation area in the Plan. The CTUIR would also like to ensure shoreline areas are accessible for tribal fishing. Finally, the CTUIR would like to have access of CTUIR tribal members acknowledged for the exercise of reserved treaty rights to gather First Food resources and raw materials such as the dogbane hemp.

The CTUIR is a federally-recognized Indian tribe, with a reservation in Northeast Oregon and ceded, aboriginal, and usual and accustomed areas in Oregon, Washington, Idaho, and other Northwest states. In 1855, predecessors to the CTUIR—ancestors with the Cayuse, Umatilla, and Walla Walla Tribes—negotiated and signed the Treaty of 1855 with the United States. The Treaty is a contract between sovereigns and is "the supreme Law of the Land" under the United States Constitution. In the Treaty the CTUIR ceded millions of acres of land to the federal government, and in exchange received assurances that various pre-existing tribal rights would be protected, and our interests would be respected, in perpetuity. A paramount objective in the Treaty was protecting and maintaining our tribal First Foods—water, fish, big game, roots, berries, and other plants—and the habitats and environmental conditions that support and sustain them, then, now, and forever. This remains a paramount objective of the CTUIR as we have a reciprocal responsibility to respectfully care for, harvest, share, and consume traditional foods, or the foods may be lost.

As noted, our Treaty of 1855 specifically reserves of our pre-existing right to access the First Foods, in Article 1, which states:

> Provided, also, That the exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians, and at all other usual and accustomed stations in common with citizens of the United States, and of erecting suitable buildings for curing the same; the privilege of hunting, gathering roots and berries and pasturing their stock on unclaimed lands in common with citizens, is also secured to them.

The CTUIR DNR recognizes the importance of the protection and perpetuation of our First Foods as our mission statement asserts:

> To protect, restore, and enhance the First Foods - water, salmon, deer, cous, and huckleberry - for the perpetual cultural, economic, and sovereign benefit of the CTUIR. We will accomplish this utilizing traditional ecological and cultural knowledge and science to inform: 1) population and habitat management goals and actions; and 2) natural resource policies and regulatory mechanisms.

The protection of our First Foods acknowledges the connection between our ancestral homelands and our ancestors, and helps to ensure the perpetuation of practices which have occurred since time immemorial and continue to this day. These First Foods represent a physical and spiritual connection to our past just as archaeological sites are the physical connection we have to the lands our ancestors used. Many habitats where the First Foods are found are associated with archaeological sites for the very logical reason that tribal members needed these resources thousands of years ago just as they do today.

Lastly, the CTUIR-CRPP encourages the City of West Richland to send notifications to the CTUIR when comments are open for such plans in the future. The City of West Richland is within the CTUIR's ceded lands and we want to work with the City of West Richland on future preservation and management actions of our cultural and natural resources. The CRPP appreciates the opportunity to comment on the Plan. Please contact me if you have any questions regarding our comments.

Respectfully,

Teara Farrow Ferman

Teara Farrow Ferman, Program Manager
Cultural Resources Protection Program

3100 Belmont Blvd * West Richland, WA 99353 * www.westrichland.org
**Community Development Department * (509) 967-5902 * FAX (509) 967-2419**

# PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the City of West Richland is proposing to update Section 18.08 of the West Richland Municipal Code (Shoreline Master Program); the City and the Washington Dept. of Ecology (Ecology) are accepting comments on a periodic review in accordance with RCW 90.58.080(4). The city has prepared draft Shoreline Master Program (SMP) amendments to be consistent with state law, city plans, regulations, and other changed local circumstances. **Public comments will be accepted from September 17, 2020 to October 19, 2020 at 4 p. m.**

NOTICE IS FURTHER GIVEN that Environmental Review (SEPA) is being conducted on the proposal and a Determination of Non-significance (DNS) has been issued. The SEPA Comment period runs from September 17, 2020 to October 2, 2020.

The proposal is available for review on the City's website:
https://www.westrichland.org/west-richland-shoreline-master-program-periodic-review-2020/

NOTICE IS FURTHER GIVEN that the Planning Commission and the Washington Dept. of Ecology (Ecology) will hold a joint public hearing on the proposal. **The hearing is scheduled for 6:00 p.m., Thurs., October 8, 2020**.

Due to the Governor's "Stay Home Order" and Proclamation 20-28 and extensions thereof regarding open public meetings, the Public Hearing will likely be held via video conferencing. Please go to the City of West Richland website to obtain information on how to participate in the public hearing (www.westrichland.org). All interested parties are invited to attend and participate. Please send any written comments to the Community Development Department at 3100 Belmont Blvd., West Richland, WA 99353 or by email to emendenhall@westrichland.org.

If you have any questions about the proposed amendments, the SEPA determination, or public hearings, please contact the Community Development Department. The meeting packet, including the staff report will be available the Thursday preceding each meeting.

- The City staff contact is Eric Mendenhall, Planning Manager, at (509) 967-5902 or emendenhall@westrichland.org.
- The Ecology staff contact is Chelsea Benner, Shoreline Planner, at chelsea.benner@ecy.wa.gov.

*This notice is posted as of September 17, 2020*

# City of West Richland

## Shoreline Master Program

### *Environment Designations, Policies & Regulations*

Prepared by:

AHBL, Inc.
5804 Road 90 Suite H
Pasco, WA 99301

DRAFT DOCUMENT DATED September 17, 2020

**DRAFT FOR:** **PUBLIC COMMENT PERIOD (SEPT 17 – OCT 19, 2020)**

**PLANNING COMMISSION HEARING (OCT 8, 2020)**

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# List of Abbreviations

BAS – Best Available Science

BMPs – Best Management Practices

CAO – Critical Areas Ordinance

CARA – Critical Aquifer Recharge Area

City – City of West Richland

CMZ – Channel Migration Zone

DAHP – Washington State Department of Archaeology and Historic Preservation

Ecology – Washington State Department of Ecology

ESA – Endangered Species Act

GMA – Growth Management Act

NFIP – National Flood Insurance Program

RCW – Revised Code of Washington

SAC – Shoreline Ad Hoc Committee for the Shoreline Master Plan Process

SEPA – State Environmental Policy Act

SMA – Shoreline Management Act

SMP – Shoreline Master Program

~~TAC – Technical Advisory Committee for the Shoreline Master Plan Process~~

USGS – United States Geological Survey

WAC – Washington Administrative Code

WDFW – Washington State Department of Fish and Wildlife

WDNR – Washington State Department of Natural Resources

WRMC – City of West Richland Municipal Code

WSDOT - Washington State Department of Transportation

# Chapter 1: **Introduction**

## A. Shoreline Management Act

The State Legislature passed the Washington's Shoreline Management Act (SMA) in 1971 and was adopted by the public through referendum in 1972 *"…to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."*

The SMA has three broad policies:

- **Encourage water-dependent uses**: *"uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines…"*
- **Protect shoreline natural resources**: including *"…the land and its vegetation and wildlife, and the water of the state and their aquatic life…"*
- **Promote public access**: *"the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and people generally."*

The SMA recognizes that *"shorelines are among the most valuable and fragile"* of the state's resources. The SMA and the City of West Richland (City) recognize and protect private property rights in the City's shoreline jurisdiction, while aiming to preserve the quality of this unique resource for all state residents.

The primary purpose of the SMA is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the SMA establishes a coordinated planning program between the state and local jurisdictions to use in addressing the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following four tasks:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines covered by the SMA.
2. Preparation of a "Shoreline Master Program" (SMP) to determine the future of the City's shoreline jurisdiction.
3. Development of a permit system to further the goals and policies of both the SMA and its SMP.

4. Development of a Restoration Plan that includes goals, policies, and actions for restoration of impaired shoreline ecological functions.

## B. Applicability

All proposed uses and development occurring within the City's shoreline jurisdiction must conform to the SMA (Revised Code of Washington (RCW) 90.58) and the SMP, except when specifically exempt by statute. In addition to the requirements of the SMA, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of the private property.

## C. Purposes of the Shoreline Master Program

The four purposes of the SMP are to:

1. Carry out the responsibilities imposed on the City by the SMA;
2. Promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City;
3. Further, by adoption, the policies of the SMA and the goals of the SMP; and
4. Comply with the SMP Guidelines (Washington Administrative Code (WAC) Chapter 173-26); including a particular focus on regulations and mitigation standards to ensure that development under the SMP will not cause a net loss of ecological functions.

## D. Shoreline Master Program Development

The City obtained grant number G1200048 from the Washington State Department of Ecology (Ecology) in 2012 to conduct a comprehensive SMP update. The first step of the update process inventoried the City's shoreline jurisdiction as defined by the state's SMA. The Yakima River and its associated wetlands and floodways comprise the SMA shoreline jurisdiction in the City. As prescribed in RCW 90.58.030(2)(f)(v)(B), the Yakima River is considered a Shoreline of Statewide Significance.

The *Public Participation Plan* guided public interaction throughout the development of the SMP. The Planning Commission served as the Shoreline Ad Hoc Committee (SAC) to review SMP documents, particularly proposed environment designations, policies, and regulations, and provided feedback in a series of public meetings.

The *Shoreline Inventory and Characterization* described existing biological and physical conditions for the two (2) different shoreline reaches classified in the City (Yakima River – west side of the City and Yakima River – east side of the City). These conditions were then analyzed and characterized to create a baseline from which future development actions in the City's shoreline jurisdiction will be measured. A Technical Advisory Committee ~~(TAC)~~ reviewed and commented on the *Shoreline Inventory and Characterization*.

The public discussed the findings of the *Shoreline Inventory and Characterization* and proposed shoreline environment designations at community meetings. Shoreline environment designations were assigned for all the area under SMA jurisdiction in the City. Then goals, policies, and regulations for each shoreline environment designation, as well as general goals, policies and regulations for all activity in the SMA jurisdiction were developed to maintain the baseline condition. The SAC and the public reviewed these documents.

The SMP Guidelines required that the City demonstrate that its updated SMP yields "no net loss" of ecological functions in the shoreline jurisdiction relative to the baseline through the *Cumulative Impacts Analysis* and the *No Net Loss Report*.

The City developed the *Restoration Plan* to address voluntary, non-regulatory actions the City would take to improve its shoreline jurisdiction above the baseline condition. Ideally, the SMP, in combination with other City and regional efforts, will ultimately produce a net improvement in ecological functions of the shoreline jurisdiction.

In 2020, the City conducted a periodic update of the SMP, as local governments must conduct a review of their master program at least once every eight years pursuant to RCW 90.58.080 and WAC 173-26-090. The Department of Ecology funded the update through a grant. (Grant # SEASMP-1921-WeRiPW-00017). An updated *Public Participation Plan* guided public interaction throughout the update of the SMP.

No changes were made to the *Shoreline Inventory and Characterization*, the *Cumulative Impacts Analysis*, the *No Net Loss Report* or the *Restoration Plan*, in 2020, as no changes were necessary.

## E. Shoreline Master Program Basics

The SMP is a planning document that provides goals and policies for the City's shoreline jurisdiction and establishes regulations for development occurring in the City's shoreline jurisdiction.

In order to preserve and enhance the City's shoreline jurisdiction, it is important that all development proposals relating to the shoreline jurisdiction be evaluated in terms of the SMP, and that the City's Shoreline Administrator, as appointed by the Mayor, be consulted. Some developments may be exempt from regulation, while others may need a shoreline substantial

development permit, variance, or conditional use permit approval. All proposals must comply with the policies and regulations established by the SMA as expressed through the SMP, regardless of whether a permit is required.

The SMA defines for local jurisdictions the content and goals to be found in the SMPs developed by each community. Within these guidelines, specific regulations are developed that are appropriate to that community. Under the SMA, all shorelines of the state receive a shoreline environmental designation. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment.

The City's shoreline jurisdiction (see Figure 1) includes segments of streams or rivers within the city limits where the mean annual flow is more than twenty (20) cubic feet per second and shorelands adjacent to these water bodies. ~~Shorelands include lands extending landward for two hundred (200) feet in all directions, as measured on a horizontal plane from the ordinary high water mark (OHWM), floodways, contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters subject to RCW 90.58.~~ Shorelands means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM); floodways, and contiguous floodplain areas landward two hundred (200) feet from such floodways; and additionally all wetlands and river deltas associated with such rivers, streams, lakes, and tidal waters (RCW 90.58.030). Buffers for these associated wetlands and floodplains outside of two hundred (200) feet of the floodway are not included in the City's shoreline jurisdiction. Within the City, the Yakima River, and its associated wetlands and floodways are within SMA shoreline jurisdiction and the Yakima River is a Shoreline of Statewide Significance.

Associated wetlands are also included as shorelines of the state and are regulated under SMA. Associated wetlands are those wetlands in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the SMA (WAC 173-22-030 (1)). These are typically identified as wetlands that are physically adjacent to a shoreline waterbody in shoreline jurisdiction, or wetlands that are functionally related to the shoreline jurisdiction through surface water connection and/or other factors. A site-specific determination must be made to determine if a wetland meets the definition of associated wetland.

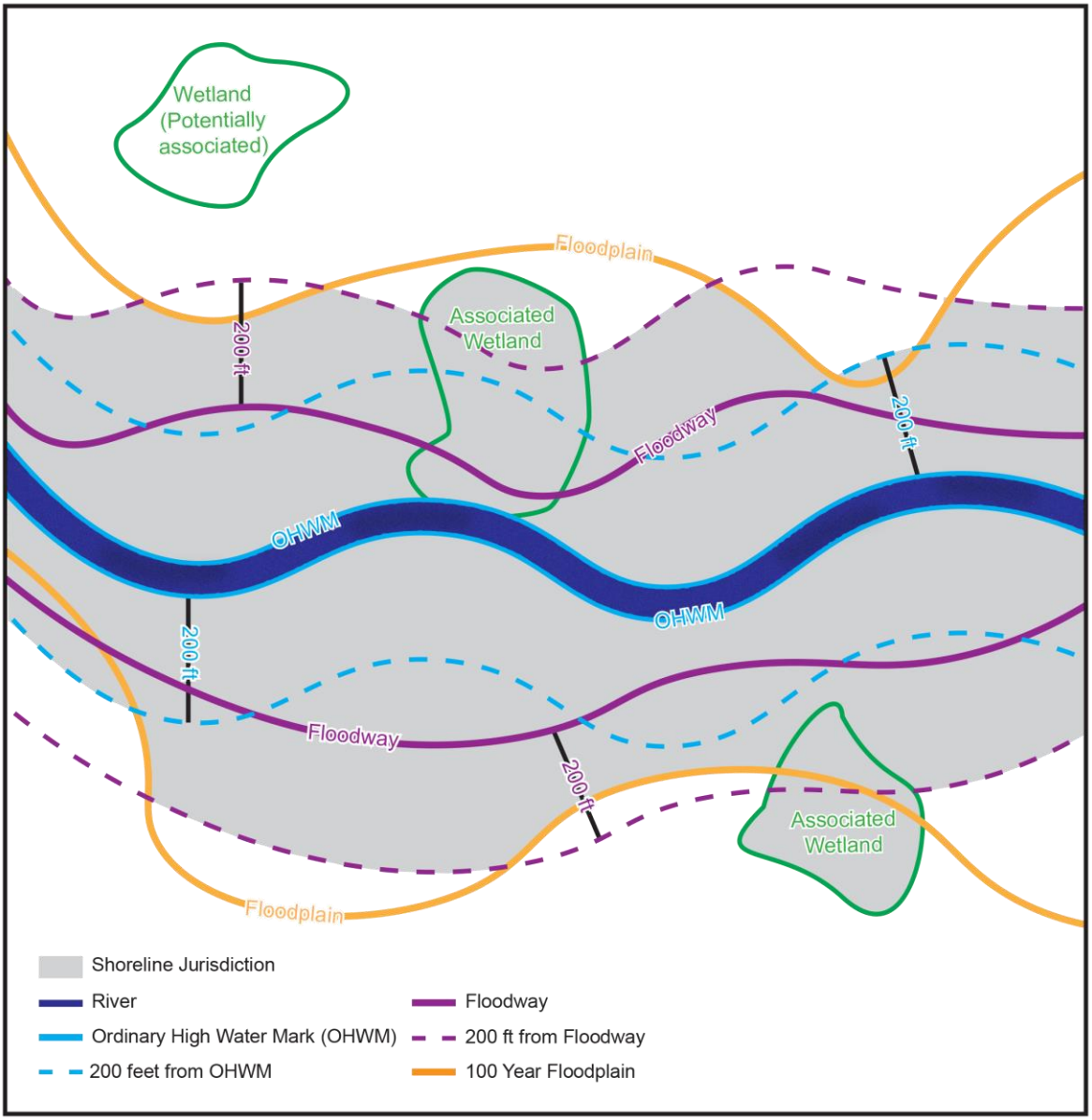


**Figure-1: Conceptual depiction of West Richland Shoreline Jurisdiction**

The City has designated its shoreline jurisdiction into four (4) shoreline environments: High Intensity, Shoreline Residential, Urban Conservancy, and Aquatic. SMP Chapter 3: Environment Designations describes these shoreline environments. Figures A.1~~9.1~~ and ~~9.2~~ A.2 in the SMP Appendix 1: Maps present the maps of the shoreline environments within the jurisdiction of the SMP.

Persons proposing any development, land use, or other projects in the shoreline jurisdiction must consult with the City's Shoreline Administrator to determine how the SMP addresses their

proposal. The City's Shoreline Administrator will determine if a proposal is exempt from a shoreline substantial development permit (i.e. qualifies for a shoreline letter of exemption) or requires a shoreline ~~permit, and~~permit and will provide information on the permit application process.

Requests for shoreline substantial development permits, variances, and conditional use permits require review and recommendation by the City's Shoreline Administrator, with a final decision according to City procedures. Requests for shoreline variances and conditional use permits also require final approval by Ecology. SMP Chapter 6: Administration provides a description of exempt projects, shoreline permit application procedures, and criteria for evaluation.

## F. Organization of the Shoreline Master Program

The SMP is comprised of seven Chapters and two Appendices:

**Chapter 1**: *Introduction* provides general background information on the state SMA; the development of the SMP in the City; and how the SMP is used.

**Chapter 2:** *Master Program Elements* lists the general goals and objectives of the elements that make up the SMP.

**Chapter 3:** *Environment Designations* defines the shoreline environment designations within the City's shoreline jurisdiction. This Chapter details the policies and regulations specific to the four (4) designated shoreline environments (High Intensity, Shoreline Residential, Urban Conservancy, and Aquatic).

**Chapter 4:** *General Regulations* set forth the general policies and regulations that apply to uses, developments, and activities in the shoreline jurisdiction of the City. The policies and regulations cover the following: Universally Applicable Policies and Regulations, Archaeological and Historic Resources, Critical Areas, Environmental Impacts, Flood Hazard Reduction, Public Access, Restoration, Shoreline Modifications, Shorelines of Statewide Significance, Vegetation Conservation (Clearing and Grading), and Water Quality.

**Chapter 5:** *Use Specific Regulations* sets forth policies and regulations governing specific categories of uses and activities found in the shoreline jurisdiction. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities – Boat Launches and Docks, Civic, Commercial, Forest Practices, Industry, In-Stream Structures, Mining, Parking, Recreational Development, Residential Development, Signs, Transportation Facilities, and Primary and Accessory Utilities.

**Chapter 6:** *Administration* provides the system by which the SMP will be administered, and information on the application process and criteria used to evaluate requests for shoreline substantial development permits, variances, and conditional use permits.

**Chapter 7:** *Definitions* defines terms used in the SMP.

**Appendix 1:** *Maps* contains ~~all of the maps prepared as part of the SMP update~~Shoreline Environment Designations map.

**Appendix 2:** *Critical Area Provisions in the Shoreline Jurisdiction* sets forth the critical area regulations that are applicable in the City's shoreline jurisdiction.

## G. Shoreline Management Act and Growth Management Act

The Growth Management Act (GMA) requires the City to include the goals and policies of the adopted SMP in the City's Comprehensive Plan. The SMP's goals and policies are an element of the City's Comprehensive Plan and the SMP's regulations are a part of the City's development regulations (RCW 36.70A.480). Therefore, the SMP's goals and policies, adopted pursuant to the SMA, are included in the City's Comprehensive Plan as required. Future amendments to this element of the Comprehensive Plan must follow the amendment procedures of the SMA.

## H. Relationship of the Shoreline Master Program to Other Plans

The permitting process for a development or use in the shoreline jurisdiction does not exempt an applicant from complying with any other local, state, regional, or federal statutes or regulations, which may also be applicable to such development or use. In the City, applicants must consider other plans and policy documents that include, but are not limited to, the City of West Richland Municipal Code (WRMC), Comprehensive Plan, and adopted stormwater design manual.

Proposals must also comply with the development regulations used by the City to implement its plans, such as subdivision, zoning and critical areas ordinances, as well as regulations relating to building construction and safety.

Protection and restoration of critical areas within the shoreline jurisdiction was of primary consideration during the preparation of the SMP as was integrating the plan with the City's existing Comprehensive Plan and development regulations.

It was the express intent of the City to achieve consistency between the SMP and other City plans, policies, and regulations. If there are inconsistencies between the SMP and other City plans,

policies, and regulations, the regulation that affords greater protection to the City's shoreline jurisdiction shall prevail.

# I. Title

This document shall be known and may be cited as the *City of West Richland's Shoreline Master Program* or SMP.

# Chapter 2: **Master Program Elements**

## A. Goals and Objectives

Per WAC 173-26-186(3), all relevant policy goals must be addressed in the planning policies of the SMP. This Section contains goals and objectives for the City's shoreline jurisdiction. Goals express the ultimate aim of the City's citizens in their shoreline jurisdiction. An objective identifies a measurable step that moves toward achieving a long-term goal. Goals and objectives provide a framework upon which the more detailed SMP shoreline environments, policies, regulations, and administrative procedures are based in subsequent Chapters.

## B. Economic Development Element

### 1. Goal

Provide an area for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of the Shorelines of the State.

Promote economic growth by encouraging economic activities that will result in minimum disruption to the quality of the shoreline environment. Water-dependent, water-oriented, and water-enjoyment uses shall be encouraged within the City as well as water-enjoyment uses, such as recreational development and/or mixed-use developments that provide for water-enjoyment.

### 2. Objectives

a. Encourage development in the shoreline jurisdiction that has a positive effect upon community economic and social activities, and which results in no net loss of ecological functions and results in mitigation of adverse impacts to other resources and values in the shoreline jurisdiction.

b. Give preference to new water-dependent, water-related, and water-enjoyment uses in economic development.

# C. Public Access Element

## 1. Goal

Provide public access to publicly owned properties in the shoreline jurisdiction.

Provide for access to publicly owned properties in the shoreline jurisdiction, except where deemed inappropriate due to safety hazards, inherent security problems, environmental impacts, conflicts with adjacent uses, or concerns that public access may reduce the effectiveness of flood hazard protections.

## 2. Objectives

a. Seek to increase the amount and diversity of public access to shoreline jurisdiction properties consistent with the natural character of the shoreline jurisdiction, property rights, public rights under the Public Trust Doctrine, and public safety.

b. Increase public access to the shoreline jurisdiction by developing and implementing parks, recreation, and trails plans.

c. Require public access as part of public shoreline jurisdiction development where appropriate.

d. Require and/or encourage public access as part of private shoreline jurisdiction development in accordance with the City's public access plans for its shoreline jurisdiction, where appropriate.

e. Protect and enhance visual and physical access to the City's shoreline jurisdiction.

f. Assure that public access improvements do not result in a net loss of the ecological functions in the shoreline jurisdiction.

# D. Recreation Element

## 1. Goal

Preserve and expand recreational opportunities, including but not limited to parks and recreational areas.

Develop public and private recreation opportunities that are compatible with adjacent uses without adversely affecting the ecological functions and values of the City's shoreline jurisdiction.

## 2. Objectives

a. Encourage cooperation among public agencies, non-profit groups, and private landowners and developers to increase and diversify recreational opportunities.

b. Ensure recreation facilities in the shoreline jurisdiction are developed as necessary to serve projected City growth in accordance with adopted levels of service standards established by the City's Comprehensive Plan.

c. Assure that the recreational facilities are located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located and that no net loss of ecological functions or ecosystem-wide processes in the shoreline jurisdiction results.

d. Assure that recreational development in the shoreline jurisdiction is given priority and is primarily related to access to, enjoyment, and use of the water and shorelines.

# E. Circulation Element

## 1. Goal

Provide for multi-modal circulation opportunities by planning for the general location and extent of existing and proposed major thoroughfares, transportation routes, and other public utilities and facilities, all consistent with the Shoreline Use Element.

Provide safe and adequate vehicular circulation systems to the shoreline jurisdiction where routes will have the least possible adverse effect on unique or fragile features and existing ecological systems in the shoreline jurisdiction, while contributing to the functional and visual enhancement of the system.

## 2. Objectives

a. Encourage multiple modes of transportation.

b. Promote non-motorized travel, public access opportunities, and environmental protection.

c. Locate new or expanded road corridors for motorized vehicles outside of the shoreline jurisdiction unless there is no reasonably feasible alternative or location.

d. Minimize the environmental and visual impacts of parking facilities and allow only as necessary to support an authorized use.

# F. Shoreline Use Element

## 1. Goal

Identify areas associated with the general distribution, location, and extent of the use in the shoreline jurisdiction and adjacent land areas for housing, business, industry,

transportation, recreation, education, and other categories of public and private uses of the land.

Ensure that land use patterns will locate activity and development in areas of the City's shoreline jurisdiction that will be compatible with adjacent uses and will be sensitive to existing shoreline environments, habitat, and ecological systems.

### 2. Objectives

a. Give preference in the City's shoreline jurisdiction to water-oriented and single-family residential development, consistent with the control of pollution and prevention of damage to the natural environment.

b. Encourage shoreline uses and development that enhance and/or increase public access to the City's shoreline jurisdiction or provide significant public benefit.

c. Protect current agricultural activities occurring on agricultural land.

d. Provide for new agricultural uses that are located and designed to assure no net loss of ecological functions and do not have a significant adverse impact on other shoreline jurisdiction resources and values.

e. Locate new utilities outside the shoreline jurisdiction unless water crossings are unavoidable or utilities are required for authorized shoreline uses consistent with the SMP and that no net loss of shoreline ecological functions or ecosystem-wide processes results.

f. Provide for commercial development uses that are located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located and that no net loss of shoreline ecological functions or ecosystem-wide processes results.

## G. Conservation Element

### 1. Goal

Preserve natural resources, including but not limited to scenic vistas, water quality, aesthetics, and areas for fisheries and wildlife protection.

Utilizing the best available information, create development regulations, design standards, and best management practices (BMPs) that will ensure no net loss as well as the long-term enhancement of unique features, natural resources, and fish and wildlife habitat in the shoreline jurisdiction.

### 2. Objectives

a. Provide for no net loss of ecological function in the shoreline jurisdiction.

b. Ensure restoration and enhancement plans are consistent with and prioritized based on adopted watershed and basin plans.

## H. Historic, Cultural, Scientific, and Educational Element

### 1. Goal

Provide for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.

Ensure the recognition, protection, preservation, and restoration of areas in the shoreline jurisdiction and create a unique "sense of place" for public facilities and recreation areas in the City's shoreline jurisdiction.

### 2. Objectives

a. Protect sites in collaboration with appropriate tribal, state, federal, and local governments. Encourage cooperation among public and private parties in the identification, protection, and management of cultural resources.

b. When and/or where appropriate, make access to such sites available to parties of interest. Design and manage access to such sites in a manner that gives maximum protection to the resource.

c. Provide opportunities for education related to archaeological, historical and cultural features when and/or where appropriate and incorporate into public and private management efforts, programs, and development.

## I. Flood Hazard Prevention Element

### 1. Goal

Recognize statewide interests over individual interests in the prevention and minimization of flood damages.

Protect the City from losses and damage created by flooding.

## 2. Objectives

a. Discourage land use practices that may impede the flow of floodwater or cause danger to life or property. Mitigate the loss of floodplain storage capacity to avoid greater impact of flooding downstream.

b. Give preference to nonstructural flood hazard reduction measures over structural measures where feasible.

c. Assure that flood hazard protection measures do not result in a net loss of ecological functions associated with the rivers and streams.

# Chapter 3: **Environment Designations**

## A. Summary

The intent of a shoreline environment designation is to preserve and enhance ecological functions in the shoreline jurisdiction and to encourage development that will improve the present or desired future character of the City's shoreline jurisdiction. The SMP Guidelines (WAC 173-26-211(2)(a)) require that the City classify and map the area within its shoreline jurisdiction into environment designations based on the following four (4) criteria:

1. **Existing land use patterns** – What land uses have developed in the City's shoreline jurisdiction to date, as documented in the *Shoreline Inventory and Characterization* and the SMP map folio.
2. **Biological and physical character of the City's shoreline jurisdiction** – The range of ecological characteristics and functions identified in the City's shoreline jurisdiction as documented in the *Shoreline Inventory and Characterization.*
3. **The goals and aspirations of the City as expressed through its Comprehensive Plan** – The Comprehensive Plan's goals and policies, land use designations, its various elements, as well as its development code and zoning code, the Parks and Recreation Plan, and so forth.
4. **Specific criteria for each environment designation found in WAC 173-26-211(5)** – For the City these environment designations include High Intensity, Shoreline Residential, Urban Conservancy, and Aquatic. The City may establish different environment designations through an amendment to the SMP, provided they are consistent with the purposes and policies of the SMP Guidelines and compatible with the other criteria.

Based on the four (4) criteria found in the SMP Guidelines, the SMP establishes four (4) shoreline environments for the City. They include:

1. **High Intensity** is appropriate for areas of high intensity water-oriented commercial, transportation, and industrial development.
2. **Shoreline Residential** is intended to accommodate residential development, and appropriate public access and recreational development consistent with other elements of the SMP.

3. **Urban Conservancy** is a designation designed to maintain and develop water-oriented and non-water-oriented recreational and low intensity residential development while protecting and restoring the ecological functions of open space, floodway, floodplain, and other sensitive lands where they exist within the City.
4. **Aquatic** is a designation intended to protect, restore, and manage the areas waterward of the ordinary high water mark.

These shoreline environments are illustrated in Figures ~~9.1 and 9.2~~ A.1 and A.2 located in SMP Appendix 1: Maps, and described below. Each shoreline environment description includes a definition and statement of purpose, followed by designation criteria, management policies, and development standards specific to that shoreline environment. Development standards in the shoreline jurisdiction are summarized in Table 3: Minimum Shoreline Setbacks from the Ordinary High Water Mark and Table 4: Maximum Shoreline Heights in SMP Chapter 5: Use Specific Regulations.

## B. Shoreline Areas Not Mapped or Designated

Any undesignated areas of the City's shoreline jurisdiction in the City are assigned automatically an Urban Conservancy shoreline environment designation. This includes any areas annexed into the City that would fall within the City's shoreline jurisdiction. Currently no part of the City's Urban Growth Area (UGA) falls within the shoreline jurisdiction of the SMA.

## C. Official Shoreline Map

The City's Community and Economic Development Department shall keep the Official Shoreline Map. Additionally, a map of the shoreline environment designations is included as Figures ~~9.1 and 9.2~~ A.1 and A.2 in SMP Appendix 1: Maps. In the event that there is an error in the preparation of the shoreline environment designation maps, the City will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands.

The purpose of the shoreline environment designation maps is to identify the shoreline designations. They are based upon the best mapping data available at the time of this update. As such, these maps may not necessarily identify or depict the lateral extent of the City's shoreline jurisdiction or all associated wetlands. The extent of the City's shoreline jurisdiction, as defined in SMP Chapter 1: Introduction, Section E, shall be determined on a case-by-case basis based upon the location of the ordinary high water mark, floodway, floodplain, and presence of associated wetlands.

## D. Interpretation of Environment Designation Boundaries

The following is applicable to the interpretation of environment designation boundaries:

1. Shoreline Environment Designation Boundaries shall be identified primarily by Figures ~~9.1 and 9.2~~ A.1 and A.2 in SMP Appendix 1: Maps and secondarily by the written descriptions provided in SMP Chapter 3: Environment Designations, Sections E.1 – E.4 below.
2. Shoreline Environment Designation Boundaries shall follow parcel, tract, and/or section lines as applicable.
3. Shoreline Environment Designation Boundaries, which follow roads, shall be considered to follow centerlines.
4. All areas in the shoreline jurisdiction waterward of the ordinary high water mark shall be designated Aquatic.
5. Upland shoreline designations shall apply to the City's entire shoreline jurisdiction landward of the ordinary high water mark.

## E. Designations and Policies

### 1. High Intensity Environment

#### *a. Purpose*

The purpose of the High Intensity shoreline environment designation is to provide for high intensity water-oriented commercial and transportation uses while protecting existing ecological functions and restoring ecological functions in areas in the shoreline jurisdiction that have been degraded. Where water-dependent uses are not possible within this designation, because the Yakima River is unnavigable, or where this designation is used as a parallel designation that is not adjacent to the ordinary high water mark, the City allows for non-water-related uses within this designation to meet the requirements of the GMA.

#### *b. Designation Criteria*

A High Intensity shoreline environment designation is assigned to areas in the shoreline jurisdiction that currently support high intensity uses related to commerce or transportation, or are suitable for high intensity water-oriented uses. Areas in the shoreline jurisdiction assigned this designation should have the following characteristics:

1. Can support high-intensity uses without degradation to existing shoreline function;
2. Designated by the City's Comprehensive Plan and zoning for high intensity, commercial, industry, multi-family, or mixed-use development; and
3. Have few biophysical limitations to development such as floodways, floodplains, steep slopes, or landslide hazard areas.

### c. Designated Areas

~~*Description*~~

The High Intensity shoreline environment designation is assigned to those areas in the shoreline jurisdiction generally north of the centerline of the Van Giesen Bridge, south of the centerline of Fallon Drive, and west of the centerline of Butte Court.

### d. Management Policies

1. Promote priority uses on sites with physical access to the City's shoreline jurisdiction in the following order of preference:
   a. Water-dependent
   b. Water-related
   c. Water-enjoyment
2. Allow the development of new non-water-oriented uses on sites where there is no direct physical access to the City's shoreline jurisdiction or where the applicant can demonstrate that the use will not conflict with or limit opportunities for water-oriented uses.
3. Encourage utilization of existing urban areas in the shoreline jurisdiction before expansion of intensive development.
4. Design new development in shoreline jurisdiction to result in no net loss of ecological functions in the shoreline jurisdiction.
5. Require visual and physical access where feasible with physical access prioritized over visual access.
6. Require environmental cleanup and restoration of the City's shoreline jurisdiction comply with relevant state and federal laws.
7. Make access, utilities, and public services available and adequate to serve existing needs and/or planned future development.

## 2. Shoreline Residential Environment

### a. *Purpose*

The purpose of the Shoreline Residential shoreline environment designation is to accommodate residential development that is consistent with the SMP. An additional purpose is to provide appropriate public access and recreational development.

### b. *Designation Criteria*

The Shoreline Residential shoreline environment is assigned to areas of the City's shoreline jurisdiction that are predominantly single-family or multi-family residential development or are planned and platted for residential development. These areas contain the following characteristics:

1. They contain or are proposed primarily for residential development in the Comprehensive Plan and zoning code; and
2. They do not contain significant environmental hazards or sensitive areas.

### c. *Designated Areas*

~~*Description*~~

The Shoreline Residential shoreline environment designation is assigned to those areas in the shoreline jurisdiction generally south of the centerline of the Van Giesen Bridge and Area 3b on Figure ~~9.2~~ A.2 in SMP Appendix 1: Maps.

### d. *Management Policies*

1. Prefer residential activities to other land and resource consumptive development or uses.
2. Allow limited non-residential development, such as parks and home occupation businesses, provided they are consistent with the residential character.
3. Limit commercial development to water-oriented uses.
4. Preserve ecological functions by establishing development standards for density or minimum frontage width, setbacks, shoreline stabilization, critical area protection, and water quality protection to assure no net loss of ecological functions in the shoreline jurisdiction. These development standards should account for environmental limitations and sensitivity of the City's shoreline jurisdiction, the level of infrastructure and services available, and other comprehensive planning considerations.

5. Require that new development preserve and enhance native vegetation and use environmentally friendly landscaping practices in the shoreline jurisdiction, and existing development should be encouraged to do likewise. Consider incentives, information, and other assistance.
6. Provide public access and joint use for community recreational facilities, where feasible and applicable for multi-family developments, residential developments containing four (4) or more lots, and recreational developments.
7. Ensure access, utilities, and public services are available and adequate to serve existing needs and and/or planned future development.
8. Reserve space in the shoreline jurisdiction for shoreline preferred uses.

## 3. Urban Conservancy Environment

### *a. Purpose*

The Urban Conservancy shoreline environment designation is intended to provide for ecological protection and rehabilitation in relatively undeveloped areas in the shoreline jurisdiction, while allowing agricultural use, water-oriented and non-water-oriented recreational development, low intensity residential development, and limited development suitable to lands characterized by ecological and flood hazard constraints.

### *b. Designation Criteria*

The Urban Conservancy shoreline environment designation is assigned to areas in the shoreline jurisdiction that:

1. Are appropriate and planned for low intensity agricultural, recreational, and residential development that is compatible with maintaining or restoring the ecological functions of the area in the shoreline jurisdiction and that are not generally suitable for water-dependent uses.
2. Are suitable for water-related or water-enjoyment uses;
3. Possess severe development limitations, due to the presence of critical environmental features including:
    a. Erosion hazard areas;
    b. Wetlands; and/or
    c. Flood hazard areas;
4. Have the potential for development that is compatible with ecological restoration;

5. Retain important ecological functions, even though partially developed; or
6. Are newly annexed or undesignated areas.

### c. Designated Areas

~~*Description*~~

The Urban Conservancy shoreline environment designation is assigned to all those areas in the shoreline jurisdiction landward of the ordinary high water mark along the Yakima River that are not assigned to the High Intensity or Shoreline Residential shoreline environment designations.

### d. Management Policies

1. Assign uses that preserve the natural character of the area in the shoreline jurisdiction, promote preservation of open space, floodway, floodplain, or critical areas directly, or over the long-term as the primary allowed uses. Allow uses that result in restoration of ecological functions if the use is otherwise compatible with the purpose of the environment and the setting.
2. Implement public access and public recreation objectives whenever feasible and significant ecological impacts can be mitigated.
3. Give preferred water-oriented uses priority over non-water oriented uses. Water-dependent recreational development should be given highest priority.
4. Ensure that standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the designation for new development does not result in a net loss of ecological functions or degrade other values in the shoreline jurisdiction.
5. Allow agricultural practices, when consistent with provisions of this Chapter.
6. Balance preservation of ecological functions with public access, recreation, and low intensity residential objectives and give preservation priority over development objectives whenever a conflict exists.

## 4. Aquatic Environment

### a. Purpose

The purpose of the Aquatic shoreline environment designation is to protect, restore, and manage the unique characteristics and resources of the areas in the shoreline jurisdiction waterward of the ordinary high water mark.

### b. Designation Criteria

The Aquatic shoreline environment designation is assigned to all lands waterward of the ordinary high water mark in the City's shoreline jurisdiction.

### c. Designated Areas

~~*Description*~~

All lands waterward of the ordinary high water mark in the Yakima River shall be assigned an Aquatic shoreline environment designation.

### d. Management Policies

1. Allow new over-water structures for water-dependent uses, public access, or ecological restoration.
2. Limit the size of new over-water structures to the minimum necessary to support the structure's intended use.
3. Encourage multiple uses of over-water facilities to reduce the impacts of development and increase effective use of water resources in the shoreline jurisdiction.
4. Minimize interference with surface navigation, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration in the location and design of all developments and uses.
5. Design and manage shoreline uses and modifications to prevent degradation of water quality and alteration of natural hydrographic conditions.
6. Prohibit uses that adversely impact the ecological functions of critical freshwater habitats except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
7. Reserve space in the shoreline jurisdiction for shoreline preferred uses, while considering upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing critical habitats, aesthetics, public access and views.

# F. Regulations

## 1. Applicability

This Section is applicable to all shoreline environment designations.

## 2. Shoreline Use

a. Permitted, conditional, and prohibited uses for all shoreline environment designations are listed in SMP Chapter 5: Use Specific Regulations, Section B - Table 2: Permitted, Conditional, and Prohibited Uses.

b. All development and uses in the shoreline jurisdiction shall comply with SMP Chapter 4: General Regulations and SMP Chapter 5: Use Specific Regulations as applicable.

c. Permitted uses shall result in no net loss of ecological functions and shall not degrade other values in the shoreline jurisdiction.

d. Prohibited Uses: Any non-classified use will be processed as a shoreline conditional use permit, unless specifically prohibited in SMP Chapter 5: Use Specific Regulations, Section B - Table 2: Permitted, Conditional, and Prohibited Uses.

## 3. Development Standards

a. Development standards for all shoreline environment designations are summarized in Table 3: Minimum Shoreline Setbacks from the Ordinary High Water Mark and Table 4: Maximum Shoreline Heights in SMP Chapter 5: Use Specific Regulations.

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# Chapter 4: **General Regulations**

## A. Introduction

Based on the general goals and objectives established for the SMP, the following policies and regulations apply to all uses, developments, and activities in the City's shoreline jurisdiction.

General policies and regulations are broken into different topic headings and arranged alphabetically. Each topic begins with a description of its purpose, followed by general policy statements and specific regulations. The intent of these provisions is to be inclusive, making them applicable to all shoreline environments, as well as particular shoreline uses and activities.

The regulations of this Chapter are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, those that provide more substantive protection to the City's shoreline jurisdiction shall apply. These interlocking development regulations are intended to make development in the shoreline jurisdiction responsive to specific design needs and opportunities along the City's shoreline jurisdiction, protect the public's interest in recreational and aesthetic values of the City's shoreline jurisdiction, and assure, at a minimum, no net loss of ecological functions necessary to sustain natural resources in the shoreline jurisdiction.

These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the governing principles of the SMP Guidelines as established in WAC 173-26-186.

## B. Policies and Regulations

### 1. Universally Applicable Policies and Regulations

#### *a. Purpose*

Provide general provisions to describe the application of the SMP.

#### *b. Policies*

1. Keep records of all project review actions within the City's shoreline jurisdiction, including shoreline permits and letters of exemption.
2. Involve affected federal, state, and tribal governments in the review process of shoreline applications.

3. Pursue planning policies through the regulation of development of private property only to an extent that is consistent with all relevant constitutional and other legal limitations on the regulation of private property. Statutory limitations include those that are contained in RCW Chapter 82.02 and RCW 43.21C.060.

4. Periodically review conditions in the shoreline jurisdiction to determine whether other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, identify and protect significant cultural resources, and enhance commercial, residential, and recreational development on the City's shoreline jurisdiction. Specific issues to address in such evaluations include, but are not limited to the following:

   a. Water quality;

   b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that support more desirable ecological and recreational conditions),

   c. Changing visual character as a result of new development, including additions, and individual vegetation conservation practices (both in the water and in upland areas in the shoreline jurisdiction),

   d. Shoreline stabilization and modifications, and

   e. Significant cultural resources resulting from research, inventories, discoveries, or new information.

### *c. Regulations*

1. All proposed shoreline uses and development within the City's shoreline jurisdiction, including those that do not require a shoreline permit, must conform to the SMA and to the policies and regulations of the SMP.

2. The "policies" listed in the SMP are intended to provide broad guidance and direction for the "regulations" applied by the City's Shoreline Administrator. The policies, taken together, constitute the Shoreline Element of the City's Comprehensive Plan.

3. If provisions within the SMP conflict, or where there is a conflict with other City policies and regulations, the provisions most directly implementing the objectives of the SMA, as determined by the City's Shoreline Administrator, shall apply unless specifically stated.

4. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a shoreline variance or conditional use permit.

## 2. Archaeological and Historic Resources

### a. *Purpose*

Due to the limited and irreplaceable nature of archaeological, historic, and cultural resources within the City's shoreline jurisdiction, the purpose of this Section is to prevent the destruction of or damage to sites containing these resources. Historical and cultural research activities include the creation of sites, structures, and/or facilities for studying historical and cultural aspects.

### b. *Policies*

1. Prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Native American tribes and the Washington State Department of Archaeology and Historic Preservation (DAHP) because of the limited and irreplaceable nature of archaeological and historic resources.~~,~~
2. Ensure that new development is designed to avoid damaging significant archaeological and historic resources and enhance and/or be compatible with such resources.

### c. *Regulations*

1. Developers and property owners shall immediately stop work and notify the City, the DAHP, and affected Native American tribes if archaeological resources are uncovered during excavation.
2. A site inspection or evaluation by a professional archaeologist in coordination with affected Native American tribes shall be required for all permits issued in areas in the shoreline jurisdiction documented to contain archaeological resources. Failure to comply with this requirement shall be considered a violation of the shoreline permit.

~~2.~~3.Shoreline areas shall be made available for tribal fishing and foraging activities, to the extent allowed under applicable laws and statutes.

## 3. Critical Areas

### a. *Purpose*

SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction regulates critical areas such as wetlands, critical fish and wildlife habitat areas, Critical Aquifer Recharge Areas (CARAs), landslide and erosion hazard areas, flood hazard areas, and seismic hazard areas in the City's shoreline jurisdiction.

### b. Policies

1. Ensure that the level of protection for critical areas in the shoreline jurisdiction satisfy the no net loss of ecological functions requirement.
2. Include critical areas objectives in the protection and restoration of degraded ecological functions and ecosystem-wide processes. Use regulatory provisions to protect existing ecological functions and ecosystem-wide processes.
3. Promote human uses and values in critical area provisions, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions.

### c. Regulations

1. If there is a conflict between the provisions of SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction and other parts of the SMP, the provisions most protective of the City's shoreline jurisdiction shall apply, as determined by the City's Shoreline Administrator.

## 4. Environmental Impacts

### a. Purpose

Assure no net loss of ecological functions in the shoreline jurisdiction by requiring mitigation for impacts to functions in the shoreline jurisdiction. These provisions apply throughout the City shoreline jurisdiction.

### b. Policies

1. Avoid or mitigate impacts to the City's shoreline jurisdiction to ensure the standards of no net loss to function in the shoreline jurisdiction are met.

### c. Regulations

1. The environmental impacts of development proposals shall be analyzed and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the SMP and other applicable regulations. When applicable, development shall meet the requirements of the State Environmental Policy Act of 1971 (SEPA), as amended.
2. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:
    a. Avoiding the impact altogether by not taking a certain action or parts of an action;

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

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

d. Reducing or eliminating the impact over time by preservation and maintenance operations;

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

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

3. In determining appropriate mitigation measures applicable to development in the shoreline jurisdiction, lower priority measures should be applied only where higher priority measures are determined to be infeasible or inapplicable.

4. Mitigation shall not be required that exceeds what is necessary to assure the development will result in no net loss of ecological functions in the shoreline jurisdiction.

5. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the Yakima River watershed that addresses limiting factors or other identified critical needs for resource conservation in the shoreline jurisdiction based on watershed plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

6. Mitigation efforts shall be consistent with the City's *Restoration Plan*, where applicable.

## 5. Flood Hazard Reduction

### *a. Purpose*

The purpose of flood hazard reduction measures are to provide structural stabilization of the City's shoreline jurisdiction, such as dikes or levees, specifically utilized to address flooding within the City.

### b. Policies

1. Allow structural flood hazard reduction measures as a conditional use in all shoreline environments as noted in SMP Chapter 4: General Regulations, Section B.8 - Table 1: Shoreline Modifications.
2. Manage flood protection through comprehensive planning, and the City's stormwater management program and flood hazard regulations.
3. Ensure that new development in areas in the shoreline jurisdiction prone to periodic flooding complies with the City's Flood Damage Prevention standards (WRMC Chapter 18.16 - Flood Damage Prevention ~~(2006)~~(2017)) in an effort to minimize health hazards and property damage due to flooding, as well as other applicable City development standards.
4. Give preference to nonstructural flood hazard reduction measures over structural measures, where feasible.
5. Assure that flood hazard reduction measures result in no net loss of ecological functions.
6. Plan for and facilitate returning river and stream corridors to more natural hydrological conditions.
7. Consider removal or relocation of structures in flood-prone areas in the shoreline jurisdiction when evaluating alternate flood control measures.
8. Plan for removal of artificial restrictions to natural channel migration, restoration of off channel hydrological connections, and return river processes to a more natural state where feasible and appropriate.
9. Integrate public access where possible into publicly financed flood control and management facilities.
10. Limit development and structural flood hazard reduction measures within the CMZ that would result in interference with the process of channel migration.

### c. Regulations

1. All proposed structural flood hazard reduction projects shall be consistent with WRMC Chapter 18.16 - Flood Damage Prevention ~~(2006)~~(2017) and SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction.
2. Development in flood plains should not significantly or cumulatively increase flood hazard or be inconsistent with WRMC Chapter 18.16 - Flood Damage Prevention ~~(2006)~~(2017). New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when

it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the CMZ or floodway.

3. Normal maintenance and repair of existing flood hazard reduction structures shall be allowed pursuant to WAC 173-27-040(2)(b).
4. Modification of existing structural flood hazard measures shall be allowed where it can be demonstrated by engineering analysis that the existing structure does not provide an adequate level of protection for the surrounding lands or that the existing structure does not meet appropriate engineering design standards for stability.
5. New flood hazard protection and/or reduction structures shall be designed to ensure no net loss of ecological functions and values.
6. New structural flood hazard reduction measures in the City's shoreline jurisdiction shall be allowed only when:
    a. It can be demonstrated to be necessary, and non-structural methods are infeasible and mitigation is accomplished;
    b. Measures are located landward of associated wetlands and buffer areas unless a geotechnical analysis documents that no alternative exists; and
    c. Appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).
7. New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated vegetation areas, except in the case of water-dependent uses, public access, flood protection, other specific public purposes, or actions that increase ecological functions, such as wetland restoration.
8. The need for and analysis of feasible alternatives to structural improvements shall be documented through a geotechnical analysis.
9. New structural public flood hazard reduction measures, such as dikes and levees, shall allow, dedicate, and improve public access unless public access improvements would cause:
    a. Unavoidable health or safety hazards to the public;
    b. Inherent and unavoidable security problems;
    c. Unacceptable and immitigable significant ecological impacts;
    d. Unavoidable conflict with the proposed use; or

e. A cost that is disproportionate and unreasonable to the total long-term cost of the development.

10. The removal of gravel for flood management purposes shall be consistent with WRMC Chapter 18.16 - Flood Damage Prevention ~~(2006)~~ (2017) and with this Chapter and allowed only after a biological and geomorphologic study shows that:

    a. Extraction has a long-term benefit to flood hazard reduction;

    b. Does not result in a net loss of ecological functions; and

    c. It is part of a comprehensive flood management solution.

11. New development within the CMZ or floodway shall be limited to the following:

    a. Actions that protect or restore the ecosystem-wide processes or ecological functions;

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

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

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

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

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

    g. Development in the City, where existing structures prevent active channel movement and flooding; or

    h. Measures to reduce erosion in the shoreline jurisdiction, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that

the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

## 6. Public Access

### *a. Purpose*

Public access includes the ability of the public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water from adjacent locations. Public access is an important element of the SMA. Standards for the dedication and improvement of public access are discussed in this Section.

### *b. Policies*

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.
2. Protect the rights of navigation and space necessary for water-dependent uses.
3. Protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water, consistent with the overall best interest of the state and the people generally, to the greatest extent feasible.
4. Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.
5. Balance the level of public access with the degree of uniqueness or fragility of the City's shoreline jurisdiction. Prefer physical access to the City's shoreline jurisdiction over visual access.
6. Prohibit public access to the shoreline jurisdiction where there is no right to enter upon or cross private property, except where there are dedicated easements.
7. Public access planning should include a plan for an integrated public access system in the shoreline jurisdiction that:
    a. Addresses public access on public lands;
    b. Is consistent with natural character in the shoreline jurisdiction and public safety;
    c. Identifies public rights under the Public Trust Doctrine and specific public needs and opportunities to provide public access;

d. Integrates other relevant comprehensive plan elements, especially the Transportation and the Parks and Recreation Plans;

e. Integrates public access trails in the shoreline jurisdiction with other existing and planned regional trails where feasible to provide non-motorized access and community connections;

f. Prioritizes sites in terms of short- and long-term acquisition and development. Make purchases or acquire easements on sites for public use;

g. Provides for a range of users including pedestrians, bicyclists, and people with disabilities to the greatest extent feasible;

h. Complies with all relevant constitutional and other legal limitations that protect private property rights; and

i. Results in public access requirements for shoreline permits, recommended projects, and/or actions to be taken to develop access to the shoreline jurisdiction on public property.

8. Ensure that the existing and proposed public access and recreational facilities results in no net loss of ecological function.

9. Design public access to provide for public safety and to minimize potential impacts to private property and individual privacy.

10. Require public access provisions for all development and uses in the shoreline jurisdiction, except for a single-family residence or residential projects containing four (4) or less dwelling units unless such development is part of an identified trail plan.

11. Provide auxiliary facilities for public access, such as parking and sanitation facilities, when appropriate. Locate auxiliary facilities outside of the City's shoreline jurisdiction where feasible or near the outer edge of the City's shoreline jurisdiction if possible.

12. Address upland concerns, such as the location and design of parking and auxiliary facilities and active play areas, as well as the development of in-water and nearshore structures, such as non-motorized boat launches and docks.

13. As part of its update process for the Parks and Recreation Plan, the City shall plan for an integrated public access system in the shoreline jurisdiction.

    a. Where public access planning as described in WAC 173-26-221(4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, the City shall institute provisions for public access

based on that approach in lieu of uniform site-by-site public access requirements.

### c. Regulations

1. Development by public entities in the shoreline jurisdiction, including the City, port districts, state agencies, and public utility districts shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the environment in the shoreline jurisdiction.
2. Public access shall be required to the extent allowed by law for all water-enjoyment, water-related, and non-water-dependent developments and for the subdivision of land into more than four (4) parcels <u>except</u> when any of the following conditions are present:
    a. The City public access planning process as described in WAC 173-26-221(4)(c) demonstrates that a more effective public access system can be achieved through alternate means;
    b. An individual single-family residence that is not part of a development planned for more than four (4) parcels;
    c. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
    d. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
    e. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development or other constitutional or legal limitations preclude public access;
    f. Unacceptable environmental harm will result from the public access which cannot be mitigated; or
    g. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur which cannot be mitigated.
3. To meet any of the conditions in Regulation 3 above, the applicant must first demonstrate and the City must determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:
    a. Regulating access by such means as limiting hours of use to daylight hours;

b. Separating uses and activities, with such means as fences, terracing, hedges, and landscaping;

c. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system; and

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

4. Projects that meet the exception criteria in Regulations 3 and 4 above shall either build or make a proportional contribution to off-site public access facilities or improvements.

5. Non-water-oriented recreational developments, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the City's shoreline jurisdiction. In providing visual access to the water and the City's shoreline jurisdiction, natural vegetation shall not be excessively removed either by clearing or by topping.

6. Public access improvements shall not result in a net loss of ecological functions in the shoreline jurisdiction.

7. Public access sites shall be connected directly to the nearest public street through a parcel boundary, tract, or easement.

8. Public access sites shall be made barrier free for the physically disabled where feasible.

9. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.

10. Public access easements and permit conditions shall be recorded as a separate document or on the face of a plat or short plat. Recording with the Benton County Recorder's Office shall occur at the time of permit approval.

11. The applicant shall construct, install, and maintain approved signs that indicate the public's right of access and hours of access in conspicuous locations at public access sites. Alternatively, where public access is prohibited, property owners may install signs indicating this, subject to size and location restrictions in a required permit.

12. Where public access is to be provided by a trail, the following requirements shall apply:

    a. The trail shall be no greater than ten (10) feet in surface width, and in addition may include one (1) foot gravel shoulders. Not including

landscaping, no more than eight (8) feet of improved surface is preferable in most cases;

b. Landscaping should be native and drought tolerant or site appropriate; and

c. Other specific conditions described in the City's adopted Parks and Recreation Plan.

## 7. Restoration

### a. *Purpose*

Restoration refers to the reestablishment or upgrading of impaired ecological processes or functions in the shoreline jurisdiction to achieve overall improvements over time when compared to the ecological conditions upon adoption of the SMP, as detailed in the City's *Shoreline Inventory and Characterization*.

Restoration is distinct from mitigation measures necessary to achieve no net loss of functions in the shoreline jurisdiction and will not be implemented through regulatory means. The following goals and policies are intended to guide the City's commitment to plan for restoration detailed in the City's *Restoration Plan.*

### b. *Policies*

1. Reclaim and restore biologically and aesthetically degraded areas in the shoreline jurisdiction, to the greatest extent feasible while maintaining appropriate use of the City's shoreline jurisdiction.
2. Work collaboratively with other jurisdictions and stakeholders to implement the *Restoration Plan*.
3. Seek funding where possible for various restoration actions and programs by working with stakeholders and other jurisdictions to seek federal, state, grant and other funding opportunities.
4. Follow the Application for Relief option from expansion of SMA jurisdiction by restoration projects in the shoreline jurisdiction set forth in RCW 90.58.580 when appropriate.

### c. *Regulations*

1. The City shall prepare a *Restoration Plan* as part of the SMP update process. The plan shall guide the City's voluntary efforts to achieve overall improvements over time when compared to the baseline condition at the time of the adoption of the SMP update.

## 8. Shoreline Modifications

### *a. Purpose*

Shoreline modification activities are those actions that modify the physical configuration or qualities of the Shoreline Jurisdiction. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modification activities.

Shoreline modification activity policies and regulations are intended to assure, at a minimum, no net loss of the ecological functions necessary to sustain shoreline natural resources. They are also intended to prevent, reduce, and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the SMA.

This Chapter addresses Dredging, Fill, and Shoreline Stabilization. Flood Hazard Reduction activities are conditional uses addressed in SMP Chapter 4.B.5. Clearing and Grading are permitted uses in all shoreline environment designations except for Aquatic, where they are conditional uses, and are addressed in SMP Chapter 4.B.10.

### *b. Shoreline Modification Table*

1. Interpretation of Shoreline Modification Table

   The shoreline modification table below determines whether a specific modification is allowed within each of the shoreline environments in the shoreline jurisdiction. See the individual standards for full explanation of activities and required conditions for permitted activities. The shoreline environment is located on the vertical column of the table and the specific modification is located on the horizontal row of the table.

**Table 1 – Shoreline Modifications**

| KEY |
|---|
| P = Permitted Use, and only if zoning allows |
| C = Conditional Use, subject to the shoreline conditional use review procedures (SMP Chapter 6: Administration), and only if zoning allows |
| X = Prohibited |

| Shoreline Modification Activity (1) | High Intensity | Shoreline Residential | Urban Conservancy | Aquatic |
|---|---|---|---|---|
| **Clearing and Grading (SMP Chapter 4.B.10)** | P | P | P | C |
| **Dredging (SMP Chapter 4.B.8.d)** | X | X | X | C |
| **Fill (SMP Chapter 4.B.8.e) (2)** | C | C | C | C |
| **Shoreline Stabilization (SMP Chapter 4.B.8.f)** | C | C | C | C |
| **Flood Hazard Reduction (SMP Chapter 4.B.5)** | C | C | C | C |

**Notes:**

1. *In the event of a conflict between the table and the regulatory text, the text shall hold.*
2. *Prohibited, unless fill is part of an approved use or development in the shoreline jurisdiction.*

### *c. General Modifications*

1. Applicability

   The following provisions apply to all shoreline modification activities whether such proposals address a single property or multiple properties. Additional requirements as contained in other Chapters of the SMP apply. Where a general standard, environment standard, or use standard conflicts with the provisions contained in this Chapter, the more restrictive shall apply.

2. Policies

   a. Reduce the adverse effects of shoreline modifications, as much as possible, and limit shoreline modifications in number and extent.

   b. Take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological function. This is to be achieved by preventing unnecessary shoreline modifications, by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions, preferring "soft" over "hard" shoreline

modification measures, and by requiring mitigation of identified impacts resulting from shoreline modifications.

c. Ensure that shoreline stabilizations are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

d. Limit shoreline stabilizations in number and extent, incorporate all feasible measures to protect ecological functions and ecosystem-wide processes in the shoreline jurisdiction, and require mitigation sequencing, if needed.

3. Regulations

a. All shoreline modifications must be in support of a permitted use in the shoreline jurisdiction or provide for human health and safety.

b. All development in the shoreline jurisdiction shall be located and designed to prevent or minimize the need for shoreline modification activities.

c. In reviewing shoreline modification permits, the City's Shoreline Administrator shall require steps to reduce significant ecological impacts according to the mitigation sequence described in SMP Chapter 4: General Regulations, Section 4.c.2.

d. The City's Shoreline Administrator shall base all shoreline modification decisions on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant, as stated in WAC 173-26-231.

### *d. Dredging*

1. Purpose

Prevent impacts to ecological functions and processes in the shoreline jurisdiction that may occur because of dredging and the disposal of dredge material. Dredging is the scooping or suction activity to remove materials from the bottom of waterways for deepening the water body.

2. Policies

a. Allow dredging and dredge material disposal as a conditional use in all shoreline environments.

b. Require dredging and dredging material disposal to avoid significant ecological impacts.

c. Prevent dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material, except when the material is necessary for the restoration of ecological functions.

d. Allow dredging as part of ecological restoration or enhancement, public access, or flood storage, if deemed consistent with the SMP.

3. Regulations

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

b. The disposal of dredge materials within river channel migration zones (CMZs) is discouraged, and, in limited instances when allowed, requires a shoreline conditional use permit.

c. Dredging for flood control shall be allowed only if a biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological function, and is part of a comprehensive flood hazard management solution.

d. Maintenance dredging associated with a water dependent use shall be restricted to maintaining the previously dredged and/or existing authorized location, depth, and width.

e. New development siting and design shall avoid the need for new and maintenance dredging.

f. Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material is not allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a Model Toxics Control Act (MTCA) or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project

g. Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats. Dredging and dredge disposal shall not create a net loss of ecological functions in the shoreline jurisdiction. Dredge disposal within CMZs is discouraged, and in the limited instances when it is allowed, requires a shoreline conditional use permit.

h. If applicable, the use of dredge material to benefit resources in the shoreline jurisdiction shall be addressed through implementation of regional interagency dredge material management plans or watershed plan.

### *e. Fill*

1. Purpose

   Prevent impacts to ecological functions and processes that may occur because of fill within the City's shoreline jurisdiction. Fill is the addition of soil, sand, rock, gravel, sediment, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

2. Policies

   a. Allow fill as a conditional use in all shoreline environments, if fill is part of an approved use or development in the shoreline jurisdiction.

   b. Require the minimization of the use of fill for any proposal.

   c. Ensure that the placement of fill does not result in a loss of flood storage.

   d. Protect ecological processes and functions, including channel migration by regulating the location, design, and construction of all fill.

3. Regulations

   a. The following submittal information shall be required for fill projects:

      1) Proposed use of the fill area;

      2) Physical, chemical, and biological characteristics of the fill material;

      3) Source of the fill material, fill material must come from a clean source;

      4) Method of placement and compaction;

      5) Location of the fill relating to natural or existing drainage patterns;

      6) Location of the perimeter of the fill relating to the ordinary high water mark, or any critical areas;

      7) Perimeter erosion control or stabilization means, and schedule for implementation; and

      8) Type of surfacing and run-off control and treatment devices.

   b. Fill shall be allowed only where it is demonstrated that it will not result in the following:

1) Net loss to water quality, fish, shellfish, and/or wildlife habitats;

2) Adverse alteration to natural drainage and circulation patterns, currents, rivers, or significant reduction of flood water capacities; and

3) Adverse interference of geological processes in the City's shoreline jurisdiction.

c. Fill waterward of the ordinary high water mark for water-dependent use, public access, disposal of dredged material in accordance with the Department of Natural Resources (WDNR) Dredged Material Management Program, or the expansion or alteration of transportation facilities of statewide significance currently located in the City's shoreline jurisdiction shall be reviewed through the conditional use permit process.

d. Fill waterward of the ordinary high water mark for mitigation action, environmental restoration, or enhancement project shall be reviewed through the conditional use permit process.

e. Where fill is allowed, the fill shall be the minimum necessary to accomplish the proposed use.

f. The placement of fill shall be timed to minimize damage to water quality and aquatic life.

g. To prevent loss of flood storage, compensatory storage shall be provided commensurate with the amount of fill placed in the floodway.

h. Fill areas in the shoreline jurisdiction must be designed to prevent erosion and material movement from the filled area. Erosion control techniques shall be utilized including silt curtains, retaining walls, and vegetation.

i. Speculative fill is prohibited. Fill, waterward of the ordinary high water mark and/or upland is allowed only in conjunction with a permitted use.

### *f. Shoreline Stabilization*

1. Purpose

The purpose of these shoreline stabilization general regulations is to prevent impacts to ecological functions and processes that may occur because of shoreline modifications within the City's shoreline jurisdiction. This Section shall be used for both structural and non-structural shoreline stabilization measures, used to minimize erosion and/or residential flooding, as well as new stabilization measures including enlargements to existing stabilization structures. Structural modifications associated with

any flood hazard prevention structures along the Yakima River shall also be reviewed under SMP Chapter 4: General Regulations, Section 5.

2. Policies

   a. Allow shoreline stabilization as a conditional use in all shoreline environments.

   b. Require shoreline stabilization requests to include information on the impacts that such modifications would have on the shoreline environment and on the likely migration of the river channel.

   c. Prefer non-structural-bank shoreline stabilization to structural treatments.

   d. Require new development to be located and designed to avoid the need for future stabilization to the extent feasible.

   e. Require new development on steep slopes and bluffs to be set back to prevent need for future shoreline stabilization during life of the project, based upon geotechnical analysis.

   f. Prohibit new development that would require shoreline stabilizations that causes significant impacts to adjacent or down-current properties and areas in the shoreline jurisdiction.

   g. Prohibit hard armoring shoreline stabilizations solutions where it is demonstrated that an existing structure will be damaged within three (3) years because of shoreline erosion in the absence of such hard armoring measures, or where waiting would bar the opportunity to use measures that avoid impacts on ecological functions.

   h. Allow new shoreline stabilization structures for existing primary residential structures only where no alternatives including relocation or reconstruction of existing structures are feasible and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result.

   i. Limit shoreline stabilizations in number and extent, incorporate all feasible measures to protect ecological functions and ecosystem-wide processes in the shoreline jurisdiction, and require mitigation sequencing, if needed.

   j. Limit shoreline stabilization structures to the minimum size necessary.

   k. CMZs are areas where natural river processes can cause the river channel to migrate laterally over time. Within the CMZ, the following policies apply:

1) Limit development and shoreline modifications that would result in interference with the process of channel migration; and

2) Limit development and shoreline modifications that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the Yakima River.

l. Require public access as part of publicly financed shoreline erosion control measures.

m. Require that impacts to sediment transport be avoided or minimized.

3. Regulations

a. The granting of the conditional use permit shall only occur where the applicant has demonstrated that the structural shoreline stabilization is necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement and that a non-structural shoreline modification or an increase in the setback of the primary structure cannot achieve the same objective.

b. Shoreline stabilizations shall be designed to ensure no net loss of ecological functions and values. In reviewing requests for shoreline modifications, the City shall review modification requests consistent with the specific shoreline environment designation and environmental conditions of the site. Mitigation measures may be required to address no net loss of ecological function.

c. Shoreline stabilization structures shall be limited to the minimum size necessary.

d. New development shall be located and designed to avoid the need for future stabilization to the extent feasible based upon geotechnical analysis.

e. New development on steep slopes and bluffs shall be set back to prevent need for future shoreline stabilization during life of the project, based upon geotechnical analysis.

f. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and areas in the shoreline jurisdiction is prohibited

g. Impacts to sediment transport shall be avoided or minimized.

h. New structural stabilization measures are prohibited unless necessity is demonstrated in the following manner:

1) To protect existing primary structures:

i. New or enlarged structural shoreline stabilization measures for an existing primary structure, including single-family residences, should not be allowed unless there is conclusive geotechnical evidence that the structure is in danger from shoreline erosion. The geotechnical analysis should evaluate onsite drainage issues and address drainage problems away from the ordinary high water mark before considering structural shoreline stabilization and/or modification; and

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

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

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

ii. Nonstructural measures, such as placing the development further from the edge of the water, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;

iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes; and

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

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

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

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

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

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

4) In support of ecological restoration/toxic clean-up remediation projects when all of the conditions below apply:

i. When it has been conclusively demonstrated through scientific analysis that shoreline stabilization is necessary to protect ecological function restoration projects, or hazardous substance remediation projects from erosion; and

ii. Non-structural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.

i. Geotechnical reports required pursuant to this Section shall be prepared by a geologist or geotechnical engineer licensed as a civil engineer in the state of Washington. The geotechnical report shall include at a minimum the following:

1) A scaled site plan showing:

i. The location of existing and proposed shore stabilization, structures, and/or fill;

ii. Vegetation, with dimensions indicating distances to the ordinary high water mark; and

iii. Existing site topography, preferably with 2 foot contours.

2) A description of the processes affecting the site, and surrounding areas that influence or could be influenced by the site, including areas in which creek or river geomorphic processes affect the site, including, but not limited to:

i. Soil erosion, deposition, or accretion;

ii. Evidence of past or potential channel migration; and

iii. An estimate of shoreline erosion rates.

3) Geotechnical reports generated to identify the need to prevent potential damage to an existing primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency (damage within 3 years) associated with the specific situation. The report shall also determine whether damage to the primary structure will occur

within three (3) years as well as explore alternative shoreline stabilization methods.

j. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by natural conditions.

1) The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

2) Replacement shoreline stabilization shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety issues or environmental concerns. In such cases, the replacement structure shall be next to the existing shoreline stabilization structure.

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

4) For purposes of this Section, standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure, which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

k. When any structural shoreline stabilization measures are demonstrated to be necessary based on the regulations above, the following shall design criteria shall apply:

1) The size of stabilization measures shall be limited to the minimum necessary;

2) “Soft” over “hard” shoreline modification measures shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses;

3) Public access to the shoreline jurisdiction shall not be impaired with publicly funded projects except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions; and

4) Hydraulic analysis shall be provided to demonstrate that the stabilization strategy allows sediment conveyance to mimic natural conditions.

## 9. Shorelines of Statewide Significance

### *a. Purpose*

The SMA designates the Yakima River as a Shoreline of Statewide Significance. As a result, the City of West Richland's shoreline jurisdiction is considered a major resource from which all people of the state derive benefits, thus preference is given to uses that favor long-range goals and support the overall public interest.

### *b. Policies*

In implementing the objectives for Shorelines of Statewide Significance (RCW 90.58.020), the City will base decisions in preparing and administering the SMP on the following policies in order of priority, 1 being the highest and 7 being the lowest.

1. Recognize and protect the statewide interest over local interest.
    a. Make all information associated with the SMP and proposed amendments publicly available, and consider comments and opinions from groups and individuals representing statewide interests when developing and amending the SMP.
2. Preserve the natural character of the City's shoreline jurisdiction.
    a. Designate and administer shoreline environments and use regulations to protect and restore the City's shoreline jurisdiction's ecology and character and the diversity of vegetation and habitat associated with areas of the shoreline jurisdiction; and
    b. All development and redevelopment activities within the City's shoreline jurisdiction should be designed to achieve no net loss of the ecological functions of the shoreline jurisdiction.
3. Support actions that result in long-term benefits over short-term benefits.
    a. Restrict or prohibit development that would irreversibly damage resources in the shoreline jurisdiction.
4. Protect the resources and ecology of the City's shoreline jurisdiction.
    a. All development in the shoreline jurisdiction should be located, designed, constructed, and managed to avoid disturbance of and minimize adverse

impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes; and

b. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of areas in the shoreline jurisdiction.

5. Increase public access to publicly owned areas in the City's shoreline jurisdiction.

   a. Implement a comprehensive way-finding signage program that directs the public to publicly owned property in the shoreline jurisdiction.

6. Increase recreational opportunities for the public in the City's shoreline jurisdiction.

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

## 10. Vegetation Conservation (Clearing and Grading)

### *a. Purpose*

The intent of vegetation conservation in the shoreline jurisdiction is to protect and restore the ecological functions and ecosystem-wide processes performed by vegetation in the City's shoreline jurisdiction. Provisions for vegetation conservation in the shoreline jurisdiction include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and non-native species.

Clearing and grading includes the activities associated with developing any kind of development. Clearing involves the removal of vegetation and /or topsoil, while grading means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

### *b. Policies*

1. Allow clearing and grading only in concert with permitted development in the shoreline jurisdiction.

2. Require clearing and grading activities to be minimized to the extent necessary to accommodate the scope of work within the City's shoreline jurisdiction.

3. Require that BMPs be utilized during clearing and grading activity consistent with the City's stormwater management program and the SMP.

4. Prohibit speculative clearing, grading, or vegetation removal within the required shoreline setback from the ordinary high water mark.
5. Conserve native riparian vegetation in the shoreline jurisdiction by restricting clearing and grading within shoreline setback from the ordinary high water mark to maintain ecological functions in the shoreline jurisdiction.
6. Allow clearing activities associated with dike or levee maintenance as necessary to provide protection from flood hazards.
7. Explore opportunities for weed management to eliminate invasive non-native vegetation ~~invasives~~ and encourage the planting and enhancement of native vegetation along the Yakima River.

### c. Regulations

1. Allow clearing and grading as a permitted or conditional use in all shoreline environments as noted in SMP Chapter 4: General Regulations, Section B.8 - Table 1: Shoreline Modifications.
2. Clearing and grading shall be minimized in the shoreline jurisdiction and areas cleared of vegetation and not developed shall be replanted as soon as possible.
3. Clearing and grading activities associated with the necessary maintenance of flood hazard prevention structures for the purposes of maintaining flood protection are allowed.
4. During construction, vegetation in the shoreline jurisdiction shall be protected by placement of a temporary barricade at the location of the shoreline setback from the ordinary high water mark and implementation of appropriate erosion and sedimentation controls.
5. Surface water runoff related to clearing and grading associated with development in the shoreline jurisdiction shall be minimized and comply with the City's stormwater management program and all applicable regulations.
6. Normal maintenance, if found to comply with SMP Chapter 6: Administration, including pruning and trimming of vegetation, shall be allowed within the City's shoreline jurisdiction. Topping of trees for view purposes only shall not be allowed.
7. Clearing of invasive non-native vegetation in the shoreline jurisdiction as identified by the State of Washington and/or Benton County as a noxious weed is allowed in the City's shoreline jurisdiction.

8. Removal of invasive non-native vegetation in the shoreline jurisdiction is allowed if only hand-held equipment is used and native vegetation is promptly reestablished in the disturbed area.

9. Clearing and grading activities and related alteration of the natural landscape shall only be allowed in association with a permitted use or development in the shoreline jurisdiction or a letter of exemption with limited exceptions as set forth below:

    a. Removal of noxious weeds as listed by the state in WAC Chapter 16-750, provided such activity must be conducted in a manner consistent with BMPs and the City's engineering standards and stormwater management program. Native vegetation shall be promptly reestablished in the disturbed area in the shoreline jurisdiction; or

    b. Pruning consistent with accepted arboricultural practices, maintenance of existing ornamental landscapes, and other activities allowed pursuant to these regulations, if said modification is conducted in a manner consistent with the SMP and results in no net loss to ecological functions or critical fish and wildlife habitats.

    c. Mosquito abatement activities specifically authorized by the Benton County Mosquito Control District.

10. Restoration of any part of the shoreline jurisdiction that has been disturbed or degraded shall use native plant materials, unless such restoration occurs within a developed and maintained ornamental landscape, in which case non-invasive plant materials, similar to that which most recently occurred on-site, may be used.

11. Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City's Shoreline Administrator within one (1) year. Replanted areas in the shoreline jurisdiction shall be planned and maintained such that, within three (3) years, the vegetation is at least ninety (90) percent reestablished.

12. Aquatic vegetation control shall only occur where native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington State Department of Fish and Wildlife (WDFW) requirements.

## 11. Water Quality

### *a. Purpose*

Prevent impacts to water quality and stormwater quality that would result in a loss of ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

### *b. Policies*

1. Protect the City's shoreline jurisdiction by ensuring that surface water quality and quantity regulations are administered in the shoreline jurisdiction.

### *c. Regulations*

1. All development in the shoreline jurisdiction shall comply with the applicable requirements of the SMP, the City's adopted stormwater management program, and all applicable City stormwater regulations.

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# Chapter 5: **Use Specific Regulations**

## A. Introduction

As required by the SMA, the SMP sets forth policies and regulations governing specific categories of uses and activities typically found in the shoreline jurisdiction. The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies, and intent of the SMA and the SMP.

## B. Allowed Shoreline Uses

1. Interpretation of the Permitted, Conditional, and Prohibited Uses Table

   The permitted, conditional, and prohibited uses table below determines whether a specific use is allowed within each of the shoreline environments. See the use specific regulations following the table for a full explanation of specific purpose, policies, and regulations for each use.

   The shoreline environment is located on the vertical column of the table and the use is located on the horizontal row of the table. There are subcategories for some uses. Uses are permitted, conditional, or prohibited in a particular shoreline environment. The permit requirements for permitted and conditional uses are found in SMP Chapter 6: Administration.

**Table 2 – Permitted, Conditional, and Prohibited Uses**

| **KEY (2)** |
|---|
| P = Permitted Use |
| C = Conditional Use |
| X = Prohibited |

| Shoreline Uses (1,2) | High Intensity | Shoreline Residential | Urban Conservancy | Aquatic (3) |
|---|---|---|---|---|
| **Agriculture** | P | P | P | X |
| **Aquaculture** | X | X | X | C |
| **Boating Facilities – Boat Launches and Docks** | C | C | C | C |
| **Civic** | P | P | C | X |
| **Commercial (6)** | P | X | X (7) | X |
| **Forest Practices** | X | X | X | X |
| **In-Stream Structures** | | | | |
| As Part of a Fish Habitat Enhancement Project | X | X | X | C |
| **Industry** | X | X | X | X |
| **Mining** | X | X | X | X |
| **Parking (4)** | P | P | P | X |
| **Recreational Development** | | | | |
| Water-Oriented | P | P | P | P (5) |
| Non-Water-Oriented | P | P | P | X |
| **Residential Development (6)** | P | P | P | X |
| **Signs** | P | P | P | X |
| **Transportation Facilities** | | | | |
| New Roads related to Permitted Activities in the Shoreline Jurisdiction | P | P | P | X |
| Bridges for Motorized and Non-Motorized Uses | C | C | C | C |
| Expansions of Existing Circulation Systems outside of New Roads related to Permitted Activities in the Shoreline Jurisdiction | C | C | C | X |
| **Utilities (Primary)** | | | | |
| Solid Waste Disposal or Transfer Sites | X | X | X | X |
| Other | C | C | C | C |
| **Utilities (Accessory)** | | | | |
| Local Public Water, Electric, Natural Gas Distribution, Public Sewer Collection, Cable and Telephone Service, and Appurtenances | P | P | P | C |

**Notes:**

1. *In the event of a conflict between the table and the regulatory text, the text shall govern.*
2. *Any use that would substantially degrade the ecological functions or natural character of the City's shoreline jurisdiction should not be allowed. In addition, development shall be subject to the allowed uses established by the underlying zoning.*
3. *Where a use would be located both upland and overwater, the more restrictive standards apply.*
4. *Parking is allowed as an accessory use to an approved use in the City's shoreline jurisdiction. Off-street parking lots or parking structures as a primary use are prohibited in all shoreline environments.*
5. *Only water-dependent uses are permitted in the Aquatic designation.*
6. *Small-scale home occupations, as established by WRMC Title 17.54.47 - Small-Scale Home Occupations (2020) ~~(2008~~), are incidental and accessory to a residential use. Use the 'Residential' use category to determine whether they are allowed in a particular shoreline environment designation.*
7. *Concession stands, gift shops, and interpretive centers are permitted as accessory uses, when limited to serving a related, permitted park and recreation use in the Urban Conservancy zone.*

## C. Basic Shoreline Development Standards

1. Interpretation of the Minimum Shoreline Setback from the Ordinary High Water Mark Table

   The minimum shoreline setback from the ordinary high water mark table below determines how far a structure, use, and all development (parking, utilities, stormwater facilities, etc.) related to that use needs to be set back from the OHWM within each of the shoreline environments. The purpose of the shoreline setback from the ordinary high water mark is to protect the integrity, function, and value of riparian habitat.

   The area within the shoreline setback from the ordinary high water mark shall be protected during construction by placement of a temporary barricade or fencing, on-site notice for construction crews of the presence of the river or stream, and implementation of appropriate erosion and sedimentation controls.

   The required shoreline setback from the ordinary high water mark widths reflect the sensitivity of the Yakima River and associated riparian habitat, or the risks associated with development and, in those circumstances permitted by these regulations, the type

and intensity of human activity and site design proposed to be conducted on or near the sensitive area. Native vegetation removal or disturbance is not allowed in established shoreline setback from the ordinary high water mark, except as authorized in the SMP.

See the notes section following the table for details on shoreline setback from the ordinary high water mark requirements. The shoreline environment is located on the vertical column of the table and the use is found on the horizontal row of the table. There are subcategories for each uses. These may include the following terms:

a. Water-dependent means a use that cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations, such as a port or sewer outfall.

b. Water-related means a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location, such as a fish processing plant or a sewer treatment plant.

c. Water-enjoyment means a recreational use or other use that facilitates public access to the shoreline jurisdiction as a primary characteristic of the use. Examples would be trails, golf courses, parks, etc.

d. Non-water-oriented means everything else: a house, an auto parts store, city hall, etc.

The minimum shoreline setback from the ordinary high water mark for a particular use is determined by finding the use and the most appropriate subcategory row and then finding the intersection with the appropriate shoreline environment designation column.

**Table 3 – Minimum Shoreline Setbacks from the Ordinary High Water Mark**

| **KEY** |
|---|
| N/A = Not Applicable |

| **Minimum Shoreline Setback from the Ordinary High Water Mark (Measured landward from the ordinary high water mark) (1)(2)(3)** | **High Intensity** | **Shoreline Residential** | **Urban Conservancy** | **Aquatic** |
|---|---|---|---|---|
| **Agriculture** | | | | |

| **Minimum Shoreline Setback from the Ordinary High Water Mark (Measured landward from the ordinary high water mark) (1)(2)(3)** | **High Intensity** | **Shoreline Residential** | **Urban Conservancy** | **Aquatic** |
|---|---|---|---|---|
| New agricultural activities only | 80 feet | 100 feet | 100 feet | N/A |
| **Boating Facilities – Boat Launches and Docks** | | | | |
| Water-dependent structures | 0 feet | 0 feet | 0 feet | N/A |
| **Civic** | | | | |
| Water-dependent structures | 0 feet | 0 feet | 0 feet | N/A |
| Water-related and water-enjoyment structures | 30 feet | 30 feet | 30 feet | N/A |
| Non-water-oriented structures | 80 feet | 100 feet | 100 feet | N/A |
| **Commercial** | | | | |
| Water-dependent structures | 0 feet | N/A | N/A | N/A |
| Water-related and water-enjoyment mixed-use structures | 30 feet | N/A | N/A | N/A |
| Non-water-oriented structures | 80 feet | N/A | N/A | N/A |
| **Parking** | | | | |
| Off-Street Parking Lots or Structures as an Accessory Use (4) | 80 feet | 100 feet | 100 feet | N/A |
| **Recreational Development** | | | | |
| Water-dependent structures and uses | 0 feet | 0 feet | 0 feet | N/A |
| Water-related and water-enjoyment structures and uses | 30 feet | 30 feet | 30 feet | N/A |
| Non-water-oriented structures and uses | 80 feet | 100 feet | 100 feet | N/A |
| **Residential Development** | | | | |
| Non-water-oriented structures (5) | 80 feet | 100 feet | 100 feet | N/A |
| **Signs** | | | | |
| Freestanding Sign Structures | 80 feet | 100 feet | 100 feet | N/A |
| **Transportation Facilities** | | | | |
| New Roads related to Permitted Activities in the Shoreline Jurisdiction | 80 feet | 100 feet | 100 feet | N/A |
| Bridges for Motorized and Non-motorized Uses | 0 feet | 0 feet | 0 feet | N/A |
| Expansions of Existing Circulation Systems outside of New Roads related to Permitted Activities in the Shoreline Jurisdiction | 30 feet | 30 feet | 50 feet | N/A |

| **Minimum Shoreline Setback from the Ordinary High Water Mark (Measured landward from the ordinary high water mark) (1)(2)(3)** | **High Intensity** | **Shoreline Residential** | **Urban Conservancy** | **Aquatic** |
|---|---|---|---|---|
| **Utilities (Primary and Accessory)** | | | | |
| Water-dependent structures | 0 feet | 0 feet | 0 feet | N/A |
| Water-related structures | 30 feet | 30 feet | 30 feet | N/A |
| Non-water-oriented structures | 80 feet | 100 feet | 100 feet | N/A |

**Notes:**

1. *Shoreline setbacks from the ordinary high water mark are measured landward on a horizontal plane perpendicular to the ordinary high water mark.*

   a) *These shoreline setbacks from the ordinary high water mark are the minimum shoreline setbacks from the ordinary high water mark unless it is necessary to protect river or stream functions and values, as determined by a stream analysis report, then the requirement that provides the most protection to the City's shoreline jurisdiction shall be applied.*

   *If the City's Shoreline Administrator determines that a project may be located within a river or stream or within a required shoreline setback, a stream analysis report shall be prepared. The stream analysis report shall be prepared by a qualified stream biologist in accordance with the methods provided by the WDFW or other acceptable scientific method and submitted to the City's Shoreline Administrator as part of a shoreline permit application.*

   *After receipt of the stream analysis report and other information, the City's Shoreline Administrator shall determine the appropriate setback requirements and required mitigation. The stream analysis report shall be accorded substantial weight and the City's Shoreline Administrator shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the stream analysis report shall control future decision-making related to the designated stream segment unless new information is found demonstrating the stream analysis report is in error.*

   *The Shoreline Administrator shall require increased shoreline setback from the ordinary high water mark widths in accordance with the stream analysis report*

*on a case-by-case basis when a larger setback is necessary to protect river or stream functions and values based on site-specific characteristics.*

*Circumstances that may require increased shoreline setback widths include, but are not limited to, the following:*

1) *An increased shoreline setback width is necessary to include the entire riparian corridor of the river or stream;*
2) *A larger shoreline setback is needed to protect other critical areas;*
3) *The shoreline setback or adjacent uplands has a slope greater than 30 percent or is susceptible to erosion, and standard erosion-control measures will not prevent adverse impacts to the river or stream.*

b) *Developments associated with an ecological restoration, such as native vegetation replantings, water-dependent uses, and public access are not required to meet the minimum setback. However, where such development can be approved within the minimum setback, the placement of buildings, structures, and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. These developments must demonstrate "no net loss" of ecological functions prior to being approved within the setback. In no case shall parking be allowed within the minimum setback.*

c) *The City may reduce minimum shoreline setback from the ordinary high water mark if it determines that the type of development allowed within the SMP and other municipal, state, and federal codes cannot be accommodated within the allowed site development area by reconfiguring, relocating, or resizing the proposed development. Where the City reduces a minimum shoreline setback from the ordinary high water mark requirement, compensatory mitigation, such as vegetation enhancement, must be provided as determined by the City.*

d) *Shoreline setback from the ordinary high water mark width reductions may be authorized according to the following standards. Setback widths shall not be reduced to accommodate unauthorized actions, such as code violations, that have degraded the setback.*

1. *Maximum Setback Reductions. The setback widths may be reduced by up to twenty-five (25) percent if an applicant undertakes measures approved by the Shoreline Administrator to enhance the functions and values of the habitat in the shoreline jurisdiction substantially.*
2. *Decision Criteria. Prior to approval, a setback reduction proposal shall meet all of the decisional criteria listed below. The setback reduction will be approved in a degraded setback only if:*

*i. The project will provide an overall improvement in water quality protection for the water body;*

*ii. The project will not adversely affect fish or wildlife species and will provide an overall enhancement to fish and wildlife habitat;*

*iii. The project will provide a net improvement in drainage and/or stormwater detention capabilities;*

*iv. All exposed areas are stabilized with native vegetation, as appropriate;*

*v. The reduction will not lead to unstable earth conditions or create an erosion hazard; and*

*vi. The reduction will not be materially detrimental to any other property or the City as a whole.*

3. *Setback Enhancement Plan. As part of the setback reduction request, the applicant shall submit a setback enhancement plan prepared by a qualified stream biologist. The setback enhancement plan shall also provide:*

    *i. A map locating the specific area of enhancement;*

    *ii. A planting plan that uses native plant species indigenous to this region including groundcover, shrubs, and trees; and*

    *iii. Provisions for monitoring and maintenance over the monitoring period.*

2. *When environment designations are parallel, the setback of the waterward environment extends only to the upland edge of that environment. The setback for the upland environment would apply to uses and modifications in that upland environment.*

3. *Except for height regulations found in Table 4 – Maximum Shoreline Heights, see zoning regulations for all other bulk and dimensional requirements that apply to specific zones.*

4. *Off-street parking lots or parking structures as a primary use are prohibited in all shoreline environments.*

5. *The shoreline setback from the ordinary high water mark for residential development protected by the levee certified by the U.S. Army Corps of Engineers and maintained by the Benton County Diking District No. 1 may be reduced to 50 feet.*

2. Interpretation of the Maximum Shoreline Heights Table

   The maximum shoreline heights table below establishes how tall a structure can be within each of the City's shoreline environment designations. The purpose of the maximum shoreline height is to protect views of the City's shoreline jurisdiction.

   The maximum shoreline height for a particular use is determined by its shoreline environment designation.

**Table 4 – Maximum Shoreline Heights**

| **KEY** |
|---|
| N/A = Not Applicable |

| **Maximum Shoreline Heights (1)(2)** | **Maximum Height ~~(Feet)~~** |
|---|---|
| ~~**High Intensity**~~ | |
| ~~Within 100 feet of the ordinary high water mark~~ | ~~35 feet~~ |
| ~~More than 100 feet from the ordinary high water mark~~ | ~~(3)~~ |
| **High Intensity** | 40 feet |
| **Shoreline Residential** | 35 feet |
| **Urban Conservancy** | 35 feet |
| **Aquatic** | N/A |

**Notes:**

1. *Development shall also be subject to the height limits established by the underlying zoning. Height is defined in WAC 173-27-030(9) as:*

   *"…measured from average grade level to the highest point of a structure: provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable SMP specifically requires that such appurtenances be included: provided further that temporary construction equipment is excluded in this calculation."*

2. *See zoning regulations for all other bulk and dimensional requirements that apply to specific zones.*
3. *Use the height regulations within the underlying zoning district. See WRMC 17.54.050 - Area and Dimensional Regulations ~~(2012~~).*

# D. Shoreline Use Policies and Regulations

## 1. General Use Policies

### *a. Purpose*

The provisions in this Section apply to all uses allowed within the City's shoreline jurisdiction.

### *b. Policies*

1. Prohibit the following uses within the City's shoreline jurisdiction: Forest Practices, Industry, and Mining.
2. Apply the following preferences and priorities in the order listed below to determine allowable uses and resolve use conflicts within the City's shoreline jurisdiction:
    a. Reserve appropriate areas in the shoreline jurisdiction for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health;
    b. Reserve areas in the shoreline jurisdiction for water-dependent and associated water-related uses;
    c. Reserve areas in the shoreline jurisdiction for other water-related and water-enjoyment uses compatible with ecological protection and restoration objectives;
    d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses; and
    e. Limit non-water-oriented uses to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA, including opportunities for ecological enhancements and public access improvements.
3. Ensure that proposed economic uses of the City's shoreline jurisdiction are consistent with the City's Comprehensive Plan. Conversely, make sure that

upland uses on adjacent lands outside of the immediate SMA jurisdiction in accordance with RCW 90.58.340 are consistent with the purpose and intent of the SMP as they affect the City's shoreline jurisdiction.

4. Ensure that the development potential within the City's shoreline jurisdiction is consistent with the projected demand for economic resources of statewide importance.
5. Base the determination of public access and recreation development potential on demand projections.
6. Design all development and redevelopment activities within the City's shoreline jurisdiction to ensure public safety, enhance public access, protect existing water views, avoid adverse impacts to habitats, and achieve no net loss of ecological functions in the shoreline jurisdiction.
7. Ensure that proposed shoreline uses do not infringe upon the rights of others or upon the rights of private ownership.
8. Encourage shoreline uses that enhance their specific areas in the shoreline jurisdiction or employ innovative features for purposes consistent with the SMP.
9. Encourage restoration of parts of the shoreline jurisdiction that have been degraded or diminished in ecological value and function because of past activities or catastrophic events.

### *c. Regulations*

1. Shoreline uses shall be allowed only if the underlying zoning allows the use.
2. Forest Practices, Industry, and Mining uses are prohibited in the City's shoreline jurisdiction.

## 2. Agriculture

### *a. Purpose*

Agriculture includes, but is not limited to, the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through RCW 84.33.140; or livestock, that has long-term commercial significance as well as the other definitions of agricultural use found in WAC 173-26-020(3).

In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in RCW 90.58.030, .065, and WAC 173-26-020. The SMP applies

only to new agricultural activities, and shall not require modification of or limit existing and ongoing agricultural activities in the City's shoreline jurisdiction, consistent with WAC 173-26-241.

### b. Policies

1. Allow agriculture in all shoreline environments, except the Aquatic shoreline environment.
2. Prohibit the creation of new agricultural lands by diking, draining, or filling marshes, bogs, and swamps.
3. Set back all new agricultural activities from the ordinary high water mark according to the setbacks established for the shoreline environment in which the activity is occurring.
4. Condition all significant new agricultural development to be consistent with the shoreline environment designation and located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other resources and values in the shoreline jurisdiction. The City's Shoreline Administrator will consult the provisions of the SMP and determine the applicability and extent of ecological mitigation. The extent of ecological mitigation shall be that which is reasonable given the specific circumstances of an agricultural development.

### c. Regulations

1. All new agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the SMA and the SMP to ensure no net loss of ecological function.
2. All new agricultural activities shall occur outside of the established shoreline setback in the shoreline jurisdiction.
3. As part of the required setbacks from Table 3, a setback of natural or planted permanent native vegetation not less than twenty (20) feet in width, measured perpendicular to ordinary high water mark, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters and associated wetlands. The City's Shoreline Administrator shall determine the extent and composition of the setback based on the requirements of BAS and site-specific criteria for establishing efficacy of the vegetated setback (slope, rainfall, surface uniformity, etc.) when the applicant applies for a shoreline permit or letter of exemption.

4. Manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within the City's shoreline jurisdiction.
5. A shoreline substantial development permit is required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).
6. Conversion of agricultural land to non-agricultural uses shall be consistent with the shoreline environment designation, and regulations applicable to the proposed use shall not result in a net loss of ecological functions.

## 3. Aquaculture

### *a. Purpose*

Aquaculture is the farming or culturing of food fish or other aquatic plants and animals in lakes, rivers, streams, and other natural or artificial water bodies. There are no existing aquaculture activities within the City's shoreline jurisdiction.

Private, noncommercial activities that do not include development (such as the harvesting of naturally occurring plants including the wapato -*Sagittaria latifolia* and dogbane hemp – *Apocynum cannabinum* by Confederated Tribes of the Umatilla Indian Reservation members) are not considered aquaculture in this SMP and as such are not subject to these policies.

### *b. Policies*

1. Prohibit aquaculture uses in all shoreline environment designations, except as a conditional use within the Aquatic shoreline environment.
2. Make aquaculture a preferred use of the water area in the shoreline jurisdiction as it is dependent on the use of the water area, when consistent with control of pollution and prevention of damage to the environment.
3. Future aquaculture uses are not anticipated within the City's shoreline jurisdiction and potential locations for aquaculture are restricted. However, the technology associated with some forms of present-day aquaculture is still in its formative stages and experimental, and the City recognizes the need for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.

### *c. Regulations*

1. General ecological siting considerations:

a. Local ecological conditions shall be considered in developing limits and conditions to assure appropriate types of aquaculture are compatible for local conditions and assure no net loss of ecological functions.

b. Aquaculture is not allowed in areas in the shoreline jurisdiction where it would result in a net loss of ecological functions. Impacts to ecological functions shall be mitigated consistent with the mitigation sequence. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, or establish new non-native species, which cause significant ecological impacts.

2. Aquaculture is not allowed in areas in the shoreline jurisdiction where it would significantly conflict with navigation or other water-dependent uses.

3. Aquacultural facilities should not significantly affect the aesthetic qualities of the City's shoreline jurisdiction.

## 4. Boating Facilities – Boat Launches and Docks

### *a. Purpose*

Boating facilities refer to structures providing public recreational opportunities on the waters of the state including but not limited to marinas, public docks, buoys, etc. Boating facilities does not refer to docks that serve four (4) or fewer single-family residences. Boating facilities in the City are limited to public boat launches and docks and shall be subject to the policies and regulations of this Section.

### *b. Policies*

1. Allow boating facilities as a conditional use in all shoreline environments.

2. Locate, design, and operate boating facilities to ensure no net loss of ecological functions or other significant adverse impacts while providing public recreational opportunities, and, where feasible, enhance degraded and/or scarce ecological functions in the shoreline jurisdiction.

3. Locate boating facilities to the extent possible in areas in the shoreline jurisdiction of low biological productivity.

4. Locate and design boating facilities so their structures and operations will be aesthetically compatible with the area in the shoreline jurisdiction visually affected and will not impair shoreline views. The need to protect and restore functions and to provide for water-dependent uses carries higher priority than the protection of views.

5. Prevent boating facilities from obstructing navigable waters and consider adverse effects to recreational opportunities such as swimming, fishing, and shoreline viewing.
6. Ensure that health, safety, and welfare requirements are met.
7. Require public access in new boating facilities.

### c. Regulations

1. New boating facilities are limited to public boat launch facilities and docks.
2. Boating facilities shall not allow live-aboard vessels.
3. Boating facilities shall not significantly affect the rights of navigation on the waters of the state.
4. Location Standards.
    a. New boating facilities shall not be allowed in areas in the shoreline jurisdiction where dredging will be required or where impacts to ecological functions and processes in the shoreline jurisdiction cannot be mitigated.
    b. Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to protect facilities, users, and watercraft adequately from floods or destructive storms.
    c. Boating facilities shall be sited so that they minimize and mitigate for impacts to ecological processes and functions and do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation in the shoreline jurisdiction. Removal of native upland vegetation shall be minimized to the greatest extent feasible.
    d. Boating facilities shall be located to protect the public health, safety, and welfare.
    e. Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.
5. Facility Design.
    a. All boating facilities shall be designed to avoid and minimize impacts. All impacts must be mitigated consistent with mitigation sequencing and no net loss requirements.
    b. All boating facilities shall be the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size, and number of in-water structures, the waterward length of the facility,

and the extent of any necessary associated shoreline stabilization or modification shall be minimized.

c. Boating facilities shall comply with all regulations as stipulated by state and federal agencies, affected Native American tribes, or other agencies with jurisdiction.

d. Boating facilities shall be constructed of materials that have the minimum ecological impact.

e. Overwater components of all boating facilities shall allow transmission of light through the deck surface.

f. Preferred launch ramp designs for motorized boats, in order of priority, are:

   i. Open grid designs with minimum coverage of river or lake substrate.

   ii. Seasonal ramps that can be removed and stored upland.

   iii. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.

6. Site Design and Operation.

   a. Boating facilities shall be designed so that lawfully existing or planned public access in the shoreline jurisdiction is not blocked, obstructed, nor made dangerous.

   b. New boating facilities shall provide physical and/or visual public or community access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal.

   c. Public or community access areas in the shoreline jurisdiction shall provide space and facilities for physical and visual access to water bodies, including feasible types of shore recreation.

   d. Accessory uses at boating facilities shall be limited to water-oriented uses or uses that support physical or visual access in the shoreline jurisdiction for substantial numbers of the public. Accessory development may include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.

   e. The streets serving the proposed facility must safely handle the traffic generated by such a facility.

f. The perimeter of parking and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas.

g. The facility must have provisions available for cleanup of accidental spills of contaminants.

## 5. Civic

### *a. Purpose*

The provisions in this Section apply to all civic uses allowed within the City's shoreline jurisdiction. Civic uses and development include public facilities such as schools, libraries, churches, civic centers, police, fire, and other public safety structures, as well as private school and churches.

### *b. Policies*

1. Allow civic uses as a permitted or conditional use in all shoreline environments except the Aquatic shoreline environment.
2. Prefer water-dependent civic uses to non-water-dependent civic uses and second, prefer water-related and water-enjoyment civic uses to non-water-oriented civic uses.
3. Allow civic uses on lands zoned for that purpose under WRMC Title 17 – Zoning ~~(2014)~~(2020), where there are limited developed areas of non-water-oriented civic uses without direct access to the City's shoreline jurisdiction.
4. Civic uses may be authorized as water-related or water-enjoyment if they incorporate required and appropriate design and operational elements.

### *c. Regulations*

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to ecological resources and values in the shoreline jurisdiction for all water-related or water-dependent civic development unless such improvements are demonstrated to be infeasible or inappropriate.
2. Non-water-oriented civic uses along the edge of the ordinary high water mark are prohibited unless they meet the following criteria:
   a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration;

b. Navigability is severely limited at the proposed site; and the civic use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or

c. The site is physically separated from the ordinary high water mark by another property or public right of way or is outside the shoreline setback from the ordinary high water mark.

3. Non-water-dependent civic uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

4. Civic development will not result in a net loss of ecological functions in the shoreline jurisdiction or have significant adverse impact to other shoreline uses, resources, and values provided for in RCW 90.58.020 such as navigation, recreation, and public access.

## 6. Commercial

### *a. Purpose*

The provisions in this Section apply to all commercial uses allowed within the City's shoreline jurisdiction.

### *b. Policies*

1. Allow commercial development only in the High Intensity shoreline environment.

2. Prefer water-dependent commercial uses to non-water-dependent commercial uses and second, prefer water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.

3. Allow commercial uses on sites physically separated from the ordinary high water mark by another property or public right of way or on lands zoned for that purpose under WRMC Title 17 – Zoning ~~(2014)~~(2020), where there are limited developed areas of non-water-oriented commercial uses in the shoreline jurisdiction without direct access to the water.

4. Prohibit non-water-dependent commercial uses over water except within existing structures or when necessary to support water-dependent uses.

### *c. Regulations*

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to ecological resources and values in the shoreline jurisdiction for all commercial development unless such improvements are

demonstrated to be infeasible and affect existing navigation, recreation, and public access.

2. New non-water-oriented commercial uses are prohibited unless they meet the following criteria:
    a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or
    b. Navigability is severely limited and the commercial use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or
    c. If the site is physically separated from the ordinary high water mark by another property or public right of way.
3. Non-water-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
4. Commercial development shall not result in a net loss of ecological functions in the shoreline jurisdiction or have significant adverse impact to other shoreline uses, resources, and values such as navigation, recreation, and public access.

## 7. Forest Practices

### *a. Purpose*

Forest practices are unsuited to the goals of the City's shoreline jurisdiction.

### *b. Policies*

1. Prohibit forest practice activities within all shoreline environment designations.

### *c. Regulations*

1. Forest practices are prohibited in all shoreline environment designations.
2. For the purpose of the SMP, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of the SMP. These shall include vegetation conservation and shall be limited to the minimum necessary to result in no net loss of ecological functions and avoid impacts to recreation and public access.
3. The removal of trees in Shorelines of Statewide Significance shall be limited.

## 8. Industry

Industry uses are prohibited within the City's shoreline jurisdiction.

## 9. In-Stream Structures

### *a. Purpose*

In-stream structures allowed in the City are limited to fish habitat enhancements, which are only found within the Aquatic shoreline environment designation.

### *b. Policies*

1. Allow fish habitat enhancements as in-stream structures to protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, fish and fish passage, wildlife and water resources, critical areas, hydrogeological processes, and natural scenic vistas in the shoreline jurisdiction.

### *c. Regulations*

1. In-stream structures such as fish habitat enhancements shall be designed and permitted to meet all applicable City, state, and federal codes and regulations.

## 10. Mining

Mining uses are prohibited within the City's shoreline jurisdiction.

## 11. Parking

### *a. Purpose*

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use or parking which serves a use not permitted in the City's shoreline jurisdiction is prohibited.

### *b. Policies*

1. Allow parking only as an accessory use to a permitted or conditional use in all shoreline environments, except for the Aquatic shoreline designation.
2. Minimize parking in the shoreline jurisdiction.
3. Locate and design parking facilities in the shoreline jurisdiction to minimize adverse impacts including those related to stormwater run-off, water quality, visual qualities, public access, and vegetation and habitat. The location and design of the parking facilities should result in no loss of ecological functions.

### c. *Regulations*

1. Parking as a primary use is prohibited in the City's shoreline jurisdiction.
2. Parking in the shoreline jurisdiction must directly serve a permitted shoreline use.
3. Parking facilities shall provide adequate provisions to control surface water run-off to prevent it from contaminating water bodies.
4. Parking facilities serving individual buildings in the City's shoreline jurisdiction shall be located upland from the principal building being served, except when parking facilities are within or beneath the structure and adequately screened, or in cases when an alternate orientation would have less adverse impact on the City's shoreline jurisdiction.
5. Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent and abutting properties in the shoreline jurisdiction. Exterior parking facilities for non-residential development shall be landscaped with vegetation in such a manner that plantings provide an effective "full-screen" within three (3) years of project completion when viewed from adjacent areas within the City's shoreline jurisdiction.

## 12. Recreational Development

### a. *Purpose*

Recreational development includes passive activities, such as walking, viewing, and fishing, and facilities for active uses, such as swimming, boating, golfing, and other outdoor recreation uses. This Section applies to both public and private shoreline recreational facilities in the shoreline jurisdiction (excluding private residences) in the City.

### b. *Policies*

1. Allow recreational development as a permitted or conditional use in all shoreline environments.
2. Give priority to recreational development for access to and use of the water.
3. Prefer water-oriented recreational development in the City's shoreline jurisdiction. Allow non-water-oriented recreational facilities as a primary use where they do not displace water-oriented uses.
4. Encourage coordination of City, state, and federal recreation planning. Recreational developments in the shoreline jurisdiction should be consistent

with the growth projections and the level of service standards in both the City's Comprehensive Plan and its Parks and Recreation Plan.

5. Encourage the use of publicly owned lands for public access and development of recreational opportunities in the shoreline jurisdiction.
6. Identify and acquire properties in the shoreline jurisdiction with a potential for providing recreation or public access opportunities by lease or purchase, or through partnerships with non-profit and service organizations, and incorporated into the park and open space system.
7. Create links between existing and future shoreline parks, recreation areas, and public access points with a non-motorized trail system using existing rights-of-way or through acquisition of easements and/or land.
8. Design recreational activities to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.
9. Ensure that recreational activities do not contribute to a net loss of ecological functions in the shoreline jurisdiction.

### c. Regulations

1. Development of new private and public recreation areas shall protect existing native vegetation in the City's shoreline jurisdiction and restore vegetation impacted by development activities. Recreational development shall result in no net loss of ecological functions in the shoreline jurisdiction.
2. Water-dependent or water-related activities such as swimming, boating, and fishing, and water-enjoyment activities that benefit from waterfront scenery such as picnicking, hiking, golfing, and bicycling shall be emphasized in planning public and private (excluding residential) recreation sites in the City's shoreline jurisdiction.
3. The location, design, and operation of recreational development shall be consistent with the purpose of the environmental designation in which they are allowed.
4. All recreational developments shall make adequate provisions for the following:
    a. Public access to the shoreline edge;
    b. Non-motorized and pedestrian access;
    c. Protection and restoration of environmentally sensitive areas and ecological processes and functions in the shoreline jurisdiction;

d. The prevention of trespass onto adjacent properties, by using, but not limited to, measures such as landscaping and fencing;

e. Signs indicating the public's right of access in the shoreline jurisdiction, installed and maintained in conspicuous locations at the point of access and the entrance; and

f. Buffering such development from adjacent private property or natural areas.

5. In approving recreational developments in the shoreline jurisdiction, the City's Shoreline Administrator shall ensure that the development will maintain, enhance, or restore desirable ecological features in the shoreline jurisdiction.

6. Fragile and unique areas with valuable ecological functions in the shoreline jurisdiction, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.

7. Swimming areas shall be separated from boat launch areas.

8. Public boat launching facilities shall be governed by the regulations found in SMP Chapter 5: Use Specific Regulations, Section C.4.

9. The streets serving the proposed facility shall safely handle the traffic generated by recreational activities.

10. A new or expanded recreational development or use in the shoreline jurisdiction that does not provide public access may be authorized provided the applicant has demonstrated and the City's Shoreline Administrator has determined that one (1) or more of the following provisions apply:

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

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

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

    d. Unacceptable environmental harm such as damage to fish spawning areas will result from the public access which cannot be mitigated; or

    e. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and they cannot be mitigated.

11. In addition, a new or expanded recreational development in the shoreline jurisdiction or use that does not provide public access may be authorized provided that the applicant has first demonstrated and the City's Shoreline Administrator has determined that all reasonable alternatives have been exhausted, including but not limited to the following:
    a. Regulating access by such means as limiting hours of use to daylight hours;
    b. Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping; and
    c. Providing access that is separated physically from the proposal, such as an off-site viewpoint, or a trail system.
12. Whenever the applicant demonstrates that public access cannot be provided per regulation 11 above, the City's Shoreline Administrator shall require the applicant to make an in-lieu of payment in accordance with RCW 82.02.020 as a condition of granting a permit.

## 13. Residential Development

### *a. Purpose*

Residential development means one (1) or more buildings, structures, lots, parcels, or portions thereof, which are designed for and used or intended to be used to provide a place of abode for human beings. This includes the creation of new residential lots through land division and single-family residences and attached dwellings together with accessory uses and structures normally applicable to residential development located landward of the ordinary high water mark, including, but not limited to, swimming pools, garages, sheds, fences, and saunas. Single-family and multi-family development is limited to those underlying zones that currently allow it and subject to the requirements therein.

### *b. Policies*

1. Allow residential development in all shoreline environments, except the Aquatic shoreline environment, where there are adequate provisions for utilities, circulation, and access.
2. Provide adequate shoreline setbacks from the ordinary high water mark and ample open space among residential buildings and structures to protect natural features, preserve views, and minimize use conflicts.
3. Design new residential development and subdivisions to preserve aesthetic characteristics, views, existing native shoreline vegetation in the shoreline

jurisdiction, as well as control erosion, protect water quality, and minimize physical impacts to ecological functions in the shoreline jurisdiction.

4. Set standards to assure no net loss of ecological functions in the shoreline jurisdiction, taking into account the environmental limitations and sensitivity of the City's shoreline jurisdiction, the level of infrastructure and services available, and other comprehensive planning considerations.
5. Set back residential development, including appurtenant structures and uses, sufficiently from steep slopes and areas vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.
6. Prohibit new over-water residences, including floating homes.
7. Provide public access in conformance to the public access planning and this Chapter for new multi-family residential development, including the subdivision of land for more than four (4) parcels.
8. Identify single-family residences as a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.
9. Protect legally established residential structures and appurtenant structures that are used for a conforming use, but that do not meet the standards of the SMP.

### c. Regulations

1. Residential development is subject to the standards of the SMP and the underlying zoning regulations.
2. New over-water residences and floating homes are prohibited.
3. Uses, structures or other development accessory to residential development is allowed in the City's shoreline jurisdiction, if allowed under all other applicable standards in the SMP and the City's zoning code.
4. Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences.
5. For purposes of this Section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.
6. Non-conforming residential buildings or structures that are modified intentionally, replaced, repaired or enlarged are subject to the requirements in SMP Chapter 6: Administration, Section ~~J~~K.

7. Non-conforming residential buildings or structures that are modified, replaced, or repaired following a catastrophic loss are subject to the requirements in SMP Chapter 6: Administration, Section ~~J~~K.
8. All additions to residential buildings or structures must comply with all standards in the SMP, including required shoreline setbacks from the ordinary high water mark.
9. Residential development shall result in no net loss of ecological functions in the shoreline jurisdiction. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City's Shoreline Administrator may request necessary studies by qualified professionals to determine compliance with this standard.
10. New multi-family development and residential subdivisions larger than four (4) parcels shall provide public access in conformance with SMP Chapter 4: General Regulations, Section B.6.
11. The land division process for creating new residential lots must do the following:
    a. Design, configure, and develop plats and subdivisions in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
    b. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of ecological functions in the shoreline jurisdiction.
    c. Be consistent with the applicable SMP shoreline environment designations and standards.
12. If an existing residential use conforms to the allowed use table in SMP Chapter 5.B., but does not conform to the development standards in SMP Chapter 5.C., the existing residential use may be enlarged or expanded if the extent of the non-conformity is not increased.

## 14. Signs

### *a. Purpose*

A sign is defined as a device of any material or medium, including structural component parts, which is used for advertising, identification, or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to

a business, professional service, community, site, facility, or entertainment, conducted or sold on or off-premises.

### b. Policies

1. Allow signs as a permitted use in all shoreline environments except the Aquatic shoreline environment.
2. Design and place signs to be compatible with the aesthetic quality of the existing shoreline jurisdiction and adjacent land and water uses.
3. Do not block or otherwise interfere with visual access to the water or the shoreline jurisdiction with signs.

### c. Regulations

1. Signs shall comply with the City's sign regulations in WRMC Title 19 – Signs (2000).
2. Sign plans and designs shall be submitted for review and approval at the time of any shoreline permit application submittal.
3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access within the City's shoreline jurisdiction.

## 15. Transportation Facilities

### a. Purpose

Transportation facilities are those structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges, bikeways, trails, heliports, and other related facilities. In the City, these uses account for a minimal percentage of the City's shoreline jurisdiction land inventory. However, the impact of these facilities on ecological functions in the shoreline jurisdiction can be substantial.

### b. Policies

1. Allow transportation facilities as a permitted or conditional use in all shoreline environments.
2. Exempt normal operation and maintenance of all transportation facilities in the City's shoreline jurisdiction.
3. Minimize construction of new transportation facilities in the City's shoreline jurisdiction and allow when necessary for the support of permitted activities in the shoreline jurisdiction.

4. Allow expansion of existing transportation facilities if such facilities are found to be in the public interest.
5. Encourage joint use of transportation corridors within the City's shoreline jurisdiction for roads, utilities, and motorized and non-motorized forms of transportation, where feasible.
6. Acquire and develop physical and visual public access to the shoreline edge where topography, view, and natural features warrant when new transportation development occurs in the shoreline jurisdiction.
7. Minimize new stream and river crossings associated with transportation. Where necessary, design culverts or bridges to provide for stream and river functions such as fish passage and accommodate the flow of water, sediment, and debris during storm events.

### c. Regulations

1. New transportation facilities in the City's shoreline jurisdiction shall be minimized and allowed only when necessary for the support of permitted activities in the shoreline jurisdiction.
2. All proposed transportation facilities must demonstrate how they have been planned, located, and designed where routes will have the least possible adverse effect on unique or fragile ecological features in the shoreline jurisdiction.
3. Development of transportation facilities shall result in no net loss of ecological functions in the shoreline jurisdiction or adversely impact existing or planned water-dependent uses. Mitigation shall be provided as necessary to meet this requirement.
4. Any road expansion affecting streams, rivers, and lakes shall be designed to allow fish passage and minimum impact to habitat.
5. Expansion of existing transportation facilities within the City's shoreline jurisdiction shall be allowed when the proponent demonstrates that:
    a. No alternative route is feasible;
    b. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and
    c. The roadway is found to be in the public interest.
6. New stream and river crossings associated with transportation uses shall be minimized in number and total area affected in the shoreline jurisdiction (e.g. perpendicular crossings).

7. Transportation and primary utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the City's shoreline jurisdiction.
8. Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to the shoreline jurisdiction is intended.
9. Circulation system plans within the City's shoreline jurisdiction shall include systems for pedestrian, bicycle, and public transportation where appropriate.
10. Streets within the City's shoreline jurisdiction shall be designed with the minimum pavement area required.

## 16. Utilities (Primary)

### *a. Purpose*

Utilities are services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, sewage, and communications. Utilities in the SMP are divided into primary and accessory based on type and scale.

The provisions of this Section apply to primary utility use and activities such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and regional stormwater treatment facilities.

### *b. Policies*

1. Allow primary utilities as a conditional use in all shoreline environments.
2. Locate utility production and processing facilities and transmission facilities outside of the City's shoreline jurisdiction unless no other feasible option exists.
3. Require that the design, location, and maintenance of primary utilities assure no net loss of ecological functions.
4. Require that primary utilities be located in existing rights-of-ways whenever possible and encourage joint use of rights-of-way and corridors.
5. Prohibit solid waste disposal activities and facilities in the shoreline jurisdiction.
6. Avoid locating primary utilities in environmentally sensitive areas unless no feasible alternatives exist.
7. Locate primary utility facilities and corridors to protect scenic views in the City's shoreline jurisdiction.

### c. Regulations

1. Utility production and processing facilities and transmission facilities shall be located outside of shoreline jurisdiction unless no other feasible option exists.
2. Primary utilities shall be located landward of the ordinary high water mark unless such location is not feasible or would result in potentially greater environmental impacts.
3. Solid waste disposal sites and facilities are prohibited in the City's shoreline jurisdiction.
4. Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife spawning, nesting and rearing areas in the shoreline jurisdiction. Development of primary utility facilities shall result in no net loss of ecological functions in the shoreline jurisdiction. Mitigation shall be provided as necessary to meet this requirement.
5. Primary utility development shall provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.
6. Primary utility development Utility lines shall utilize existing rights-of-way, corridors, and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in the shoreline jurisdiction. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
7. Existing primary utilities shall not be allowed to justify more intense development.
8. Where major primary utility facilities must be placed in the shoreline jurisdiction, the location, and design shall be chosen so as not to destroy or obstruct scenic views.
9. Primary utility development shall provide screening of facilities from water bodies and adjacent properties. Screening, including landscaping and fencing, shall be designed to constitute a dense "full screen."
10. Clearing of vegetation for the installation or maintenance of primary utilities shall be kept to a minimum and upon project completion; any disturbed areas shall be restored to their pre-project condition.

## 17. Utilities (Accessory)

### a. Purpose

Utilities are divided into accessory and primary with accessory meaning utilities that affect small-scale distribution services connected directly to the uses in the City's shoreline jurisdiction. For example, power distribution, telephone, cable, water, and sewer service lines, stormwater collection, and conveyance, are considered as accessory utilities for shoreline uses. They are covered in this Section because they concern all types of development and have the potential of affecting the ecological condition and visual quality of the City's shoreline jurisdiction.

### b. Policies

1. Allow accessory utilities as permitted or conditional use in all shoreline environments.
2. Require that the design, location, and maintenance of accessory utilities assure no net loss of ecological functions.
3. Locate accessory utility outside of the City's shoreline jurisdiction to the maximum extent possible. When accessory utility lines require a location in the shoreline jurisdiction, they should be placed underground, where feasible.
4. Design and locate accessory utility facilities in existing rights-of-ways whenever possible to preserve the natural landscape and ecology in the shoreline jurisdiction, and minimize conflicts with present and planned land uses.

### c. Regulations

1. Through coordination with the City, accessory utility developments shall provide for compatible, multiple uses of sites and rights-of-way. Such uses in the shoreline jurisdiction include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.
2. In the shoreline jurisdiction, accessory utilities shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, and existing corridors whenever possible.
3. Accessory utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Development of utility facilities shall result in no net loss of ecological functions in the shoreline jurisdiction. Mitigation shall be provided as necessary to meet this requirement.

4. Clearing for the installation or maintenance of accessory utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project conditions.
5. Existing accessory utilities shall not be allowed to justify more intense development.

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# Chapter 6: **Administration**

## A. Purpose

The purpose of this Chapter is to provide provisions for the administration and enforcement of a permit system that shall implement the SMA; Ecology's regulations and guidelines adopted as Chapters 173-26 and 173-27 WAC; and the SMP, together with amendments and/or additions thereto.

Issuance of any shoreline permit or letter of exemption from the City does not obviate requirements for other federal, state, and county permits, procedures, and regulations.

## B. Permit Processing – General

### 1. Shoreline Administrator

a. The City's Shoreline Administrator shall be responsible for the administration of the permit system pursuant to the requirements of the SMA and regulations adopted as part of the SMP as it pertains to the City. This shall include, but not be limited to, determinations of whether a development requires a shoreline substantial development permit, variance, conditional use permit, and/or is exempt.

b. The City's Shoreline Administrator shall ensure that administrative provisions are in place to make sure that SMP permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property.

c. The City's Shoreline Administrator and Planning Commission (or Hearing Examiner) may recommend conditions to the City Council for the approval of permits as necessary to ensure consistency of the project with the SMA and the SMP.

d. As required by RCW 36.70B.110(11), the City shall adopt procedures for administrative interpretation of its SMP. As part of developing and adopting procedures for administrative interpretation of the SMP, the City's Shoreline Administrator shall require consultation with Ecology. This is to ~~insure~~ensure that any formal written interpretations are consistent with the purpose and intent of the SMP and the applicable guidelines. Pursuant to WAC 173-26-140, any formal written interpretations of shoreline policies or regulations shall be submitted to Ecology for

review. An interpretation of the SMP will be enforced as if it is part of this code. Formal interpretations shall be kept on file by the City and shall be available for public review, and shall periodically be incorporated into the SMP during required update processes.

e. The City's Shoreline Administrator shall determine if the application is complete based upon the information required by this Chapter.

## 2. Provisions Applicable to All Shoreline Permits

a. Unless specifically exempted by statute, all proposed uses, activities, and development occurring within the City's shoreline jurisdiction must conform to the SMA, its implementing rules, and the SMP, whether or not a permit is required.

b. No authorization to undertake use or development on shorelines of the state shall be granted by the City, unless, upon review, the use or development is determined to be consistent with the policy and provisions of the SMA and the SMP.

c. RCW 36.70A.480 governs the relationship between SMPs and development regulations to protect critical areas that are adopted under RCW Chapter 36.70A.

d. Applications for shoreline permits shall be processed in accordance with the applicable provisions of WRMC Title 14 – Administration of Development Regulations ~~(2012)~~(2020); if, where the provisions of WRMC Title 14 and the administration and permitting provisions of the SMP conflict, the provisions of the SMP shall apply.

e. Applications for shoreline substantial development permits, variances, conditional use permits shall be processed as Type IV permits as provided for in WRMC Chapter 14.01 – Types of Project Permit Applications ~~(2012)~~(2020).

f. The applicant shall meet all of the review criteria for all development as listed in WAC 173-27-140.

g. A shoreline substantial development shall not be undertaken within the jurisdiction of the SMA unless a shoreline substantial development permit has been obtained, the appeal period has been completed, and any appeals have been resolved.

h. No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of the SMP.

i. All purchasers or transferees of property shall comply with the provisions of the SMA, the SMP, and any shoreline substantial development permit, conditional use permit, variance, permit revision, or letter of exemption.

## 3. Application Requirements

Applications for shoreline permits and/or letters of exemptions shall be made on forms provided by the City's Shoreline Administrator. Applications shall be substantially consistent with the information required by WAC 173-27-180 including but not limited to the following:

a. Completed intake form from WAC 173-27-990, Appendix A – SMA Permit Data Sheet and Transmittal Letter.

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

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

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

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

f. Identification of the SMA water body the proposal affects.

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

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

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

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

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

   2) The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location. If for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the

ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

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

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

5) A general description of the character of vegetation found on the site.

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

7) Where applicable, landscaping plans for the project.

8) Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project consistent with the requirements of this Section.

9) Quantity, source, and composition of any fill material that is placed on the site, whether temporary or permanent.

10) Quantity, composition, and destination of any excavated or dredged material.

11) A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments, and uses on adjacent properties.

12) Where applicable, a depiction of the impacts to views from existing residential development and public areas.

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

## C. Application – Notices

The following is applicable for the notice requirements all notices related to actions under the SMP:

1. The City's Shoreline Administrator shall give notice of the application in accordance with WAC 173-27-110, the applicable provisions of WRMC Chapter 14.03 – Public Notice (2020)(2007) and the following, no less than 30 days prior to permit issuance.

   a. Notice for Shoreline Master Program (SMP) Permits.

      i. Methods of Providing SMP Notice. Notice of the application of a permit under the purview of the city's shoreline master program (SMP) shall be given by one or more of the following methods:

         1. Mailing of the notice to real property owners as shown by the records of the county assessor within 600 feet of the boundary of the property upon which the proposed project is to be built;

         2. Posting of the notice in a conspicuous manner, as determined by the director, on the property upon which the project is to be constructed; or

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

   b. Content of SMP Notice. SMP notices shall include:

      i. A statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application, may submit comments, or requests for the decision, to the director within 30 days of the last date that notice is published pursuant to this subsection;

      ii. A statement that any person may submit oral or written comments at the hearing;

      iii. An explanation of the manner in which the public may obtain a copy of the city's decision on the application no later than two days after its issuance.

   c. Public Comment Period. The public comment period shall be 2030 days.

   a.d. The director shall mail or otherwise deliver a copy of the decision to each person who submits comments or a written request for the decisions.

2. When a public hearing is required, the notices shall include a statement that any person desiring to present his/her views may do so orally or in writing at the public hearing, or may submit written comments prior to the public hearing which will be provided to the Planning Commission (or Hearing Examiner) or City Council at the public hearing.

3. The public notice shall also state that any person interested in the Planning Commission (or Hearing Examiner) or City Council's action on an application for a permit may notify

the City's Shoreline Administrator of his/her interest in writing within 30 days of the last date of publication of the notice. Such notification to the City's Shoreline Administrator or the submission of views to the Planning Commission (or Hearing Examiner) or City Council shall entitle said persons to a copy of the action taken on the application.

## D. Shoreline Substantial Development Permits

The following is applicable for all shoreline substantial development permits:

1. A shoreline substantial development permit shall be granted by the City Council after a recommendation has been given by the Planning Commission (or Hearing Examiner) only when the development proposed is consistent with the following:
   a. Goals, objectives, policies and use regulations of the SMP;
   b. The City's Comprehensive Plan, the WRMC, and associated regulations; and
   c. The policies and regulations of the SMA as well as the associated guidelines (Chapter 90.58 RCW; Chapters 173-26 and 173-27 WAC).
2. The applicant shall meet all of the review criteria for a shoreline substantial development permit as listed in WAC 173-27-150. The City's Shoreline Administrator and the Planning Commission (or Hearing Examiner) may forward recommended conditions to the City Council, who may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.
3. An applicant for a shoreline substantial development permit, who wishes to request a shoreline variance and/or shoreline conditional use permit, shall submit the shoreline variance and/or conditional use permit application(s) and the shoreline substantial development permit application simultaneously.

## E. Shoreline Conditional Use Permits

The following is applicable for all shoreline conditional use permits:

1. Pursuant to WAC 173-27-210 and WAC 173-27-160, the criteria below shall constitute the minimum criteria for review and approval of a shoreline conditional use permit. Uses classified as conditional uses by the regulations of the SMP, may be authorized; provided, that the applicant can demonstrate all of the following:
   a. That the proposed use will be consistent with the policies of RCW 90.58.020, the policies of the SMP, the City's Comprehensive Plan and other applicable plans, programs and/or regulations;

b. That the proposed use will not interfere with the normal public use or access to public shorelines;

c. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area and with uses planned for the area under the City's Comprehensive Plan and SMP;

d. That the proposed use will cause no unreasonably adverse effects to the City's shoreline jurisdiction, will not result in a net loss of ecological functions, and will not be incompatible with the environment designation or zoning classification in which it is to be located;

e. That the public interest suffers no substantial detrimental effect;

f. That the proposed use is in the best interest of the public health, safety, morals or welfare; and

g. That consideration of cumulative impacts resultant from the proposed use has occurred and has demonstrated that no substantial cumulative impacts are anticipated, consistent with WAC 173-27-160(2).

2. Other uses, which are not classified or set forth in the 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 the SMP.

3. Uses, which are specifically prohibited by the SMP, may not be authorized.

4. The City's Shoreline Administrator and the Planning Commission (or Hearing Examiner) may forward recommended conditions to the City Council, who may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

5. The decision of the City Council shall be the final decision of the City. Ecology shall be the final authority authorizing a shoreline conditional use permit consistent with WAC 173-27-200.

## F. Shoreline Variances

The following is applicable for all shoreline variances:

1. The purpose of a shoreline variance is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the SMP, and where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the strict implementation of the SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020.

2. Construction pursuant to this shoreline variance shall not begin nor can construction be authorized except as provided in RCW 90.58.020.

3. Pursuant to WAC 173-27-210 and WAC 173-27-170, the criteria below shall constitute the minimum criteria for review and approval of a shoreline variance. A shoreline variance for development that will be located landward of the ordinary high water mark (per RCW 90.58.030(2)(b) definition), and/or landward of any wetland as defined in RCW 90.58.030(2)(h) may be authorized, provided the applicant can demonstrate all of the following:

    a. That the strict requirements of the bulk, dimensional or performance standards set forth in the SMP preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by the SMP;

    b. That the hardship described above 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;

    c. That the design of the project will be compatible with other permitted activities within the area and with uses planned for the area under the City's Comprehensive Plan and SMP and will not cause adverse impacts to the City's shoreline jurisdiction;

    d. That the shoreline variance authorized does not constitute a grant of special privilege not enjoyed by other properties in the area, and will be the minimum necessary to afford relief; and

    e. That the public interest will suffer no substantial detrimental effect;

4. Shoreline variances for development that will be located either waterward of the ordinary high water mark or any wetland as defined in RCW 90.58.030(2)(h) may be authorized, provided the applicant can demonstrate all the criteria stated above as well as the following:

    a. That the strict application of the bulk, dimensional or performance standards set forth in the SMP precludes all reasonable use of the property not otherwise prohibited by the SMP; and

    b. That the public rights of navigation and use of the City's shoreline jurisdiction will not be adversely affected by the granting of the shoreline variance.

5. In the granting of all shoreline variance approvals, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if shoreline variances were granted to other developments 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 City's shoreline environment or result in a net loss of ecological functions.

6. Shoreline variances from the use regulations of the SMP are prohibited.
7. The City's Shoreline Administrator and the Planning Commission (or Hearing Examiner) may forward recommended conditions to the City Council, who may attach conditions to the approval of the variance as necessary to assure consistency of the proposal with the above criteria.
8. The decision of the City Council shall be the final decision of the City. Ecology shall be the final authority authorizing a shoreline variance consistent with WAC 173-27-200.

## G. Shoreline Letters of Exemption

The following is applicable for all shoreline letters of exemption:

1. A letter of exemption shall be required for a development that is exempt from the requirements for a shoreline substantial development permit.
2. For exempt development proposals in shoreline jurisdiction subject to review, approval, and permitting by a federal or state agency, City's Shoreline Administrator shall prepare a letter of exemption. The letter of exemption shall be addressed to the applicant, the federal or state permitting agency, and Ecology. The letter of exemption shall indicate the specific exemption provisions from WAC 173-27-040 that is being applied to the development and provide a summary of the analysis demonstrating consistency of the project with the SMA and the SMP.
3. To qualify for a letter of exemption, the proposed use, activity, or development must meet all of the requirements for an exemption as described in WAC 173-27-040. Exemptions are listed in WAC 173-27-040.
4. Letter of exemption. Some projects conducted on shorelines of the state also require review and approval by federal agencies. Ecology is designated as the coordinating agency for the state with regard to permits issued by the U.S. Army Corps of Engineers. The following is intended to facilitate Ecology's coordination of City actions, with regard to exempt development, with federal permit review.
    a. The City's Shoreline Administrator shall prepare a letter of exemption, and transmit a copy to the applicant and Ecology whenever a development is determined by the City's Shoreline Administrator to be exempt from the shoreline substantial development permit requirements and the development is subject to one (1) or more of the following federal permit requirements:
        1) A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899. The provisions of Section 10 of the Rivers and Harbors Act generally

apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers; or

2) A Section 404 permit under the Federal Water Pollution Control Act of 1972. The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to any project, which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.

b. Ecology will be notified prior to issuance of the letter of exemption. The letter of exemption shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the City's Shoreline Administrator analysis of the consistency of the project with the SMP and the SMA. The letter of exemption granted may be conditioned to ensure that the activity is consistent with the SMA and the SMP.

c. Before determining that a proposal is exempt, the City's Shoreline Administrator may conduct a site inspection and/or request additional information to ensure that the proposal meets the exemption criteria.

d. The City's Shoreline Administrator may specify other developments not described within subsection (a) of this Section as requiring a letter of exemption prior to commencement of the development.

5. Exempt proposals shall be consistent with the goals and policies of the SMP.

a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one (1) or more of the listed exemptions may be granted exemptions from the substantial development permit process.

b. Exempt proposals shall be consistent with the goals, policies, and provisions of the SMA and the SMP. A letter of exemption from the substantial development permit process is not an exemption from compliance with the SMA or the SMP, or from any other regulatory requirements.

c. A development or use that is listed as a shoreline conditional use pursuant to the SMP or is an unlisted use, must obtain a shoreline conditional use permit even though the development or use does not require a substantial development permit.

d. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the SMP, such development or use can only be authorized by approval of a shoreline variance.

e. The burden of proof that a development or use is exempt from the shoreline permit process is on the applicant.

f. 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.

g. The City's Shoreline Administrator may attach conditions to letters of exemption as necessary to assure consistency of the proposal with the SMA and the SMP.

## H. Exceptions to Local Review

Certain developments do not require shoreline permits or local review. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
2. Boatyard improvements to meet NPDES permit requirements. 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.
3. Washington State Department of Transportation (WSDOT) facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356
4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

## ~~H.~~I. Public Hearing and Decision

### 1. Burden of Proof for Development Conformance

a. The burden of proving that the proposed development is consistent with the criteria set forth in this Chapter, the SMP, as well as the requirements of the SMA shall be on the applicant.

### 2. Public Hearing Process

a. In accordance with the processing of Type IV permits as provided for in WRMC Title 14 – Administration of Development Regulations~~ (2012)~~(2020), the Planning

Commission (or Hearing Examiner) shall hold at least one (1) open record public hearing on each application for a shoreline substantial development permit, variance, or conditional use permit in the shoreline jurisdiction in the City. The City Council will make the final decision at a closed record hearing.

b. If, for any reason, testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Planning Commission (or Hearing Examiner) may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.

c. When the Planning Commission (or Hearing Examiner) makes a recommendation to the City Council, the Planning Commission (or Hearing Examiner) shall make and enter written findings from the record and conclusions thereof, which support the recommendation. The findings and conclusions shall set forth the manner in which the recommendation is consistent with the criteria set forth in the SMA and the City's regulations.

d. When the City Council renders the final decision, the City Council shall make and enter written findings from the record and conclusions thereof, which support the decision. The findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in the SMA and the City's regulations.

## 3. Notice of Decision

a. The City's Shoreline Administrator shall notify the following persons in writing of the City Council's final approval, conditional approval, or disapproval of a shoreline substantial development permit, variance, or conditional use permit within fourteen (14) days of the City Council's final decision:

1) The applicant;

2) Ecology;

3) The State Attorney General;

4) Any person who has provided written or oral comments on the application at the public hearing; and

5) Any person who has written the City's Shoreline Administrator requesting notification.

b. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the city will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both

Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits for the project.

1) The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

## 4. Development Start

Development pursuant to a shoreline substantial development permit, variance, or conditional use permit shall not be authorized until twenty-one (21) days from the date the City's Shoreline Administrator files the approved shoreline substantial development permit, conditional use permit, or variance with Ecology and Attorney General, or until all review proceedings initiated within twenty-one (21) days of the date of such filing have been terminated. Conditional use permits and variances are subject to Ecology review and approval before the twenty-one (21) day period starts.

## 5. Appeals of Decisions

Any person aggrieved by the granting or denying of a shoreline substantial development permit, variance, or conditional use permit, a letter of exemption, or by the rescinding of a permit pursuant to the provisions of the SMP, may seek review from the State of Washington Shorelines Hearings Board. A request for review may done by filing a petition for review with the board within twenty-one (21) days of the date of filing of the final decision, ~~as defined by~~consistent with RCW 90.58.140(6) ~~and by concurrently~~and defined below:

a. For projects that only require a Substantial Development Permit: the date that Ecology receives the city's decision.

b. For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the city.

c. For SDPs simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the city.

~~filing copies of such request~~Copies of such request must be filed concurrently with the City Clerk, Ecology and the Attorney General's office. State Hearings Board regulations are provided in RCW 90.58.180 and WAC Chapter 461-08.

## ~~I.~~J. Time Requirements and Revisions

### 1. Time Requirements for Shoreline Permits

a. The time requirements of this Section shall apply to all shoreline substantial development permits and to any development authorized pursuant to a shoreline variance or conditional use permit authorized by the SMP.

b. Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a shoreline substantial development permit, variance, or conditional use permit. However, the City may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the shoreline substantial development permit, variance, or conditional use permit and to Ecology.

c. Authorization to conduct development activities shall terminate five (5) years after the effective date of a shoreline substantial development permit, variance, or conditional use permit. However, the City may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

d. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in subsections (b) and (c) of this Section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

e. Revisions to permits, pursuant to the provisions of WAC 173-27-100, may be authorized after original permit authorization has expired; provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

f. The City's Shoreline Administrator shall notify Ecology in writing of any change to the effective date of a permit, as authorized by this Section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit, other than those authorized by RCW 90.58.143 and this Chapter, as amended shall require a new permit application.

g. Special procedures for WSDOT projects:

1) Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

2) Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

## 2. Revisions of Shoreline Permits

a. 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 SMA. Changes, which are not substantive in effect, do not require approval of a revision. The enforcement procedures and penalties contained in WAC 173-27-100 are hereby incorporated by reference.

b. When an applicant desires to revise a shoreline permit, the applicant must submit detailed plans and text describing the proposed changes. If the City's Shoreline Administrator determines that the revisions proposed are within the scope and intent of the original permit, consistent with the SMA, the City's Shoreline Administrator may approve the revision. "Within the scope and intent of the original permit" means all of the following:

1) No additional over-water construction is involved,

2) Ground area coverage and height is not increased more than ten percent (10%);

3) Additional structures do not exceed a total of two hundred fifty (250) square feet or ten percent (10%), whichever is less;

4) The revision does not authorize development to exceed height, setback, lot coverage, or any other requirement of the SMP;

5) Additional landscaping is consistent with conditions (if any) attached to the original permit;

6) The use authorized pursuant to the original permit is not changed; and

7) No substantial adverse environmental impact will be caused by the project revision.

c. If the sum of the proposed revision and any previously approved revisions do not meet the criteria above, an application for a new shoreline substantial development permit must be submitted. If the revision involves a shoreline variance or conditional use, which was conditioned by Ecology, the revision also must be reviewed and approved

by Ecology under the SMA. The City or Ecology decision on revision to the shoreline permit may be appealed within twenty-one (21) days of such decision, in accordance with the SMA.

d. Construction allowed by the revised permit that is not authorized under the original permit is undertaken at the applicant's own risk until the expiration of the appeals deadline.

e. Revisions to permits under WAC 173-27-100 shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

## ~~J.~~K. Non-Conforming Development

1. "Non-conforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but which does not conform to present regulations or standards of the SMP. Nonconforming use and development standards not addressed in RCW 90.58.270(5), 90.58.620, and not addressed by the SMP are found in WAC 173-27-080. In the event of a conflict between WAC 173-27-080 and the standards contained in the WRMC, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the City's Shoreline Administrator.

2. Nonconforming development is a shoreline use or structure which was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but which does not conform to present regulations or standards of the SMP or policies of the SMA. In such cases, the following standards shall apply:

   a) Nonconforming uses and structures may continue provided that it is not enlarged or expanded;

   b) A nonconforming use or structure which is moved any distance must be brought into conformance with the SMA and the SMP;

   c) If a nonconforming structure is damaged to an extent not exceeding fifty percent (50%) replacement cost of the nonconforming structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one (1) year of the date of damage. Single-family nonconforming development may be replaced if damaged to one hundred percent (100%), if the restoration is completed within three (3) years of the date of damage;

   d) If a nonconforming use is discontinued for twelve (12) consecutive months or for twelve (12) months during any two (2) year period, any subsequent use shall be

conforming; it shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;

e) A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed;

f) An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the SMA and the SMP, but which does not conform to the present lot size or density standards may be developed so long as such development conforms to all other requirements of the SMA and the SMP;

g) A use which is listed as a conditional use but which existed prior to adoption of the SMP for which a shoreline conditional use permit has not been obtained shall be considered a nonconforming use; and

h) A structure for which a shoreline variance has been issued shall be considered a legal nonconforming structure and the requirements of this Section shall apply as they apply to preexisting nonconformities.

## ~~K.~~L. Enforcement and Penalties

### 1. Enforcement

a. The provisions of WRMC Chapter 17.81 – Administration and Enforcement ~~(2007)~~ (2020) relating to Enforcement shall apply to this Chapter.

b. The City's Shoreline Administrator or a designated representative shall enforce all provisions of the SMP. For such purposes, the City's Shoreline Administrator or a designated representative shall have policing powers.

c. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action; the benefits that accrue to the violator; and the cost of obtaining compliance may also be considered.

### 2. Penalty

Any person found to have willfully engaged in activities in the city's shoreline jurisdiction in violation of the SMA or in violation of the SMP or rules or regulations adopted pursuant thereto shall be subject to the penalty provisions of WRMC.

### 3. Public and Private Redress

a. Any person subject to the regulatory program of the SMP who violates any provision of the SMP or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The city attorney may sue for damages under this Section on behalf of the City.

b. Private persons shall have the right to sue for damages under this Section on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the court shall make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

### 4. Delinquent Permit Penalty

A person applying a permit after commencement of the use or activity may be required, at the discretion of the City to pay a delinquent permit penalty.

## ~~L.~~M. Shoreline Master Program – Administration

### 1. Shoreline Master Program Review

The following guidelines are to be used for review of the SMP:

a. The SMP shall be reviewed periodically and amendments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations.

b. The City's established permit tracking system, aerial photos, reviewing of other available data, and field observations as feasible shall be used to document the cumulative effect of all project review actions in the city's shoreline jurisdiction. It will also be used to evaluate periodically the effectiveness of the SMP in achieving no net loss of ecological functions in the shoreline jurisdiction with respect to both permitting authorized developments and letters of exemption. This process may involve a joint effort by the City, state resource agencies, affected Native American tribes, and other parties.

c. As part of any required SMP update, an evaluation report assessing the effectiveness of the SMP in achieving no net loss shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.

d. The SMP review and update process shall be consistent with the requirements of RCW 90.58.080 and WAC ~~Chapter~~ 173-26-090 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

e. The City should use a process designed to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Related to the constitutional takings limitation, a process established for this purpose is set forth in a publication entitled, "*State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*," first published in February 1992.

## 2. Shoreline Master Program Amendments

The following guidelines are to be used for any amendments to the SMP:

a. Any of the provisions of the SMP may be amended as provided for in RCW 90.58.120, RCW 90.58.200, and WAC Chapter 173-26. Any amendments shall also be subject to the procedures in WRMC Title 14 – Administration of Development Regulations ~~(2012)~~(2020).

b. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology. The effective date of the SMP shall be 14 days from Ecology's written notice of action.

## 3. Severability

If any provisions of the SMP, or its application to any person or legal entity or parcel of land or circumstances is held invalid, the remainder of the SMP, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected

## 4. Liberal Construction

Pursuant to RCW 90.58.900, the SMA is exempted from the rule of strict construction. Therefore, the SMA and the SMP shall be liberally construed to give full effect to the purposes, goals, objectives, and polices for which the SMA and the SMP have been enacted and adopted.

## 5. Conflict of Provisions

Should a conflict occur between the provisions of the SMP or between the SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the City, the most restrictive requirement shall be applied, except

when constrained by federal or state law, or where specifically provided otherwise in the SMP.

## 6. Effective Date

The effective date of this SMP is ~~March 1, 2016~~to be updated.

# Chapter 7: **Definitions**

## A. Unlisted Words or Phrases

Any word or phrase not defined in SMP Chapter 7: Definitions that is called into question when administering the SMP shall be defined utilizing the SMA and its implementing rules.

The Shoreline Administrator may obtain secondary definition sources from one (1) of the following sources:

a. City of West Richland Municipal Code (WRMC).
b. Any City resolution, ordinance, policy, or regulation.
c. The most applicable statute or regulation from the state of Washington.
d. Legal definitions generated from case law or provided within a law dictionary.
e. The common dictionary.

## B. Definitions

**Accessory use** – A use incidental, related and clearly subordinate to the principal use of a lot or main building. An accessory use is only located on the same lot as a permitted principal use.

**Agriculture** – The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities. In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in WAC 173-26-020 and RCW 90.58.030 and .065.

**Applicant** – An individual, partnership, corporation, association, organization, cooperative, public or Municipal Corporation, or agency of the state or local governmental unit, however designated that proposes an activity related to the shoreline jurisdiction. The applicant is the owner of the land on which the proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

**Appurtenance** – A building, structure, or development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and of the perimeter of any wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed two hundred fifty (250) cubic yards (except to construct a conventional drain field) and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Refer to WAC 173-27-040(2)(g).

**Aquaculture** – The culture or farming of fish, shellfish, or other aquatic plants and animals dependent on the use of the water area. Private, noncommercial aquaculture activities that do not include development (such as the harvesting of naturally occurring plants including the wapato - Sagittaria latifolia and dogbane hemp – Apocynum cannabinum by Confederated Tribes of the Umatilla Indian Reservation members) are not considered aquaculture in this SMP.

**Aquifer** – A subsurface, saturated geologic formation that produces, or is capable of producing, a sufficient quantity of water to serve as a private or public water supply.

**Aquifer recharge areas** – Those areas that serve as critical groundwater recharge areas and that are highly vulnerable to contamination from intensive land uses within these areas.

**Associated wetlands** ~~– Those wetlands that are in proximity to and either influence, or are influenced by a lake, river, or stream subject to the SMA. Refer to WAC 173-27-030(1).~~ Those wetlands in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the SMA (WAC 173-22-030 (1)). These are typically identified as wetlands that are physically adjacent to a shoreline waterbody in shoreline jurisdiction, or wetlands that are functionally related to the shoreline jurisdiction through surface water connection and/or other factors. A site-specific determination must be made to determine if a wetland meets the definition of associated wetland.

**Best Management Practices (BMPs)** – BMPs are the utilization of methods, techniques or products which have been demonstrated to be the most effective and reliable in minimizing environmental impacts. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater run-off and in receiving waters.

**Boat launch** – Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

**Boating facilities** – Generally refer to structures providing the boating public recreational opportunities on the waters of the state including but not limited to marinas, public docks, buoys, etc. Boating facilities does not refer to docks that serve four (4) or fewer single-family residences.

**Building** – Any structure having a roof supported by columns, posts, or walls for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. Manufactured homes are considered buildings.

**Bulkhead –** A vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

**Channel** – An open conduit for water either naturally or artificially created, but not including artificially created irrigation, return flow, or stock watering channels.

**Channel Migration Zone (CMZ)** – The dynamic physical processes of rivers, including the movement of water, sediment, and wood, which cause the river channel in some areas to move laterally, or "migrate," over time. This is a natural process in response to gravity and topography and allows the river to release energy and distribute its sediment load. The area within which a river channel is likely to move over a period of time is referred to as the channel migration zone (CMZ) or the meander belt.

**City** – The City of West Richland.

**Clearing** – The destruction, disturbance or removal of logs, scrub-shrub, stumps, trees or any vegetative material by burning, chemical, mechanical or other means.

**Commercial development** – Retail, wholesale, service, trade or other business activities.

**Compensatory mitigation** – Mitigation for losses or impacts resulting from alteration of a protected critical area and/or its buffer. It includes, but is not limited to, creation, enhancement, and restoration.

**Comprehensive Plan** – Comprehensive Plan means the document, including maps adopted by the City Council in accordance with applicable state law.

**Conditional use** – A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable SMP. Refer to WAC 173-27-030(4).

**Contaminant** – Any chemical, physical, biological, or radiological material not naturally occurring and introduced into the environment by human action, accident, or negligence.

**Critical areas** – Include the following areas and ecosystems: wetlands; areas with a critical recharging effect on aquifers used for potable water; fish and wildlife habitat conservation areas; flood hazard areas; and geologically hazardous areas.

**Critical fish and wildlife habitat conservation areas** – Those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife, and natural vegetation, including

waters of the state. Critical fish and wildlife habitat conservation areas are to be managed for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but does mean cooperative and coordinated planning to accomplish the purpose stated. Refer to SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section R.

**Dedication** – The deliberate appropriation of land by an owner for public use or purpose, reserving no other rights than those that are compatible with the full exercise and enjoyment of the public uses or purpose to which the property has been devoted.

**Designated wetland** – Those lands identified on the City's critical area wetland map.

**Development** – A use consisting of the construction or exterior alteration of buildings or structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to the SMA at any state of water level (RCW 90.58.030(3)(d)). "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

**Development regulations** – The controls placed on development or land uses by the City, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of an SMP other than goals and policies approved or adopted under RCW 90.58, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

**Dredged material disposal** – Depositing of dredged materials on land or into water bodies. The purpose may be to create additional lands, to dispose of the by-products of dredging, or to enhance or remedy an environmental condition.

**Dredging** – Excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for cleanup of polluted sediments.

**Dwelling unit** – One (1) or more rooms designed for or occupied by one (1) family for sleeping and living purposes and containing kitchen, sleeping and sanitary facilities for use solely by one (1) family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. Includes apartments, hotel rooms available on a month-to-month basis with kitchen facilities, designated manufactured and group homes, but excludes recreational vehicles.

**Earth/earth material** – Naturally occurring rock, soil, stone, sediment, organic material, or combination thereof.

**Easement** – Land which has specific air, surface or subsurface rights conveyed for use by someone other than the owner of the subject property or to benefit a property other than the subject property.

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

**Ecology** – The Washington State Department of Ecology.

**Emergency** – An unanticipated and imminent threat to public health, safety, or the environment, which requires immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3)(e)(iii) and WAC 173-27-040(2)(d)).

**Endangered Species Act (ESA)** – A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

**Environmental impacts** – Means the effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in SEPA. Refer to WAC 197-11-600 and WAC 197-11-444.

**Enhancement** – The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, floodwater retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

**Environments, (shoreline environments)** – Designations given specific areas in the shoreline jurisdiction based on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of a SMP.

**Environmentally sensitive areas** – Those areas with especially fragile biophysical characteristics and/or with significant environmental resources as identified by the City or by a scientifically documented inventory accomplished as part of the SEPA/NEPA process or other recognized assessment. Environmentally sensitive areas include, but are not limited to, aquifer recharge areas, wildlife habitat areas, fish breeding, rearing or feeding areas, flood hazard areas, geologically hazardous areas (e.g., steep, unstable slopes), wetlands (i.e., marshes, bogs, and swamps), rivers, and streams.

**Erosion** – The wearing away of the earth's surface because of the movement of wind, water, or ice.

**Erosion hazard areas** – Those areas that are highly vulnerable to rapid erosion due to natural characteristics, including vegetative cover, soil texture, steep slope, or other factors induced by human activity. Those areas that contain soils which, according to the United States Department of Agriculture Soil Conservation Service Soil Survey for Benton County Area (July 1971), may experience severe to very severe water erosion are included within this definition.

**Excavation** – The mechanical removal of earth material or fill.

**Exempt** – Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the shoreline substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the SMP. Shoreline variances and/or conditional use permits may also still be required even though the activity does not need a shoreline substantial development permit (WAC 173-27-040).

**Existing and ongoing agricultural activities** – Those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities that bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use or has lain idle both more than five years and so long that modifications to the hydrological regime are necessary to resume operations, unless the idle land is registered in a federal or state soils conservation program.

**Fair market value** – "Fair market value" of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation, and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment, or materials (WAC 173-27-030(8)).

**Federal Emergency Management Administration (FEMA)** – The branch of the federal government responsible for responding to emergencies such as flood events. FEMA administers the National Flood Insurance Program, develops floodplain and floodway maps, and enforces federal regulations pertaining to flood hazard management.

**Feasible** – An action, such as a development project, mitigation, or preservation requirement, meeting 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 the SMP 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.

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

**Flood hazard areas** – Those areas within the city of West Richland, which are determined to be at risk of having a one percent or greater chance of experiencing a flood in any one year (100-year floodplain), with those areas defined and identified on the Federal Emergency Management Administration (FEMA) flood insurance rate maps for the city of West Richland.

**Flood hazard management** – A program or major project carried out on a single parcel or coordinated on a series of parcels for the primary purpose of preventing or mitigating damage due to flooding. Flood hazard management projects or programs may employ physical and/or regulatory controls.

**Floodplain** – Synonymous with 100-year floodplain. The land area susceptible to being inundated by stream-derived waters with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

**Floodway** – means the area, as identified in a SMP, that either: (i) has been established in FEMA flood insurance rate maps or floodway maps; or (ii) consists of those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by

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

**Forest practices** – Any activity conducted on or directly pertaining to forestland, and the growing, processing or harvesting of timber. These activities are generally reviewed by the WDNR pursuant to RCW 76.09. For the purposes of this SMP, this definition does not include activities such as tree marking and surveying.

**Geologically hazardous areas** – Those areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, may not be suited to commercial, residential, or industrial development, consistent with public health or safety concerns. Some geological hazards can be reduced or mitigated by engineering, design, or modified practices so that the risks to health and safety are acceptable. Geologically hazardous areas are designated in the city of West Richland as erosion hazards, landslide hazards, or seismic hazards, and are further defined in WAC 365-190-080(4) and this title.

**Grading** – The movement or redistribution of the soil, sand, rock, gravel, sediment or other material on a site in a manner that alters the natural contour of the land..

**Habitat** – The environment(s) where a plant or animal naturally or normally lives.

**Habitat management plan** – A report prepared by a qualified wildlife biologist, as specified in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section R.3.c.

**Habitats of local importance** – Include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands. Habitats of local importance to West Richland are identified in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section R.1.b.

**Hazardous substance** – Any material that exhibits any of the characteristics or criteria of hazardous waste, inclusive of waste oil and petroleum products, and which further meets the definitions of "hazardous waste" pursuant to Chapter 173-303 WAC.

**Historic resources** – Those historic or cultural properties or items that fall under the jurisdiction of the DAHP.

**Hydric soils** – Generally, soils which are, or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants (WAC 173-22-035).

**Impervious surface** – The area of a lot that is covered by impervious surfaces, measured by percentage. Any non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads and walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

**In-stream structure** – A structure placed by humans within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow.

**Landslide** – An abrupt downslope movement of soil, rock, or ground surface material.

**Landslide hazard area** – Those areas that are susceptible to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. Examples may include, but are not limited to, those listed in WAC 365-190-080(4)(d). The city defines landslide hazard areas to include all slopes that have a slope stability factor of less than one and one-half for static conditions, or less than a one and two-tenths for dynamic conditions, as calculated by a qualified geotechnical engineer.

**Landward** – Toward dry land away from the ordinary high water mark.

**May** – "May" means the action is acceptable, provided it conforms to the provisions of the SMP.

**Mining** – The removal of naturally occurring materials from the earth for economic uses pursuant to RCW 78.44 and WAC 332-18.

**Mitigation or mitigation sequencing** – The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768 and WAC 173-26-020(30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

a. Avoiding the impact all together by not taking a certain action or parts of an action;

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

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

d. Reducing or eliminating the impact over time by preservation and maintenance operations;

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

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

**Mixed-use projects** – Developments that combine water-dependent/water-related uses with water-enjoyment uses and/or non-water-oriented uses.

**Must** – A mandate; the action is required.

**Native vegetation** – Vegetation comprised of plant species that are indigenous to an area.

**No Net Loss** – Ecology's SMP Guidelines adopted in 2003 set forth the obligation to assure that no net loss of ecological functions will be achieved within the SMP's planning horizon by implementing updated SMP policies and regulations. The no-net-loss standard is designed to halt the introduction of new impacts to shoreline ecological functions resulting from planned for and permitted new development. This means that the existing condition of shoreline ecological functions should remain the same, and should be improved because of restoration, as updated SMPs are implemented over time. The resulting impacts of planned for and appropriate shoreline development should be identified and mitigated to maintain shoreline ecological function as it exists at the time of adoption of the updated SMP. No net loss is accomplished at a minimum of two different levels: through the SMP update ("planning") process and over time during subsequent project ("permitting") review.

~~**Non-conforming use or development** – A shoreline use, building, or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable permitting provisions in the shoreline jurisdiction (WAC 173-27-080).~~

**Nonconforming use -** 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.

**Nonconforming development or nonconforming structure -** 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.

**Nonconforming lot -** A lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

**Non-water-oriented uses** – Those uses that have little or no relationship to the City's shoreline jurisdiction and are not considered priority uses under the SMA. Non-water-oriented use examples include professional offices, repair shops, mini-storage facilities, multifamily residential development, department stores, and gas stations.

**Normal maintenance** – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2)(b)). See also Normal Repair.

**Normal repair** – To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2)(b)). See also Normal Maintenance.

**Open space** – Land area allowing view, use or passage that is almost entirely unobstructed by buildings, paved areas, or other fabricated structures.

**Ordinary high water mark** – That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

**Overwater structure** – Any device or structure projecting over the ordinary high water mark, including, but not limited to bridges for motorized or non-motorized uses, piers, docks, floats, and moorage.

**Permit (or shoreline permit)** – Any shoreline substantial development permit, variance, or conditional use permit, or revision, or any combination thereof, authorized by the SMA. Refer to WAC 173-27-030(13).

**Person -** An individual, firm, co-partnership, association, or corporation.

**Priority habitat** – A habitat type with unique or significant value to one (1) or more species. An area classified and mapped as priority habitat must have one (1) 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. Important marine mammal haul-out;

i. Refugia habitat;

j. Limited availability;

k. High vulnerability to habitat alteration;

l. Unique or dependent species; or

m. Shellfish bed.

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

**Priority species** – Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the four (4) criteria listed below.

a. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the 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. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

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

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

**Pristine shrub-steppe habitat** – An environment with a healthy vegetative layer of perennial bunchgrasses and a conspicuous but discontinuous layer of shrubs, such as sagebrush and bitterbrush, and which lacks a significant percentage of invasive plant species, such as cheat grass, mustards, crested wheat grass, and Russian thistle (tumbleweed). For purposes of this definition, "significant" means more than a 15 percent cover of invasive plant species.

**Provisions** – Policies, regulations, standards, guideline criteria, or shoreline designations.

**Public access** – Public access is the ability of the 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 City's shoreline jurisdiction from adjacent locations. Refer to WAC 173-26-221(4).

**Public interest** – The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

**Public use** – Public use means to be made available daily to the public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. Refer to WAC 332-30-106.

**Qualified stream biologist** – A person with a Bachelor of Science, or equivalent degree, in wildlife sciences, biology, fisheries, environmental sciences, soil science, limnology, or an equivalent academic background who also has at least two years of experience in stream or river restoration. A designated representative of a consulted public agency specializing in stream biology shall also constitute a qualified stream biologist.

**Qualified wetland specialist** – A professional wetland scientist with at least the equivalent of two years of full-time work experience as a wetlands professional, including wetland delineations using

the state or federal manuals, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans.

**Qualified wildlife biologist** – A person having, at a minimum, a bachelor's degree in wildlife biology, wildlife science, wildlife ecology, wildlife management or zoology, or a bachelor's degree in natural resource or environmental science plus 12 semester or 18 quarter hours on wildlife coursework and two years of professional experience. A designated representative of a consulted public agency specializing in wildlife biology shall also constitute a qualified wildlife biologist.

**RCW** – Revised Code of Washington.

**RCW Chapter 90.58** – The SMA of 1971.

**Recreational development** – Development including commercial and public facilities designed and used to provide recreational opportunities to the public.

**Residential development** – Development, which is primarily devoted to or designed for use as a dwelling(s). Residential development includes single-family development, multi-family development and the creation of new residential lots through land division.

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

**Riparian** – Of, on, or pertaining to the banks of a river, stream, or lake.

**Seismic hazard areas** – Those areas that are susceptible to severe damage as the result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting.

**Setback** – A required open space buffer, specified in the SMP, measured horizontally upland from and perpendicular to the ordinary high water mark, contiguous or adjacent to a river or stream for the continued maintenance, function, and structural stability of the river or stream. Functions of a setback include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.

**Shall** – "Shall," means a mandate; the action must be done.

**Shorelands or shoreland areas** – Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways, and contiguous ~~flood plain~~ floodplain areas landward two hundred (200) feet from such floodways;

and additionally all wetlands and river deltas associated with such rivers, streams, lakes, and tidal waters, which are subject to the provisions of the SMA. Shorelands in the City are limited to those areas within two hundred (200) feet of the ordinary high water mark of the Yakima River, any associated wetlands, floodways, and floodplains that are within two hundred (200) feet of the ordinary high water mark or floodway.

**Shoreline administrator** – As appointed by the Mayor, the City's Shoreline Administrator is charged with the responsibility of administering the SMP.

**Shoreline conditional use** – A use or development that is specifically listed by the SMP as a conditional use within a particular shoreline environment designation.

**Shoreline environment designations** – Categories of shorelines established by the SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different areas in the shoreline jurisdiction. See WAC 173-26-211.

**Shoreline functions** – The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the City's natural ecosystem in the shoreline jurisdiction.

**Shoreline jurisdiction** – The term describing all of the geographic areas covered by the SMA, related rules, the applicable SMP, and such areas within a specified City's authority under the SMA. See definitions of Shorelines, Shorelines of the State, Shorelines of Statewide Significance, Shorelands, and Wetlands.

**Shoreline Management Act (SMA)** – RCW Chapter 90.58 and WAC Chapter 173-27, as amended. The Legislature passed the SMA in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

**Shoreline Master Program (SMP)** – The comprehensive use plan and related use regulations, which are used by the City to administer and enforce the permit system for shoreline management. SMPs must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

**Shoreline modification** – Those actions that modify the physical configuration or qualities of the City's shoreline jurisdiction, 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.

**Shoreline permit** – A shoreline substantial development permit, variance, conditional use permit, revision, or any combination thereof (WAC 173-27-030(13)).

**Shoreline stabilization** – Structural and nonstructural methods to address erosion impacts to property and dwellings, businesses, buildings, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural measures such as bulkheads and non-structural methods such as soil bioengineering. New stabilization measures include enlargement of existing structures.

**Shoreline substantial development permit** – The permit required for all substantial developments as defined in RCW 90.58.030(3)(e).

**Shoreline variance** – A procedure to grant relief from the specific bulk, dimensional or performance standards set forth in the SMP, and not a means to allow a use not otherwise permitted within a shoreline environment designation.

**Shorelines** – All of the water areas of the state, including reservoirs and their associated uplands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d).

**Shorelines hearings board** – A state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by the City. See RCW 90.58.170 and RCW 90.58.180.

**Shorelines of the state** – The sum of all "shorelines" and "Shorelines of Statewide Significance" within the state.

**Shorelines of Statewide Significance** – Shorelines of the state that meet the criteria for Shorelines of Statewide Significance contained in RCW 90.58.030(2)(e).

**Should** – "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and the SMP, against taking the action.

**Sign** – Any device, structure, fixture, or placard that uses words, letters, numbers, symbols, graphic designs, logos, or trademarks for the purpose of: a) providing information or directions; or b) identifying or advertising any place, establishment, product, good or service.

**Significant impact** – A meaningful change or recognizable effect to the ecological function and value of a critical area, which is noticeable or measurable, resulting in a loss of function and value.

**Site** – Any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project impacts a critical area(s).

**Slope** – An inclined earth surface, the inclination of which is expressed as the ratio (percentage) of vertical distance (rise) to horizontal distance (run) by the following formula:

V (vertical distance)/H (horizontal distance) x 100 = percent slope

**Solid Waste** – Solid waste means all garbage, rubbish trash, refuse, debris, scrap, waste materials, and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including any and all source-separated recyclable materials and yard waste.

**Species of local importance** – A species of animal that is of local concern due to their population status or their sensitivity to habitat manipulation.

**Stockpiling** – The placement of material with the intent to remove at a later time.

**Stream** – A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty (20) cubic feet per second and b) the water is contained within a channel (WAC 173-22-030(8)).

**Stream analysis report –**A report prepared by a qualified stream biologist in accordance with the methods provided by the WDFW or other acceptable scientific method that identifies, characterizes, and analyzes potential impacts to a stream or river consistent with the applicable provisions of these regulations.

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

**Substantial development** – Any development of which the total cost or fair market value exceeds ~~six thousand, four hundred and sixteen dollars~~ seven thousand forty seven dollars ~~($6,416.00)~~(7,047.00)[1], or any development, which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the office of financial management every five (5) years, ~~beginning September 15, 2012~~with the last adjustment taking effect September 2, 2017, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington*



[1] Washington State Register 17-17-007, Office of Financial Management, Notice of Substantial Development Dollar Threshold Adjustment

*State Register* at least one (1) month before the new dollar threshold is to take effect (RCW 90.58.030(3)(e)). For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials (WAC 173-27-040(2)(a)).

**Substrate** – The soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

**Transportation facilities** – Those structures and developments that aid in land and water surface movement of people, goods, and services. Bikeways and trails are considered recreational development.

**Upland** – Generally described as the dry land area above and landward of the ordinary high water mark.

**Utilities** – Services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, stormwater, sewage, and communications.

**Utilities, accessory** – Utilities comprised of small-scale distribution and collection facilities connected directly to development within the City's shoreline jurisdiction. Examples include local power, telephone, cable, gas, water, sewer, and stormwater service lines.

**Utilities, primary** – Utilities comprised of trunk lines or mains that serve neighborhoods, areas, and cities. Examples include solid waste handling and disposal sites, water transmission lines, sewage treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

**Utility line** – A pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, sanitary sewer, irrigation, power, gas, and communications.

**WAC** – Washington Administrative Code.

**Water-dependent use** – A use or a portion of a use, which cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations. Examples of water-dependent uses may include moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

**Water-enjoyment use** – A recreational development or other use that facilitates public access to the City's shoreline jurisdiction as a primary characteristic of the use; or a use that provides for recreational development or aesthetic enjoyment of the City's shoreline jurisdiction 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 City's shoreline jurisdiction. 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.

**Water-oriented use** – Refers to any combination of water-dependent, water-related, and/or water-enjoyment uses and serves as an all-encompassing definition for priority uses under the SMA.

**Water-related use** – A use or a portion of a use, which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location.

**Waterward –** On the waterside of the OHWM for a body of water.

**Wetland analysis report** – A report prepared by a qualified wetland specialist that identifies, characterizes, and analyzes potential impacts to a wetland consistent with the applicable provisions of these regulations.

**Wetland buffer zone** – A designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and structural stability of the wetland. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.

**Wetland category** – One of four categories assigned to wetlands when using Ecology's Washington State Wetland Rating System for Eastern Washington (revised) Publication No. 04-06-15. The categories place wetlands together, which have similar sensitivity to disturbance, rarity, and functions. The three functions rated include water quality improvement, hydrologic support, and habitat.

**Wetland delineation** – The flagging or staking in the field of the edges of the wetland by a qualified wetland specialist, in accordance with the approved Federal Wetland Delineation Manual and applicable regional supplements.

**Wetland restoration** – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For tracking net gains in wetland acres, restoration is divided into the following:

1. Reestablishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland.

Reestablishment results in rebuilding a former wetland and results in a gain in wetland acres.

2. Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

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

**Wildlife habitat** – Areas that provide food, protective cover, nesting, breeding, or movement for fish or wildlife, and with which an individual species has a primary association.

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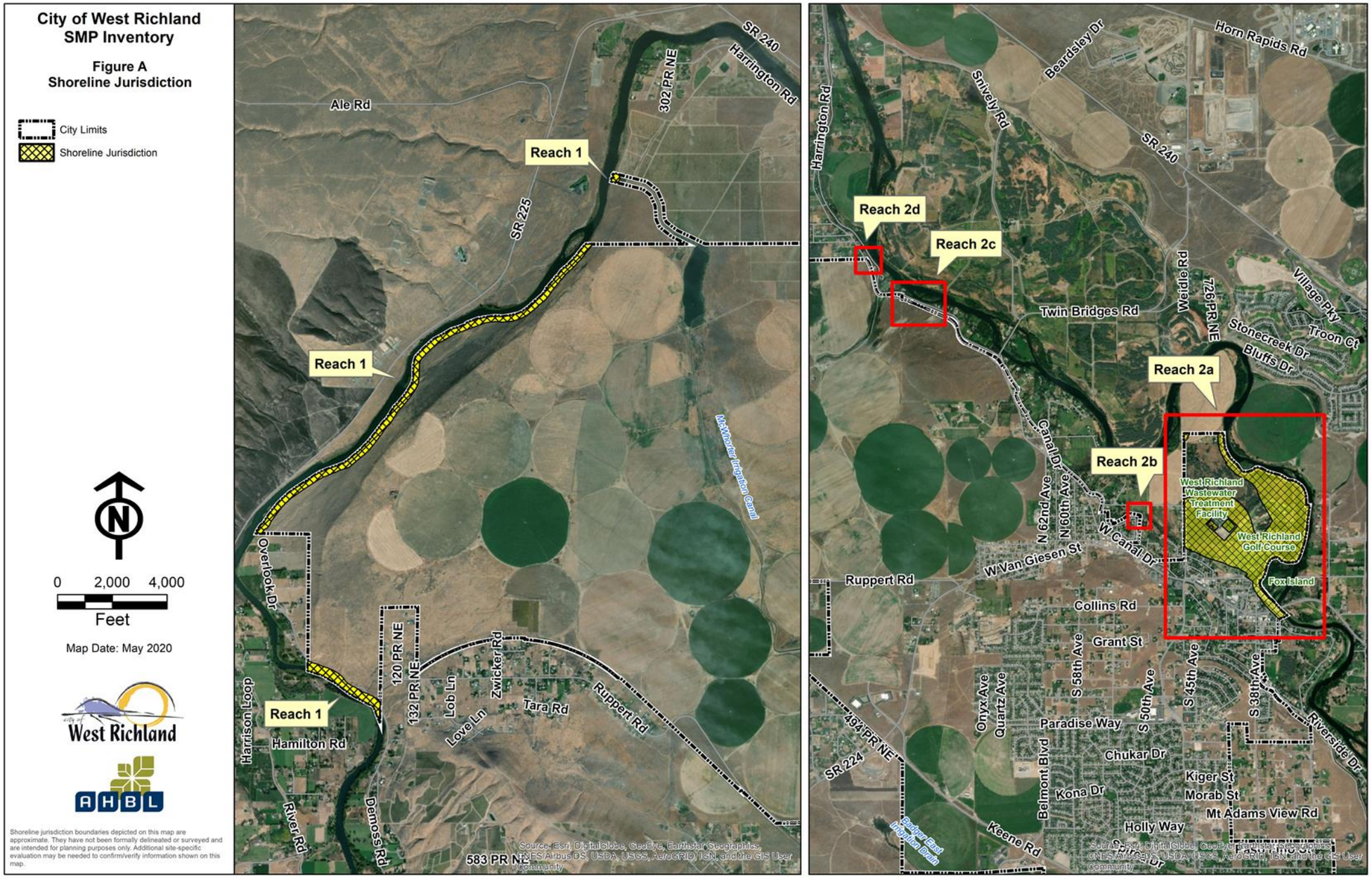
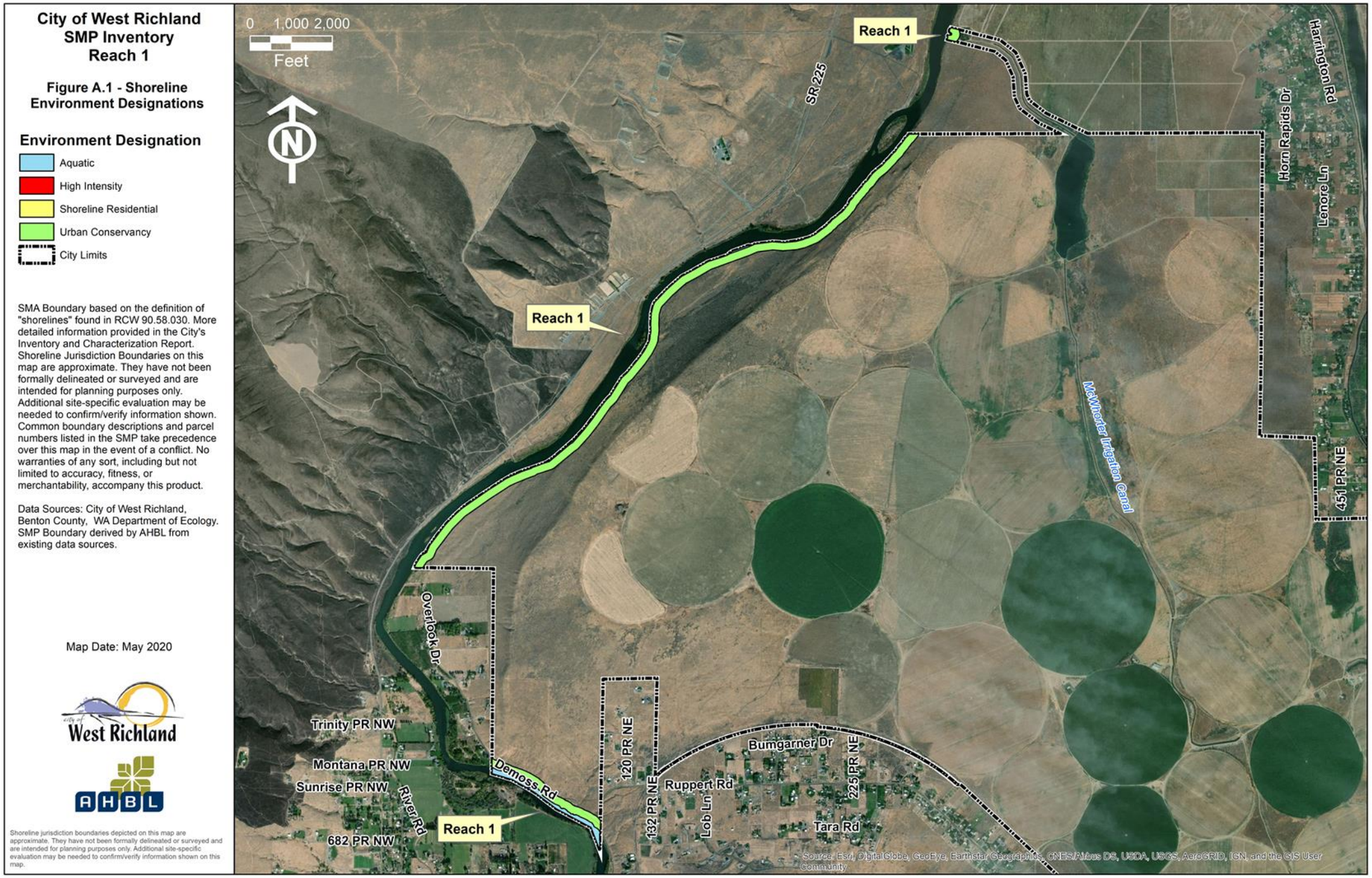
# Appendix 1: Maps


City of West Richland
SMP Inventory
Figure A
Shoreline Jurisdiction
City Limits
Shoreline Jurisdiction
0 2,000 4,000
Feet
Map Date: May 2020
West Richland
AHBL
Shoreline jurisdiction boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.
Reach 1
Reach 1
Reach 1
Reach 2d
Reach 2c
Reach 2a
Reach 2b
Ale Rd
SR 240
Harrington Rd
302 PR NE
SR 225
McWhirter Irrigation Canal
Overlook Dr
Harrison Loop
Hamilton Rd
River Rd
Demoss Rd
120 PR NE
132 PR NE
583 PR NE
Lob Ln
Love Ln
Zwicker Rd
Tara Rd
Ruppert Rd
Beardsley Dr
Horn Rapids Rd
Snively Rd
Twin Bridges Rd
Weidle Rd
726 PR NE
Village Pky
Stonecreek Dr
Troon Ct
Bluffs Dr
Canal Dr
N 62nd Ave
N 60th Ave
W Canal Dr
W Van Giesen St
West Richland Wastewater Treatment Facility
West Richland Golf Course
Fox Island
Collins Rd
Grant St
S 58th Ave
S 50th Ave
S 45th Ave
S 38th Ave
Riverside Dr
Onyx Ave
Quartz Ave
Paradise Way
Chukar Dr
Belmont Blvd
Kona Dr
Kiger St
Morab St
Mt Adams View Rd
Holly Way
Keene Rd
494 PR NE
SR 224
Badger East Irrigation Drain
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


City of West Richland
SMP Inventory
Reach 1
Figure A.1 - Shoreline Environment Designations
Environment Designation
Aquatic
High Intensity
Shoreline Residential
Urban Conservancy
City Limits
SMA Boundary based on the definition of "shorelines" found in RCW 90.58.030. More detailed information provided in the City's Inventory and Characterization Report. Shoreline Jurisdiction Boundaries on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown. Common boundary descriptions and parcel numbers listed in the SMP take precedence over this map in the event of a conflict. No warranties of any sort, including but not limited to accuracy, fitness, or merchantability, accompany this product.
Data Sources: City of West Richland, Benton County, WA Department of Ecology. SMP Boundary derived by AHBL from existing data sources.
Map Date: May 2020
West Richland
AHBL
Shoreline jurisdiction boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.
0 1,000 2,000
Feet
N
Reach 1
Reach 1
Reach 1
SR 225
Harrington Rd
Horn Rapids Dr
Lenore Ln
451 PR NE
McWhorter Irrigation Canal
Overlook Dr
Trinity PR NW
Montana PR NW
Sunrise PR NW
River Rd
682 PR NW
Demoss Rd
120 PR NE
132 PR NE
Ruppert Rd
Lob Ln
Bumgarner Dr
225 PR NE
Tara Rd
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**City of West Richland**
**SMP Inventory**
**Reach 2**

**Figure A.2 - Shoreline Environment Designations**

## Legend

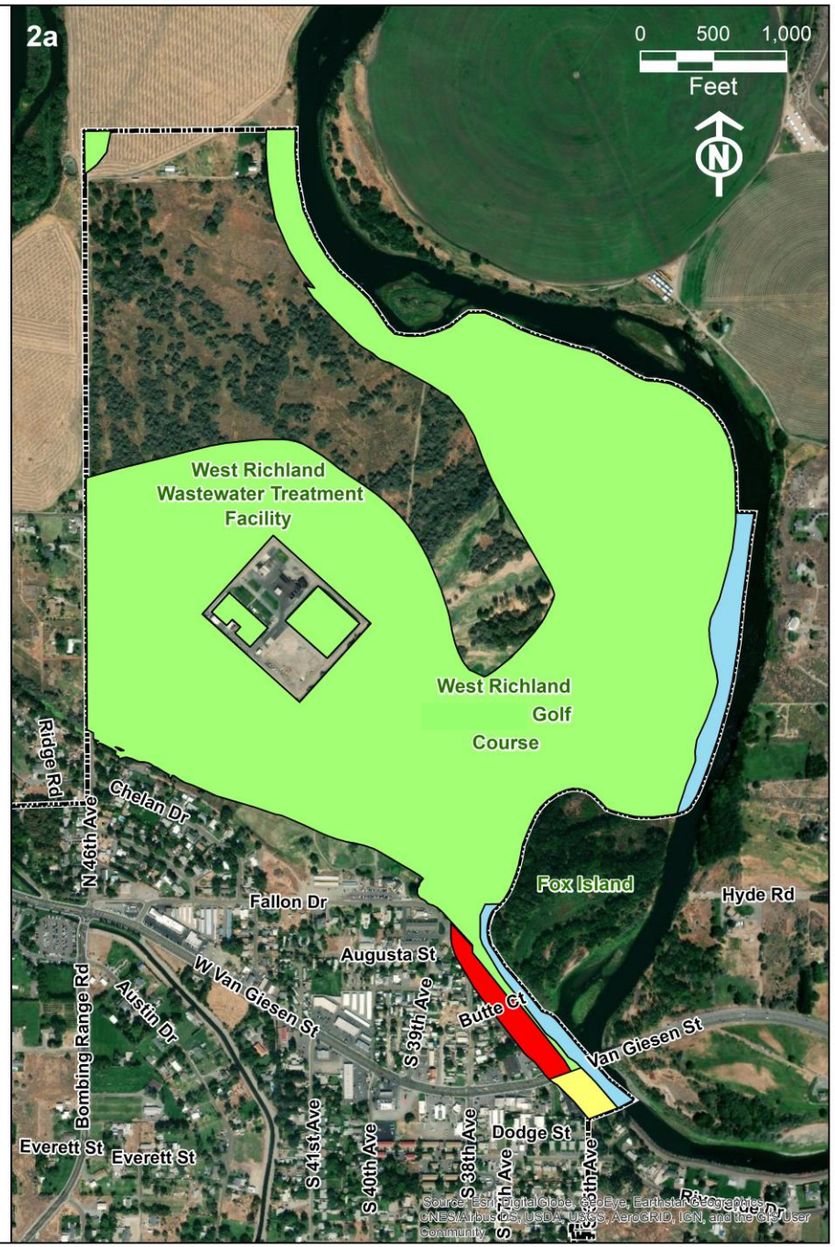
- Aquatic
- High Intensity
- Shoreline Residential
- Urban Conservancy
- City Limits

SMA Boundary based on the definition of "shorelines" found in RCW 90.58.030. More detailed information provided in the City's Inventory and Characterization Report. Shoreline Jurisdiction Boundaries on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown. Common boundary descriptions and parcel numbers listed in the SMP take precedence over this map in the event of a conflict. No warranties of any sort, including but not limited to accuracy, fitness, or merchantability, accompany this product.

Data Sources: City of West Richland, Benton County, WA Department of Ecology. SMP Boundary derived by AHBL from existing data sources.

Map Date: May 2020

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



# Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction

## A. Purpose

The purpose of this Appendix is to implement the SMA's policy of protection of shoreline natural resources through the protection and encouraged restoration of ecological functions necessary to sustain these resources in conjunction with the other provisions of this SMP. It is also to designate and classify ecologically sensitive and hazardous areas within shoreline jurisdiction and to protect these areas and their functions and values, while also allowing for reasonable use of property. It is not the intent of this Appendix to deny a reasonable use of private and public property, but to assure that development on or near critical areas in the City's shoreline jurisdiction is accomplished in a manner that is sensitive to the environmental resources of the community.

## B. Goals

The City of West Richland's goals are to protect existing ecological functions, restore degraded ecological functions, and to achieve no net loss of ecological functions through avoidance of negative impacts to critical areas within the City's shoreline jurisdiction.

It is the intent of this Appendix to accomplish the following:

1. Protect environmentally sensitive natural areas and the functions they perform by the careful and considerate regulation of development;
2. Minimize damage to life, limb and property due to seismic hazards, landslides and erosion on steep or unstable slopes;
3. Protect wetlands to the extent that there is no net loss of size, functions and values;
4. Protect and maintain stream flows and water quality within streams;
5. Preserve natural forms of flood control and stormwater storage, by avoiding alterations to drainage or stream flow patterns;
6. Protect aquifer recharge areas from development activities and practices that would be undesirable or harmful to the groundwater supply;
7. Protect, maintain and enhance areas highly suited for wildlife, and lands with which threatened, endangered, or sensitive species are known to have a primary association;

8. Protect and maintain critical fish and wildlife habitat conservation areas and corridors so as to avoid the creation of isolated subpopulations;
9. Enhance degraded critical fish and wildlife habitat conservation areas;
10. Comply with the SMA rules and guidelines;
11. Implement the goals, policies, and requirements of the GMA.

## C. Applicability

1. Critical Area Review. The provisions of this Appendix shall apply to all activity within critical areas and their required buffers inside the City's shoreline jurisdiction.
2. Definitions of terms used in this Appendix may be found in SMP Chapter 7: Definitions.
3. Lands may contain more than one type of critical area. In the event of a difference or conflict among regulations, those regulations or procedures that provide greater protection to the environmentally sensitive area shall apply.
4. Special Studies Required. When an applicant submits an application for any shoreline development proposal, the application shall indicate whether any critical area is located on the site. The City's Shoreline Administrator shall visit the site, and in conjunction with the review of the information provided by the applicant and any other suitable information, shall make a determination as to whether or not sufficient information is available to evaluate the proposal. If it is determined that the information presented is not sufficient to evaluate a proposal adequately, the City's Shoreline Administrator shall notify the applicant that additional studies as specified herein shall be provided.
5. Applicability to SEPA. None of the regulations contained in this Appendix shall preclude or diminish the authority to require mitigation of significant environmental impacts through SEPA.
6. Appeals. A decision of the City's Shoreline Administrator to approve, conditionally approve or deny a permit, or any official interpretation in the administration of this Appendix, may be appealed in accordance with the procedures established under SMP Chapter 6: Administration Section ~~H~~I.5: Public Hearing and Decision.

## D. Wetlands – Designation and mapping

1. Pursuant to WAC 365-190-080(1), the city designates wetlands as critical areas defined in this Appendix.

2. The approximate location and extent of wetlands are shown on the City's critical area wetland map. The map is to be used as a guide and may be updated as additional information becomes available. The map is for reference only, and does not provide final wetland designations. Mapping sources used to create the City's wetland map include:
   a. Wetland areas designated on the national wetland inventory maps;
   b. Wetland areas identified through aerial photos and field observations; and
   c. Wetland areas identified in the City of West Richland's SMP Inventory and Characterization Report.

## E. Wetlands – Identification and delineation

1. A qualified wetland specialist shall identify wetlands and delineate their boundaries pursuant to this Appendix in accordance with RCW 90.58.380, WAC 173-22-035, and the approved Federal Wetland Delineation Manual and applicable regional supplements. Guidelines for preparing a wetland delineation report are defined in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section I.
2. Wetlands shall be rated according to the Washington State Department of Ecology's 2014 Washington State Wetland Rating System for Eastern Washington (Ecology Publication No. 14-06-030) or most current version as updated by Washington State Department of Ecology. The document contains the definitions and methods for determining if the criteria below are met. In the case of a wetland violation, the rating shall be based on the likely condition of the wetland before the unauthorized disturbance occurred.
3. Wetland Rating Categories:
   a. Category I wetlands: Category I wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible or too difficult to replace within a human lifetime, and provide a high level of functions. The following types of wetlands are Category I:
      i. Alkali wetlands.
      ii. Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;
      iii. Bogs and calcareous ferns;
      iv. Mature and old ~~-~~growth forested wetlands over ¼ acre with slow growing trees;
      v. Forest wetlands with stands of aspen;

vi. Wetland scoring between twenty-two and twenty-seven (22-27) points (out of twenty-seven ~~[27]~~(27)) in the Eastern Washington Wetland Rating System.

b. Category II wetlands: Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These ~~wetlnads~~wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands include:

i. Forested wetlands in the floodplain of rivers;

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

iii. Vernal pools;

iv. Wetlands scoring between nineteen and twenty-one (19-21) points (out of twenty-seven ~~[27]~~ (27))in the Eastern Washington Wetland Rating System.

c. Category III wetlands have a moderate level of functions (scores between sixteen and eighteen (16-18) points. These wetlands can often be adequately replaced with a well planned mitigation project. Wetlands scoring between 16-18 points generally have been disturbed in some way, and are often less diverse and more isolated from other natural resources in the landscape than Category II wetlands.

d. Category IV wetlands have the lowest levels of functions, scoring less than sixteen (16) points in the Eastern Washington Wetland Rating System, and are often heavily disturbed. These are wetlands that should be able to be replaced, and in some cased improved. These wetlands may provide some important functions, and also need to be protected.

## F. Wetlands – Regulated activities

1. The following activities in a wetland and/or its associated buffer shall be regulated pursuant to the requirements of the SMA, the City's SMP, and this Appendix. Other activities, if not listed below, must conform to the SMA and the City's SMP. The activities regulated by this Appendix are as follows:

a. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind;

b. Dumping, discharging, or filling with any material;

c. Draining, flooding, or disturbing the water level or water table;

d. Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure, except repair of an existing structure or infrastructure, where the existing square footage or foundation footprint is not altered;

e. Destroying or altering native vegetation through clearing, harvesting, cutting, intentional burning, shading, or planting non-native vegetation that would negatively alter the functions of the wetland; and

f. Activities from construction or development that result in significant, adverse changes in water temperature, physical or chemical characteristics of wetland water sources, including quantity and pollutants.

2. Activities listed in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section F.1 that are near a wetland, but do not result in alteration of a wetland and/or its associated buffer, may require fencing or marking along the outside perimeter of the buffer, and/or erosion control measures. Protection of the buffer should be documented through photos and written description.

## G. Wetlands – Permitting process

1. Overview. Inquiries regarding conduct of a regulated activity in or near a wetland can be made to the City's Shoreline Administrator. The City's Shoreline Administrator shall utilize the city's critical area wetland map to establish general location of wetland sites. If the maps indicate the presence of a wetland, a wetland analysis report shall be filed, unless the City's Shoreline Administrator determines that a wetland and its associated buffer are not on or within the site.

   This determination may be based on information provided by the applicant and from other sources. If the map does not indicate the presence of a wetland or wetland buffer zone within the site, but there are other indications that a wetland may be present, the City's Shoreline Administrator shall determine whether a wetland analysis report is required. Refer to SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section I for the wetland analysis report requirements.

2. Permit Requirements. Review of regulated activities within a wetland and wetland buffer is subject to the permit processing procedure as defined under WAC 173-27-180 and SMP Chapter 6: Administration. The review of proposed alterations to wetlands and buffer areas and a wetland mitigation plan by the City's Shoreline Administrator may be required prior to issuance of a shoreline substantial development permit, shoreline variance, shoreline conditional use permit or issuance of SEPA determination by the city's SEPA responsible official under WRMC Chapter 18.04 – Environmental Review (SEPA)~~ (2007)~~(2019).

3. Request for Official Determination. A request for an official determination of whether a proposed use or activity at a site is subject to this Appendix must be in writing and made to the City's office of Community and Economic Development. The request shall contain plans, data, and other information in sufficient detail to allow for such determination, including a wetland delineation report. The applicant shall be responsible for providing plans and the wetland delineation report to the City's Shoreline Administrator.

4. If, after a site inspection of the property, review of the wetland map, or review of other information about the site, the City's Shoreline Administrator has reason to believe that the proposed activity or development may occur within a wetland, or within a potential wetland buffer, a wetland analysis report shall be submitted to the City's Shoreline Administrator for review. The purpose of the wetland analysis report is to determine the extent and function of the wetland(s) to be impacted by the proposal. See SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section I for the wetland analysis report requirements. If, after an inspection of the site, the City's Shoreline Administrator determines that the proposed project is not within a wetland or wetland buffer, such determination shall be indicated to the applicant in writing, and a wetland analysis report shall not be required.

5. Prior to development of a property that contains a classified wetland, the boundaries of the wetland and associated buffer shall be staked and flagged in the field by a qualified wetland specialist and surveyed by a licensed professional surveyor registered in the state. Field flagging shall be distinguishable from other survey flagging on the site. A survey drawing shall be prepared depicting the wetland boundary and buffer, and corresponding topographic information, in relation to the property boundary.

6. If alteration of a wetland or buffer is proposed, a wetland mitigation plan shall be submitted pursuant to the requirements of this Appendix.

## H. Wetlands – Administration

1. Notice and Title.

   a. Notice. Upon submission of a complete shoreline permit application as defined in SMP Chapter 6: Administration with approval complete wetland analysis report as defined in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section I, notice shall be provided to consulted agencies in accordance with WRMC Title 14 – Administration of Development Regulations ~~(2012)~~ (2020) and this SMP.

   Notice of Title. The owner of any private property with a field-verified wetland or wetland buffer, on which a development proposal is submitted, shall file for record with the Benton County auditor a notice approved by the City's Shoreline Administrator in

a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of a wetland or wetland buffer, the application of this Appendix to the property, and those limitations on actions in or affecting such wetlands and their buffers that may exist. The notice shall be notarized and shall be recorded prior to approval of any development of such site. The notice shall run with the land and shall be substantially in the following form:

WETLAND AND/OR WETLAND BUFFER NOTICE

Legal Description:

_____

_____

_____

Present Owner:_____

NOTICE: This property contains wetlands or their buffers as defined by City of West Richland Ordinance. Restrictions on use or alteration of the wetlands or their buffers may exist due to natural conditions of the property and resulting regulations. Contact the City of West Richland for more information.

_____ _____

Date Owner's Signature

2. Other Laws and Regulations. No approval granted pursuant to this Appendix shall remove an obligation to comply with the applicable provisions of any other federal, state, or local law or regulation.
3. Atlas. The City's Shoreline Administrator shall include all known and suspected wetlands on the city's critical area wetland map.

# I. Wetlands – Analysis report requirements

1. A wetland analysis report, when required, shall be prepared by a qualified wetland specialist and submitted to the City's Shoreline Administrator as part of the review process established in SMP Chapter 6: Administration. A wetlands analysis report is not required for those wetlands previously mapped and classified, unless the City's Shoreline Administrator finds that the characteristics of the wetland have significantly changed based on Ecology and U.S. Army Corps of Engineers direction. A wetlands analysis report is

required with all annexation petitions, land use applications and shoreline applications for properties that the City's Shoreline Administrator has reason to believe may contain a wetland or wetland buffer.

2. The wetland analysis report shall be prepared in accordance with the methods outlined in WAC 173-22-035, the approved Federal Wetland Delineation Manual and applicable regional supplements, and submitted to the City's Shoreline Administrator for review.

3. Within 60 days of receipt of the wetland analysis report and other information, the City's Shoreline Administrator shall evaluate submitted materials to determine consistency with the SMP regarding the appropriate wetland category, buffering requirement, and required mitigation. The report shall be accorded substantial weight and the City's Shoreline Administrator shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the report shall control future decision making related to the designated wetland unless new information is found demonstrating the report is in error or conditions which control wetland boundary locations have changed since the report was written.

## J. Wetlands – Buffer areas

1. Following the determination of the wetland category (I ~~–~~through IV), the City's Shoreline Administrator shall determine appropriate buffer widths. Wetland buffers shall be evaluated for all development proposals and activities adjacent to wetlands to determine their need to protect the integrity, functions, and values of the wetland. Wetland buffer widths are determined by the category of wetland, the intensity of impacts of a land use, and the functions or special characteristics of the wetland that need to be protected, as determined by the rating system and the tables of this section. All wetland buffer zones are measured perpendicular from the wetland boundary as surveyed in the field.

   Except as otherwise permitted by this Appendix, wetland buffers shall consist of a relatively intact native vegetation community adequate to protect the wetland functions and values at the time of the proposed activity. If the existing vegetation is disturbed (grazed, mowed or heavily infested with non-native plants), or otherwise inadequate to protect the wetland from the effects of the proposed development, then the buffer width shall be rehabilitated with native plant communities that are appropriate for the site. The buffer rehabilitation shall be conducted prior to, or in conjunction with, development of the property.

2. Impact of Land Use. Different uses of land have different potential levels of impacts to wetlands. To recognize the different levels of impact, the buffer shall be based on the level of impact categorized according to the following table:

| Level of Impact from Land Use | Types of Land Uses Based on Common Zoning Categories |
|---|---|
| High | • Commercial<br>• Urban<br>• Industrial<br>• Institutional<br>• Retail sales<br>• Residential (more than 1 unit/40,000 sq. ft.)<br>• High-intensity recreation (ball fields, golf driving ranges, gun ranges, clubhouses, recreational buildings, etc., and associated parking lots)<br>• High intensity farming practices (greenhouses, nurseries, animal pens and barns, etc.) |
| Moderate | • Residential (less than or equal to 1 unit/40,000 sq. ft.)<br>• Moderate-intensity open space (golf course fairways, community park facilities and pathways not listed above, etc.)<br>• Conversion to moderate-intensity agriculture (orchards, hay fields, etc.)<br>• Driveways serving 3 or more residences<br>• Utility corridor or utility right-of-way containing an access/maintenance road wider than 10' in width |
| Low | • Low-intensity open space (hiking, bird watching, neighborhood parks without parking, preservation of natural resources, etc.)<br>• Driveways serving 1 or 2 residences<br>• Unpaved trails 8' or less in width (nonmotorized)<br>• Utility corridor without an access/maintenance road, or with a pervious access/maintenance road 10' or less in width, and little or no vegetation management |

3. The buffer widths typically needed to protect Category IV wetlands in West Richland (for wetlands scoring less than 16 points for all functions) are as follows:

| Wetland Characteristics | Buffer Widths by Impact of Land Use | Other Recommended Protection Measures |
|---|---|---|
| Score for all 3 basic functions is less than 16 points | Low – 25 feet<br>Moderate – 40 feet<br>High – 50 feet | Maintain any existing connections with other wetlands, open space or habitat conservation areas |

4. The buffer widths typically needed to protect Category III wetlands in West Richland (for wetlands scoring 16 to 18 points for all functions) are as follows:

| Wetland Characteristics | Buffer Widths by Impact of Land Use | Other Recommended Protection Measures |
|---|---|---|
| Moderate level of function for habitat (score for habitat 5 - 7 points) | Low – 75 feet<br>Moderate – 110 feet<br>High – 150 feet | Maintain any existing connections with other wetlands, open space or habitat conservation areas |
| Not meeting the above characteristics | Low – 40 feet<br>Moderate – 60 feet<br>High – 80 feet | |

5. The buffer widths typically needed to protect Category I and II wetlands in West Richland are as follows:

| Wetland Characteristics | Buffer Widths by Impact of Land Use | Other Recommended Protection Measures |
|---|---|---|
| High level of function for habitat (score for habitat 8 - 9 points) | Low – 100 feet<br>Moderate – 150 feet<br>High – 200 feet | Maintain any existing connections with other wetlands, open space or habitat conservation areas |
| Not meeting the above characteristics | Low – 75 feet<br>Moderate – 110 feet<br>High – 150 feet | |

6. Wetland Buffer Increases. The City's Shoreline Administrator may require increased buffer widths in accordance with the recommendations of a qualified wetland specialist and best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be reasonably related to protection of the functions and values of the regulated wetland. Such determination shall demonstrate that:
    a. A larger buffer is necessary to maintain viable populations of existing protected species or species of local importance; or
    b. The wetland is used by species listed by the federal government or the state as endangered, threatened, or sensitive species; or
    c. The adjacent land is susceptible to impact from severe erosion and erosion control measures will not effectively prevent adverse impact to the wetland; or
    d. The adjacent land has minimal vegetative cover, or slopes greater than 30 percent.
7. Building Setback. A 15-foot building setback is required from the edge of the wetland buffer for all buildings, except utility buildings/facilities and except residential accessory buildings exempt from rear or side setback requirements.
8. Where a legally established developed roadway transects a wetland buffer, the City's Shoreline Administrator may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the road does not provide any significant buffer functions to protect the wetland in question.

## K. Wetlands – Alteration of buffers

1. Wetland Buffer Reductions. Buffer width reductions shall be considered on a case-by-case basis to take varying values of individual portions of a given wetland into consideration. Reductions may be allowed where the applicant demonstrates to the City's Shoreline Administrator that the wetland contains variations in sensitivity due to existing physical characteristics and that reducing the buffer width would not adversely affect the wetland functions and values. A wetland buffer shall not be reduced more than 25 percent. In no case shall a buffer be reduced solely to accommodate unauthorized actions (also known as code violations) that have degraded the buffer.
    a. Decision Criteria. Prior to approval, a buffer reduction proposal shall meet all of the decisional criteria listed below. The buffer modification will be approved in a degraded wetland buffer only if:
        1) The project will provide an overall improvement in water quality protection for the wetland; and

2) The project will not adversely affect fish or wildlife species and will provide an overall enhancement to fish and wildlife habitat; and

3) The project will provide a net improvement in drainage and/or stormwater detention capabilities; and

4) All exposed areas are stabilized with native vegetation, as appropriate; and

5) The reduction will not lead to unstable earth conditions or create an erosion hazard; and

6) The reduction will not be materially detrimental to any other property or the city as a whole.

b. Buffer Enhancement Plan. As part of the buffer reduction request, the applicant shall submit a buffer enhancement plan prepared by a qualified wetland specialist. The report shall assess the habitat, water quality, stormwater detention, groundwater recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; address the six decision criteria listed in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section K.1.a; and demonstrate no net loss of ecological function. The buffer enhancement plan shall also provide the following:

1) A map locating the specific area of enhancement;

2) A planting plan that uses native plant species, including ground cover, shrubs, and trees;

3) Provisions for monitoring and maintenance over the monitoring period.

2. Wetland Buffer Width Averaging. Buffer width averaging shall be considered on a case-by-case basis when the proposed averaging is in accordance with an approved wetland mitigation plan and best available science. Buffer averaging shall not be used in conjunction with the provisions for buffer reductions in this section. Averaging of buffer widths may only be allowed where a qualified wetland specialist demonstrates that:

a. It will not reduce wetland functions or values;

b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

c. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion;

d. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

e. The buffer width is not reduced, at any single point, to less than 50 percent of the standard buffer width. Reductions to less than 75 percent of the typical buffer width should be avoided where possible.

## L. Wetlands – Permitted uses in buffer areas

The following activities are permitted within the wetland buffer; provided, that proposed activities are permitted in the applicable shoreline environment designation and any impacts or damage to the wetland buffer is fully mitigated through the requirements of the SMP. In planning and constructing these activities, reasonable measures shall be taken to protect any trees.

1. Wells and necessary appurtenances associated with single-family dwellings, including a pump and appropriately sized pump house, may be allowed in a wetland buffer if city water is not available within 200 feet of the property and there are no other alternative locations available for a well on the property. In such case, the well shall be constructed such that it does not withdraw water from any shallow upper aquifer, or allow water from the wetland to infiltrate into the well hole directly. Any disturbance to the wetland buffer area as a result of the well installation shall be restored in a timely manner.

2. Trails no more than five feet in width, observation areas, and viewing platforms; provided, that in the case of Category I wetlands, the minimum distance from the wetland edge is not less than 50 percent of the Category I buffer width established in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section J. A decrease in the required buffer width through buffer width averaging or other means does not indicate a corresponding decreased distance from a Category I wetland edge for trails, observation areas, and viewing platforms. Trails shall generally be located towards the perimeter of the buffer (in the outer 25 percent), and directly perpendicular to the wetland in the case of trails to observation areas and viewing platforms.

3. The placement of underground utility lines, residential on-site septic drain fields meeting the requirements of the Benton-Franklin Health District when city sewer is not available, and bioswales and detention/retention facilities for on-site stormwater treated by biofiltration or other processes prior to discharge when consistent with the Stormwater Management Manual for Eastern Washington; provided the minimum distance from the wetland edge is not less than 75 percent of the buffer widths established in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section J. Regional stormwater facilities shall not be located within the wetland buffers of Type I and II wetlands, and may be located within the wetland buffers of Type III and IV wetlands only when the wetland

is sufficiently protected from water quality degradation and excessive water level fluctuations, and the facility is constructed in a manner that results in an enhancement to the buffer area.

4. Placement of access roads and utilities across Category II, III and IV wetland buffers, if the City's Shoreline Administrator determines that there is no reasonable alternative location for providing access and/or utilities to an existing lot and mitigation is provided as designated in this Appendix.
5. The installation of stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, within the outer 25 percent of a critical area buffer; provided, that:
   a. No other location is feasible; and
   b. The location of such facilities will not degrade the functions or values of the critical area; and
   c. The buffer is not for a Category I wetland.
6. The creation of lots from parcels containing wetlands and wetland buffers, subject to the following:
   a. Land that is located wholly within a wetland or its buffer may not be subdivided;
   b. Land that is located partially within a wetland or its buffer is not precluded from being divided due to the presence of the wetland or buffer, provided:
      1) The wetland and its buffer is contained within a separate open space tract, as depicted on the document dividing the property (short plat, long plat, etc.); and
      2) The proposed lots are accessible through a route that is outside of the wetland and its buffer.

      To compensate for setting aside the wetland and buffer area in a separate tract, those lots immediately adjacent to the wetland tract and served with city sewer and city water need only be 75 percent of the minimum lot size and lot depth normally required, and permitted lot coverage shall be calculated as if the lot were the normal minimum lot size.

## M. Wetlands – Alteration of wetlands and sequence of mitigation actions

~~1. All adverse impacts to wetland functions and values shall be fully mitigated following the procedures within SMP Chapter 4: General Regulations Section 4: Environmental Impacts.~~

~~2.~~1. Alteration of Category I wetlands is prohibited.

~~3.~~2. Alteration of Category II, III, and IV wetlands may be allowed when all adverse impacts to wetland functions and values can be shown to be fully mitigated in accordance with the mitigation sequence provided in SMP Chapter 4: General Regulations, Section 4 – Environmental Impacts. No net loss of ecological function and value shall occur due to wetland alteration.

## N. Wetlands – Mitigation plan submittal requirements

1. In conjunction with submittal of any project for which alteration of a wetland is proposed, the applicant shall submit to the City's Shoreline Administrator a wetland mitigation plan substantially in the following form. It is highly recommended that the plan be consistent with the guidance found in "Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans" (Ecology Publication No. 06-06-011b, March 2006), or as hereafter revised.

   a. Conceptual Phase. A conceptual wetland mitigation plan shall be submitted to the City's Shoreline Administrator. In cases in which environmental review is required, a threshold determination may not be made prior to City's Shoreline Administrator review of the conceptual wetland mitigation plan. The conceptual wetland mitigation plan shall include:

      1) General goals of the wetland mitigation plan, including an overall goal of no net loss of wetland function and acreage, and striving for a net resource gain in wetlands over present conditions;

      2) A review of literature or experience to date in restoring or creating the type of wetland or buffer proposed;

      3) Approximate site topography following construction;

      4) Location of proposed wetland compensation area;

      5) General hydrologic patterns on the site following construction;

      6) Nature of compensation, including wetland types (in-kind and out-of-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer;

      7) A conceptual maintenance plan;

      8) Conceptual monitoring and contingency plan.

   b. Detailed Phase. Following approval of the conceptual wetland mitigation plan by the City's Shoreline Administrator, a detailed wetland mitigation plan shall be submitted to the City's Shoreline Administrator. The detailed wetland mitigation plan shall

contain, at a minimum, the following components, and shall be consistent with the standards in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Sections O and Q:

1) Text and map of the existing condition of the proposed compensation area, including:

   a) Existing vegetation community analysis;

   b) Hydrological analysis, including topography, of existing surface and significant subsurface flows into and out of the area in question;

   c) Soils analysis providing both Soil Conservation Service mapping and data provided by on-site verified determinations;

   d) Detailed description of flora and fauna existing on the site;

   e) Description of existing site conditions in relation to historic conditions for those sites that have been recently altered or degraded;

2) Text and map of the proposed alterations to the compensation area, including:

   a) Relationship of the project to the watershed and existing water bodies;

   b) Topography of site using one-foot contour intervals;

   c) Water level data, including depth and duration of seasonally high water table;

   d) Water flow patterns;

   e) Grading, filling and excavation, including a description of imported soils;

   f) Irrigation requirements, if any;

   g) Water pollution mitigation measures during construction;

   h) Aerial coverage of planted areas to open water areas (if any open water is to be present);

   i) Appropriate buffers;

   The wetland mitigation plan shall include detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated outcome;

3) As part of the wetland mitigation plan, a landscaping plan shall be designed by a registered landscape architect or contractor working with a qualified wetland specialist, describing what will be planted where and when. The landscape plan shall include the following:

a) Soils and substrate characteristics;

b) Specification of substrate stockpiling techniques;

c) Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirement;

d) Specification of where plant materials will be procured. Documentation shall be provided which guarantees plant materials are to be procured from regional nurseries, or from wetlands on site that are part of the wetland mitigation plan;

4) A schedule shall be provided showing dates for beginning and completing the mitigation project, including a sequence of construction activities;

5) A monitoring and maintenance plan, consistent with SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section Q. The plan shall include all the following:

a) Specification of procedures for monitoring and site maintenance;

b) A schedule for submitting monitoring reports to the City's Shoreline Administrator;

6) A contingency plan, consistent with SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section Q;

7) A detailed budget for implementation of the wetland mitigation plan, including monitoring, maintenance and contingency phases;

8) A guarantee that the work will be performed as planned and approved, consistent with SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section Q;

9) The wetland mitigation plan shall be signed by the qualified wetland specialist to indicate that the plan is according to specifications determined by the qualified wetland specialist. A signed original wetland mitigation plan shall be submitted to the City's Shoreline Administrator.

c. Following the approval of the detailed wetland mitigation plan by the City's Shoreline Administrator, a notice of the plan shall be signed and notarized by the applicant and City's Shoreline Administrator, and recorded with the Benton County auditor at the applicant's expense. The notice of the plan may be combined with the notice of SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section H.

d. Approval of the detailed wetland mitigation plan shall occur prior to the issuance of building permits or other development permits. No development activity shall occur on the site prior to approval. Required mitigation may also be required prior to issuance

of permits or prior to commencing development activity. Timing of required mitigation shall be determined on a case-by-case basis.

## O. Wetlands – Criteria for compensatory mitigation – Location and timing of compensatory mitigation

1. The applicant shall develop a wetland mitigation plan that provides for construction, maintenance, monitoring, and contingencies of the replacement wetland. In addition, the applicant and landowner shall meet the following criteria:
   a. The restored, created, or enhanced wetland shall be as persistent as the wetland it replaces;
   b. The applicant shall demonstrate sufficient capability to carry out the compensation project;
   c. The compensation area shall be provided with permanent protection and management to avoid further development or degradation and to provide for the long-term persistence of the compensation area as designed.
2. In cases in which it is determined that compensatory mitigation is appropriate, the following shall apply:
   a. Compensatory mitigation shall be provided on site, or in the immediate vicinity of the impacted wetland, when the location can adequately replace the functions that were lost.
   b. When compensatory mitigation cannot be provided on site or in the immediate vicinity, it should be provided within the same watershed. The proposed mitigation site shall be selected and reviewed based on the guidance found in "Wetland Mitigation in Washington State, Part 2, Developing Mitigation Plans (Version 1, Publication No. 06-06-011b, March 2006)," or as hereafter revised.
   c. Mitigation projects shall be completed prior to, or in conjunction with, the other permitted activities on the site, unless a phased schedule is agreed upon between the City's Shoreline Administrator and the applicant. The timing of the mitigation shall be specified in the development permit. Refer to SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section P for guidelines on determining wetland acreage replacement ratios.

## P. Wetlands – Replacement criteria

1. Where wetlands are altered, the applicant shall meet the minimum requirements of this section.

2. When it is proposed to alter or eliminate a wetland, the applicant shall be required to replace or enhance the functions and values of the affected wetland. The wetland values will be based on an approved evaluation procedure. The recommended ratios for replacement and enhancement of wetlands are as established in the following table. A combination of replacement and enhancement may be authorized. The applicant should coordinate with any other permitting agency (potentially Ecology, U.S. Army Corps of Engineers, and the Environmental Protection Agency) to be sure that all permitting agencies will be satisfied with the proposed ratio(s). The following table meets the standards of Wetland Mitigation in Washington State, Part 1 (Version 1, Publication No. 06-06-011a, March 2006):

| **Wetland Type** | **Enhancement Ratio (Area enhanced to area altered or destroyed)** | **Replacement Ratio (Replacement area to destroyed area)** |
|---|---|---|
| Category I | 16 to 1 (for unauthorized wetland impact only) | 4 to 1 (for unauthorized wetland impact only) |
| Category II | 12 to 1 | 3 to 1 |
| Category III | 8 to 1 | 2 to 1 |
| Category IV | 6 to 1 | 1.5 to 1 |

3. Replacement ratio for unauthorized wetland impact requires replacement at a ratio of two times that listed for the wetland category type. The increased ratio is based on the uncertainty of probable success of proposed replacement, projected losses of wetland functions and values, or significant period of time between elimination and replacement of wetland. Such required increases in replacement ratios will be made by the City's Shoreline Administrator after review of all pertinent data relating to the proposed or committed alteration.

4. The City's Shoreline Administrator will allow the ratios to be decreased if the applicant provides findings of special studies conducted by a qualified wetland specialist that demonstrate to the satisfaction of the City's Shoreline Administrator that no net loss of wetland function or value is attained under the decreased ratio.

5. In-kind compensation shall be provided except where the applicant can demonstrate to the satisfaction of the City's Shoreline Administrator that:

a. The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functional value; or

b. Scientific problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible; or

c. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types); or

d. Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functions and values.

6. Site-specific quantifiable criteria shall be provided for evaluating whether or not the goals and objectives for the proposed compensation are being met. Such criteria include but are not limited to water quality standards, survival rates for planted vegetation, habitat diversity indices, species abundance, or use patterns, hydrological standards including depths and durations of water patterns. Detailed performance standards for mitigation planning shall include the following criteria:

   a. Use only plants indigenous to Benton County (not introduced or foreign species);

   b. Use plants appropriate to the depth of water at which they will be planted;

   c. Use plants available from local sources;

   d. Use plant species high in food and cover value for fish and wildlife;

   e. Plant mostly perennial species;

   f. Avoid committing significant areas of site to species that have questionable potential for successful establishment;

   g. Plant selection must be approved by a qualified wetland specialist;

   h. Water depth is not to exceed six and one-half feet (two meters);

   i. The grade or slope that water flows through the wetland is not to exceed six percent;

   j. Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);

   k. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;

   l. Planting densities and placement of plants shall be determined by a qualified wetland specialist and shown on the design plans;

   m. The planting plan must be approved by a qualified wetland specialist;

n. Planting instructions shall describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;

o. In the wetland buffer area, apply controlled release fertilizer at the base of the plantings the second year after planting and afterward only as plant conditions warrant (determined during the monitoring process);

p. Install an irrigation system, if necessary, for the initial establishment period and include sufficient mulch (not compost) to control weeds and promote moisture retention within the buffer area;

q. Construction specifications and methods shall be approved by a qualified wetland specialist and the City's Shoreline Administrator;

r. All mitigation shall be consistent with requirements of WRMC Chapter 18.16 - Flood Damage Prevention ~~(2006)~~(2017), and city stormwater requirements, if applicable;

s. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, capacity of the wetland to store surface water should be equal to or greater than surface water storage capacity prior to the proposed activity;

t. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, ability of the wetland to intercept surface water runoff on the site should be equal to or greater than such ability prior to the proposed activity;

u. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, the ability of the wetland to perform stormwater detention functions should be equal to or greater than such functions prior to the proposed activity.

7. Wetland mitigation shall occur according to the approved wetland mitigation plan, and shall be consistent with all provisions of this regulation.

8. On completion of construction required to mitigate for impacts to wetlands, the wetland mitigation project shall be signed off by an approved qualified wetland specialist and the City's Shoreline Administrator. Signature will indicate that the construction has been completed as planned and the mitigation would be subject to the approved monitoring program and contingency plan.

## Q. Wetlands – Monitoring program and contingency plan

1. If the wetland mitigation plan includes compensatory mitigation, a monitoring program shall be implemented to determine the success of the compensatory mitigation project.

2. Specific criteria shall be provided for evaluating the mitigation proposal relative to the goals and objectives of the project and for beginning remedial action or contingency

measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.

3. A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails.
4. Requirements of the monitoring program and contingency plan are as follows:
   a. During monitoring, use scientific procedures for establishing the success or failure of the project;
   b. For vegetation determinations, permanent sampling points shall be established;
   c. Vegetative success equals 80 percent survival of planted trees and shrubs and 80 percent cover of desirable understory or emergent species;
   d. Submit monitoring reports of the status of the mitigation project to the City's Shoreline Administrator. The reports are to be prepared by a qualified wetland specialist and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:
      1) At time of construction;
      2) Thirty days after planting;
      3) Early in the growing season of the first year;
      4) End of the growing season of first year;
      5) Twice the second year;
      6) Annually;
   e. Monitor five growing seasons;
   f. Correct for any failures in the mitigation project, and remove weeds as necessary to reduce competition with planted vegetation;
   g. Replace dead or undesirable vegetation with appropriate plantings;
   h. Repair damages caused by erosion, settling, or other geomorphological processes;
   i. Redesign mitigation project (if necessary) and implement the new design;
   j. Correction procedures shall be approved by a qualified wetland specialist and the City's Shoreline Administrator.

## R. Critical fish and wildlife habitat conservation areas

Critical fish and wildlife habitat conservation areas are those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife, and natural vegetation. Areas that are identified or classified as critical fish and wildlife habitat conservation areas shall be subject to the requirements of this section.

1. General. Critical fish and wildlife habitat conservation areas, which do or may exist within West Richland, are identified as follows:

   a. Areas with which federal or state endangered, threatened, and sensitive species of fish or wildlife have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;

   b. Habitats and species of local importance, including:

      1) Special habitat areas that are infrequent in occurrence in the region and that provide specific habitats, as follows:

         a) Category 1 and 2 wetlands;

         b) Areas of pristine shrub-steppe habitat at least one acre in size;

         ~~b)~~c) Areas where the wapato (*Sagittaria latifolia*) and dogbane hemp – (*Apocynum cannabinum*) occur, as these species are culturally significant to the Confederated Tribes of the Umatilla Indian Reservation members.

   c. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.~~;~~ Naturally occurring ponds 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 three years' duration) and landscape amenities;

   d. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031;

   e. Lakes, ponds, and streams planted with fish by a governmental agency, agency-sponsored group, or tribal entity;

   f. State natural area preserves and natural resource conservation areas; and~~.~~

   ~~f.~~g. Documented habitat, other than accidental presence, of regional or national significance for migrating birds.

2. Mapping. The following documents, which may be continuously updated as new information becomes available, may be used as a guide for locating critical fish and wildlife habitat conservation areas. Note that some information is deemed sensitive and may not

be released, except in accordance with applicable agreements, such as the WDFW Releasing Sensitive Fish and Wildlife Information Policy 5210 and corresponding release agreement.

a. WDFW Priority Habitat and Species lists;

b. WDNR State Natural Area Preserves and Natural Resource Conservation Area maps.

3. Regulation. Critical fish and wildlife habitat conservation areas are to be managed by maintaining the subject species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all critical habitat or individuals of all species at all times, but does mean coordinated planning and development to ensure no net loss of ecological function.

a. Habitat Assessment. A habitat assessment, prepared by a qualified wildlife biologist, shall be submitted for any development activity proposed on a site which contains or is within: (A) 200 feet of a site or area that ~~If~~ the City's Shoreline Administrator has reason to believe that critical fish and wildlife habitat exists on or within, or (B) 300 feet of documented habitat for threatened, endangered, or sensitive fish or wildlife species. ~~200 feet of a property proposed for any development activity, a habitat assessment shall be prepared by a qualified wildlife biologist.~~ The habitat assessment shall include, at a minimum, the following:

1) An analysis and discussion of critical species or habitats known or suspected to be located **on or** within 200 feet (or within 300 feet, as applicable) of the project site;

2) A site plan that clearly delineates the critical fish and wildlife habitats found on or within 200 (or within 300 feet, as applicable) feet of the site.

b. Habitat Assessment Review. The habitat assessment review shall be forwarded for review and comment to agencies with expertise or jurisdiction on the proposal, including, but not limited to, the:

1) WDFW;

2) United States Fish and Wildlife Service, if any federal endangered or threatened species are involved.

Comments received by the requested review agencies within 45 days of the submittal of the assessment shall be considered by the City's Shoreline Administrator. If it is determined, based upon the comments received, that critical fish and wildlife habitat does not occur on or within 200 feet of the site; the development may proceed without any additional requirements under this section. If it is determined that a critical fish and wildlife habitat is on or within 200 feet of the site, a habitat management plan shall be prepared.

c. Habitat Management Plan. Habitat management plans required under this section shall be prepared by a qualified wildlife biologist. The habitat management plan must be prepared in coordination with and reviewed by the WDFW, and if any federal endangered or threatened species are involved, by the United States Fish and Wildlife Service. A habitat management plan shall contain, at a minimum, the following:

1) Analysis and discussion on the project's effects on critical fish and wildlife habitat;

2) An assessment and discussion on special management recommendations that have been developed for critical species or habitat located on the site by any federal or state agency;

3) Proposed mitigation measures that could minimize or avoid negative impacts;

4) Assessment and evaluation of the effectiveness of the mitigation measures proposed;

5) Assessment and evaluation of ongoing management practices to protect critical fish and wildlife habitat after development of the project site, including proposed monitoring and maintenance programs;

6) Assessment of project impact or effect on water quality, and any proposed methods or practices to avoid degradation of water quality, if applicable;

7) Assessment of any need to interconnect the subject area with other fish and wildlife habitat to ensure that isolated subpopulations are not created.

An opportunity for review of the proposed habitat management plan shall be provided to applicable federal and state agencies. Comments received from the agencies within 45 days of circulation of the plan shall be considered by the city and, if mitigation is recommended, may be incorporated as conditions of project approval, as appropriate. If it is determined, based upon the comments received, that a project or proposal is likely to result in the extirpation or isolation of a critical fish or wildlife species the project or proposal may be denied.

4. Buffer Requirements. If it is determined, based upon a review of the comments received on the habitat management plan, that a buffer would serve to mitigate impacts to a critical fish or wildlife habitat, an undisturbed buffer shall be required on the development site. The width of the buffer shall be based upon a recommendation of at least one of the appropriate review agencies.

5. Specific Habitats – Anadromous Fish.

a. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special

consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

1) Activities shall be timed to occur only during the allowable work window as designated by the WDFW for the applicable species;

2) Alternative alignments or locations for the activity that do not involve the anadromous fish habitat have been considered and determined not feasible;

3) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and

4) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

b. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided to allow the upstream migration of adult fish and to prevent fry and juveniles migrating downstream from being trapped or harmed.

c. Filling of water bodies, when authorized by the city of West Richland's shoreline management master program and SEPA review, shall not adversely impact anadromous fish or their habitat, or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.

6. Specific Habitats – Bald Eagle Protection. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 220-610-100~~232-12-292~~). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified wildlife biologist. Activities are adjacent to bald eagle sites when they are within 800 feet of a bald eagle nest, or within a one-half mile of a bald eagle nest and within 250 feet of a shoreline. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the WDFW.

7. Government and Conservation Land – Protection. In addition to the critical fish and wildlife habitat conservation areas protected in subsection A of this section, the city of West Richland hereby recognizes the benefit of undeveloped government and conservation lands that may not otherwise qualify as critical fish and wildlife conservation areas, but which still provide beneficial wildlife habitat. The land development patterns of Section 6 and Section 8 of Willamette Heights, combined with the undeveloped government-owned land in those sections and elsewhere throughout the city, contribute significantly to the habitat inventory and wildlife corridors of several species that are not endangered, threatened, or sensitive, but which are listed as state candidate and state monitored species. To recognize the benefit of these lands, the following areas are included as fish and wildlife habitat and species of local importance:

a. Lands owned by a government entity or conservation group that have all of the following characteristics:

1) Are not otherwise classified as critical fish and wildlife habitat;

2) Are not public road right-of-way;

3) Have a primary association with a federal candidate species, state candidate species, federal species of concern, or state monitored species, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term; and

4) Are mapped as "Government and Conservation Land" on the city of West Richland's map titled "Critical Fish and Wildlife Habitat Conservation Areas."

The lands so classified are not subject to the provisions of subsections A through D of this section. However, if development of the government land is proposed, a habitat assessment shall be performed by a qualified wildlife biologist to help the city determine if the property, or a portion thereof, must be protected for the purpose of serving as a wildlife corridor or habitat to prevent the likelihood of the subject species from becoming listed as endangered, threatened, or sensitive. Private lands adjacent to such government and conservation lands shall observe a 35-foot setback and buffer.

8. Wildlife Corridors to Be Established. All development proposals near a future wildlife corridor, as shown on the city's critical fish and wildlife habitat conservation areas map, shall be reviewed to determine whether the wildlife corridor, or a portion thereof, is needed across the subject property. The width of the wildlife corridor shall generally be at least 100 feet, where not restricted by existing development.

   In order to allow movement of the subject species, the wildlife corridor shall preferably be maintained in a natural habitat condition and free of barriers; provided corridors with degraded, poor-quality habitat may be improved as landscaped areas when a qualified wildlife biologist or wildlife agency is satisfied that the landscaping and associated improvements will still maintain an effective wildlife movement corridor.

   If a wildlife corridor is determined necessary, it shall be established by easement, or other legal method agreeable to the city, and recorded with the Benton County auditor.

## S. Critical Aquifer Recharge Areas – Designation

CARAs are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources

or contribute significantly to the replenishment of groundwater. The following areas have been identified as CARAs based on local conditions:

1. Wellhead Protection Areas of All Public Water Systems. Wellhead protection areas shall be defined by the boundaries of the 10-year groundwater time of travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

## T. Mapping of Critical Aquifer Recharge Areas

The approximate location and extent of the CARAs are shown on the critical area map titled "Aquifer Recharge Areas." ~~The source of the original mapping is found in Exhibit 4-3 of the City of West Richland Wellhead Protection Plan, September 2002.~~ The source of information is the 2016 Wellhead Protection Plan, prepared by JUB, Consultant. This map is to be used as a guide for the city, project applicants and/or property owners, and may be updated as new information becomes available.

## U. Critical Aquifer Recharge Areas – Regulation

The following items are in place to protect CARAs and regulate activities that might potentially impact these areas:

1. City of West Richland construction standards (WRMC Title 12 – Streets, Sidewalks and Public Places ~~(2012)~~(2018) and WRMC Title 13 – Public Services – Water, Sewer, Irrigation and Stormwater ~~(2014)~~(2017)).
2. City of West Richland wellhead protection plan.
3. Chapter 173-218 WAC (Underground Injection Control Program).
4. State and federal regulations applicable to specific uses, including but not limited to those listed in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Sections W and X.
5. The groundwater quality standards of Chapter 173-200 WAC.

## V. Critical Aquifer Recharge Areas performance standards – General requirements

1. Activities may only be permitted in a CARA if the applicant can show that the proposed activity will not significantly affect the recharging of the aquifer and that the proposed

activity will not cause contaminants to enter the aquifer. In the case of underground injection wells (drywells, infiltration trenches, drainage wells, etc.), compliance with Chapter 173-218 WAC shall typically be deemed sufficient to meet this requirement. With other activities and uses that could potentially pollute groundwater, compliance with the standards and review process of Chapter 173-200 WAC, Water Quality Standards for Ground Waters of the State of Washington, will typically apply.

2. The proposed activity must comply with the water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Health, Ecology, and the Benton-Franklin Health District, and as provided in the city's wellhead protection plan.
3. The proposed activity must be designed and constructed in accordance with best management practices for stormwater management, such as those found in the Eastern Washington Stormwater Manual, Ecology Publication No. 04-10-076, or its equivalent.

## W. Critical Aquifer Recharge Areas performance standards – Specific uses

1. Storage Tanks. All storage tanks proposed to be located in a CARA must comply with applicable building code requirements and the following:
   a. Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
      1) Prevent releases due to corrosion or structural failure for the operational life of the tank;
      2) 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;
      3) Use material in the construction or lining of the tank and seals that is compatible with the substance to be stored; and
      4) Include leak detection features.
   b. Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed to:
      1) Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;

2) Prevent spilled or leaked materials from entering floor drains that are not part of a liquid-tight containment system designed to capture and hold hazardous materials; and

3) Meet one of the following four options:

   a) Be stored indoors on a liquid-tight concrete floor, without secondary containment if the storage area is able to contain 100 percent of the largest container in the event of a spill and prevent it from flowing or leaking out of the building.

   b) Be stored outdoors or indoors and provided with a covered secondary containment area that can hold 110 percent of the volume of the largest storage container or 10 percent of the total volume stored, whichever is greatest, plus the displacement volume of any items inside the containment.

   c) Be stored in an outdoor, uncovered secondary containment that can hold 120 percent of the volume of the largest storage container or 10 percent of the total volume stored, whichever is greatest, plus the displacement volume of any items inside the containment.

   d) Be stored in a UL-certified double-walled storage tank. The volume requirements that are listed in options a), b), and c) do not apply to UL-certified double-walled storage tanks.

2. Vehicle Repair and Servicing. Within CARAs, all vehicle repairs and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks or spills occur.

3. Spreading or Injection of Reclaimed Water. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by Ecology and the Department of Health.

   a. Surface spreading must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080.

   b. Direct injection must be in accordance with Chapter 173-218 WAC and the standards developed by authority of RCW 90.46.042.

4. State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect CARAs in accordance with the applicable state and federal regulations:

**Statutes, Regulations, and Guidance Pertaining to Activities Impacting Groundwater**

| Activity | Statute – Regulation – Guidance |
|---|---|
| Aboveground storage tanks | WAC 173-303-640 |
| Animal feedlots | Chapters 173-216 and 173-220 WAC |
| Automobile washers | Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Ecology WQ-R-95-56) |
| Below ground storage tanks | ~~Chapter 173-360 WAC~~Chapter 173-360A WAC |
| Chemical treatment storage and disposal facilities | ~~WAC 173-303-182~~WAC 173-303-282 |
| Hazardous waste generator (boat repair shops, biological research facility, dry cleaners, furniture stripping, motor vehicle service garages, photographic processing, printing and publishing shops, etc.) | ~~Chapter 173-303 WAC~~WAC 173-303-170 |
| Underground injection wells (drywells, etc. – Note that any use involving stormwater, drainage, process water, or wastewater needs to be reviewed for applicability of Chapter 173-218 WAC) | Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC |
| Junkyards and salvage yards | Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycler Facilities (Ecology 94-146) |
| Oil and gas drilling | Chapter 173-218 WAC<br>WAC 332-12-450 |
| On-site sewage systems (large scale) | Chapter 173-240 WAC |

**Statutes, Regulations, and Guidance Pertaining to Activities Impacting Groundwater**

| Activity | Statute – Regulation – Guidance |
|---|---|
| On-site sewage systems (< 14,500 gal/day) | Chapter 246-272 WAC, Local Health Ordinances |
| Pesticide storage and use | Chapters 15.54 and 17.21 RCW |
| Sawmills | Chapters 173-303 and 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Ecology 95-53) |
| Spills and Discharges into the Environment | WAC 173-303-145 |
| Solid waste handling and recycling facilities | Chapter 173-304 WAC |
| Surface mining | WAC 332-18-015 |
| Wastewater application to land surface | Chapters 173-200 and 173-216 WAC, Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture |

# X. Uses prohibited from Critical Aquifer Recharge Areas

The following activities and uses are prohibited in CARAs (prohibited uses are based on "Critical Aquifer Recharge Areas Guidance Document" by Ecology, January 2005, Publication No. 05-10-028, and Chapter 173-218 WAC):

1. Class I, III, and IV underground injection wells (see Chapter 173-218 WAC);
2. Underground injection wells that do not comply with Chapter 173-218 WAC;
3. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;
4. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces;

5. Creosote or asphalt manufacturing;
6. Class 1A or 1B flammable liquids manufacturing as defined by the Uniform Fire Code;
7. Petroleum product pipelines; and
8. Facilities that treat or dispose of dangerous waste regulated by Chapter 173-303 WAC.

## Y. Landslide and erosion hazard areas

Areas that are identified as potential landslide or erosion hazard areas shall be subject to the requirements established in this section. The requirements shall apply when the existing and/or proposed slopes fall within the parameters specified; provided, if it is satisfactorily demonstrated to the City's Shoreline Administrator that a landslide or erosion hazard potential clearly does not exist on the site and will not be created by the proposed action, the requirements of this section may be waived.

1. Mapping. The following documents, which may be continuously updated as information becomes available, may be used as a guide for locating landslide and erosion hazard areas:
   a. The city's critical area map titled "Erosion hazard areas."
   b. The city's critical area map titled "Hillsides with 15%+ slopes."
2. Hillsides and Erosion Hazard Areas – Geotechnical Study Required. Development on hillsides and erosion hazard areas shall comply with the following requirements. For purposes of this section, development shall include any activity that may affect the stability of the hillside or erosion hazard area, such as excavating, grading, filling, clearing, installing stormwater systems, developing roads, installing subdivision improvements, and constructing buildings.
   a. Geotechnical Report Requirements. A geotechnical engineering study, prepared by a qualified civil engineer or geotechnical engineer license in the state, shall be provided by the applicant and contain the items specified by the following table. When the length of the sloped area is less than that specified in the following table, a study is not required.

      If a geotechnical report has been prepared and accepted by the City's Shoreline Administrator within the previous two years for a specific site and the proposed land use development and site conditions have not changed, the report may be utilized without the requirement for a new report.

| Slope of Hillside on Site and/or Adjacent Properties | Length of Slope, Measured Along Ground | Geotechnical Report |
|---|---|---|
| 0% to 14.9% and not in an erosion hazard area | No limit | Report not required |
| 8% to 14.9% and within an erosion hazard area | > 65 feet | Report required |
| 15% to 24.9% | > 40 feet | Report required |
| 25% to 39.9% | > 25 feet | Report required |
| 40% + | > 20 feet, or more than a 10-foot vertical relief | Report required |

b. Contents of Report. The geotechnical report shall address each of the following, as determined applicable to the situation by the city:

1) Topographic data at a minimum scale of 1:240 (one inch equals 20 feet). Slope ranges shall be clearly delineated in increments of 15 percent to 24.9 percent, 25 percent to 39.9 percent, and greater than 40 percent.

2) Subsurface data, including boring logs and exploratory methods, soil and rock stratigraphy, groundwater levels and any seasonal variations of groundwater levels.

3) Site history, including description of prior grading and clearing, soil instability or slope failure.

4) Slope stability analysis, including calculated slope stability safety factors and identification of the maximum slope percentage or ratio to maintain a slope-stability safety factor of one and one-half or better under static conditions and one and two-tenths or better under dynamic conditions. A sufficient number of tests shall be performed to ensure that all areas proposed for development currently provide, and will continue to provide, the minimum slope-stability safety factors. All areas with less than the minimum slope-stability safety factor shall be identified on a map and in the field.

5) Recommended buffers from landslide hazard areas or erosion hazard areas.

6) Suitability of the soils and hillside to accommodate stormwater facilities, irrigation, and roof runoff, and any measures necessary to mitigate any hazards relating thereto.

7) Recommended seismic design criteria for development of the site, if construction is contemplated.

8) For areas with slopes over 25 percent, or a slope stability factor of less than two, a seismic stability analysis of the site for both preconstruction, construction, and post construction.

9) Recommended methods to minimize erosion and stormwater runoff from the site during and after construction.

10) Any special considerations needed during construction, so that temporary cuts/fills such as done for utility installation do not create situations of unsafe slope stability.

11) Other site limitations and construction considerations.

12) A recommendation as to whether further engineering, or observation by an engineer, is needed beyond the current project (such as when constructing houses following construction of a subdivision).

c. Adjacent Hazards – Study Required. Adjacent hillside and erosion hazard areas shall also be considered to determine whether they pose a landslide or erosion hazard to the development site. "Adjacent" shall mean within 50 feet from the side or top of a sloped area exceeding 15 percent, and within 100 feet of the toe of a slope exceeding 15 percent, or within 200 feet of the toe of a slope exceeding 40 percent. Such study of adjacent hillside and erosion hazard areas need not involve a full geotechnical engineering study, as outlined above, if a qualified engineer provides written certification that the adjacent area, in its present condition, does not constitute a hazard to the development of the site.

d. Implementation. Project construction, if authorized, shall be required to implement all recommended requirements of the geotechnical report, and any additional requirements as determined by the department. In addition, should adjacent properties be adversely impacted by the implementation or construction, additional mitigation measures necessary to minimize or eliminate these impacts shall be implemented by the applicant.

e. Development Restricted within Erosion Hazard Areas. Development within an erosion hazard area may only be authorized when:

1) The erosion hazard to public and private property and to the public health and safety can be mitigated to the extent that the erosion hazard no longer presents a significant risk, as determined by the geotechnical engineer and city after review of

the geotechnical study. The city may require professional assurances from the geotechnical engineer, developer, and property owner; and

2) The area is not within a landslide hazard area.

f. Development Restricted within Landslide Hazard Areas. Except as provided below, development within a landslide hazard area and its recommended buffer is prohibited. Furthermore, no landslide hazard shall be created or increased in size or hazard by any development. Landslide hazard areas include all areas with a slope stability factor of less than one and one-half for static conditions of one and two-tenths for dynamic conditions, as calculated by a qualified geotechnical engineer. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the building code. The exceptions do not preclude a reasonable use exemption.

1) Exception 1: An existing lot may be developed with a single-family dwelling in landslide hazard areas with a slope stability safety factor of at least one in static and dynamic conditions, provided a qualified engineer certifies that accepted engineering techniques will mitigate the impact of the contemplated improvements and that the hazard to neighboring properties will not be increased over existing conditions.

2) Exception 2: Utility lines, utility facilities, and unpaved maintenance roads that follow the existing ground surface (grading to provide a drivable road surface is okay, but no cut/fill banks); provided no alternative locations or routes outside of the hazard area exist, and a qualified engineer certifies that accepted engineering techniques will mitigate the impact of the contemplated improvements and that the hazard to neighboring properties will not be increased over existing conditions.

g. The creation of lots containing landslide hazard areas and their buffers is subject to the following:

1) No lot shall be created that is wholly within a landslide hazard area or its buffer.

2) Development of the property shall not create any landslide hazard areas where they did not exist previously.

3) A lot that is located only partially within a landslide hazard area or its buffer is not precluded from being created; provided, that the area of the proposed lot that is outside of the landslide hazard area and its buffer contains a suitable building site to accommodate the contemplated improvements, and access to the building site is not within a landslide hazard area and its buffer.

h. Notice of Title. The owner of any property with a field-verified erosion hazard, landslide hazard, or associated buffer, as identified through a geotechnical report, shall

file for record with the Benton County auditor a notice of such in a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of the erosion hazard, landslide hazard, or associated buffer; the application of this chapter to the property; and that limitations on actions in or affecting such critical areas and their buffers may exist. The notice shall be notarized and shall be recorded prior to approval of any development of such site. The notice shall run with the land and shall be substantially in the following form:

EROSION HAZARD AND/OR LANDSLIDE HAZARD NOTICE

Legal Description:

_____

_____

_____

Present Owner:_____

NOTICE: This property contains an identified erosion hazard/landslide hazard/erosion hazard buffer/landslide hazard buffer (select applicable) as defined by City of West Richland Ordinance. Restrictions on use or alteration of the hazard area(s) or their buffers exist due to natural conditions of the property and resulting regulations. Contact the City of West Richland for more information.

_____ _____

Date Owner's Signature

i. Disturbance Limitations. The edge of an erosion hazard, landslide hazard, and associated buffer shall be clearly staked, flagged, and fenced prior to any adjacent site clearing or construction. Markers shall be clearly visible and weather-resistant. Authorized site clearing shall not commence until such time that the project proponent or authorized agent for the project proponent has submitted written notice to the city that the buffer requirements of this section have been met. Field marking of the buffer shall remain in place until all phases of construction have been completed and an occupancy permit has been issued by the city.

3. Other Laws and Regulations. No approval granted pursuant to this chapter shall remove an obligation to comply with the applicable provisions of any other federal, state, or local law or regulation.

## Z. Seismic hazard areas.

1. Identification. Seismic hazard areas include those areas that are susceptible to severe damage as the result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting.

   a. Seismic hazard due to ground shaking is depicted at a regional scale on the map "Site Class Map of Benton County, Washington," by Stephen P. Palmer, et. al., published September 2004 by the Washington State Department of Natural Resources. Those areas depicted as Site Class D to E and higher shall be considered potential seismic hazard areas. A site-specific evaluation is necessary to analyze the actual ground conditions and the potential for amplified ground shaking, as measured by the site class or other more quantitative analysis.

   b. Slope failure due to seismic activity is addressed in the landslide and erosion hazard section, and is not regulated further by this section.

   c. Settlement during seismic activity is typically an issue with fill areas, whether naturally occurring or created through human action. Potential fill areas shall require soil testing and compaction testing pursuant to applicable building code standards. A map depicting known or potential fill areas may be created as a resource for identifying such areas.

   d. Soil liquefaction potential is depicted at a regional scale on the map "Liquefaction Susceptibility Map of Benton County, Washington," by Stephen P. Palmer, et. al., published September 2004 by the Washington State Department of Natural Resources. Those areas depicted with a "moderate to high" or "high" liquefaction susceptibility shall be considered seismic hazard areas. Site-specific evaluation is necessary to analyze the actual conditions and potential for liquefaction. Areas subject to liquefaction are typically characterized by loose, sandy soils in association with a high groundwater table. As ground shaking occurs, the soil rapidly loses its strength and behaves like quicksand.

      Some low-lying areas on the southern part of the city are known to have high groundwater and deposited sandy soils that may constitute localized liquefaction hazards (portions of the Polo Club developments and the greater Lakes area). Localized areas with liquefaction potential will be mapped as such additional information becomes available. Whether a site is mapped or not, any area with the

characteristics of high groundwater and sand or cobble soils shall be further evaluated by a qualified consultant to determine the liquefaction susceptibility of the site.

e. Surface Faulting. The Rattlesnake-Wallula fault system runs from the Rattlesnake Mountain area in Yakima County to the Milton-Freewater area. The fault system passes along the southwest boundary of the city, running along the anticline fold that forms Red Mountain, Candy Mountain, and Badger Mountain, etc. Further to the southwest is the Horse Heaven Hills fault system. Both systems are considered Quaternary fault systems, meaning they have been recognized at the ground surface and they have moved within the last 1,600,000 years. In the document "The National Seismic Hazards Maps and Eastern Washington Seismic Hazard Assessment," by Art Frankel, United States Geological Survey (USGS), Golden, CO, Oct. 16, 2007, it is noted that the Rattlesnake-Wallula Fault system has a vertical slip rate of 0.043 millimeters per year, and an estimated recurrence time for a 6.5M or greater earthquake at 11,000 years.

The Benton County hazard mitigation plan, prepared for Benton County emergency services and the cities within the county by HDR Engineering, Inc., discusses earthquake hazards for the county and concludes in Chapter 5.3 that the likelihood of a major earthquake occurring within their five-year planning period is low. West Richland adopted the applicable portions of the plan April 5, 2004.

The approximate location of the Rattlesnake-Wallula fault system is depicted on the seismic hazard map. The source of the line, which is only considered accurate within plus or minus 450 feet, is the U.S. Geological Survey, 2006, Quaternary Fault and Fold Database for the United States, accessed August 2008, from USGS website: http://earthquakes.usgs.gov/regional/qfaults/.

The presence of the fault systems are considered in the 2008 USGS National Seismic Hazard Maps, which will be used for future editions of the International Building and Residential Codes. The building code standards shall generally be considered adequate to address the surface faulting hazards in the city; nevertheless, further study and mitigation is not precluded from being required through the SEPA process when conditions warrant.

2. Regulation. Applications for development potentially within a seismic hazard area susceptible to ground shaking (Site Class D to E and higher ratings), settlement (fill areas), or liquefaction ("moderate to high" or "high" rating) shall be accompanied by a geotechnical report prepared by a geologist or geotechnical engineer licensed as a civil engineer with the state. If it is satisfactorily demonstrated that such a seismic hazard does not exist on the site, the requirements of this section may be waived. This section is intended for use primarily at the planning stage of development, such as in conjunction with the review of a proposed subdivision, conditional use permit, etc. If development is

limited to a building permit (no SEPA or land use permit), a seismic risk analysis, pursuant to the requirements of the most recently adopted edition of the International Building or Residential Code, shall be conducted and the geotechnical report requirements of this section may be waived.

3. Geotechnical Report Requirements. The required report shall evaluate the existing site conditions, including geologic, hydrologic and site capability to accommodate the proposed activity. At a minimum, the following shall be included:
   a. Analysis of subsurface conditions;
   b. Delineation of the site subject to seismic hazards; and
   c. Analysis of mitigation measures that may be employed to reduce or eliminate seismic risks, including an evaluation of the effectiveness of mitigation measures.
4. Implementation. Project development shall be required to implement all recommended requirements of the geotechnical report referenced in subsection 3 of this section, and any additional requirements as determined by the City's Shoreline Administrator. If the hazard cannot be fully mitigated, the development may be denied. Compliance with the seismic requirements of the current and future editions of the International Building and Residential codes, as applicable at the time of application for development, is required for all construction in seismic hazard areas.

## AA. Flood hazard areas

Areas which are prone to flooding and which are identified in the Federal Emergency Management Administration flood insurance rate maps for the city of West Richland (September 30, 1981) shall be subject to the requirements of this section.

1. Regulation. All development within flood hazard areas shall be subject to the requirements of the City of West Richland flood hazard construction standards in SMP Chapter 4: General Regulations, Section 4 and WRMC Chapter 18.16 - Flood Damage Prevention ~~(2006)~~(2017).

## BB. Maintenance of existing structures

Structures and facilities lawfully existing prior to the adoption of the ordinance codified in this Appendix shall be allowed to be maintained and repaired without any additional review procedures under this title (other titles and permits may still apply); provided, the maintenance or repair activity itself remains consistent with the provisions of this Appendix and does not increase its nonconformity of such structures or facilities. Additionally, such construction activity shall not prove harmful to adjacent properties. Maintenance consists of usual actions

necessary to prevent a decline, lapse, or cessation from a lawfully established condition. Repair consists of the restoration of a structure or facility comparable to its original condition within two years of sustaining damage or partial destruction. Maintenance and repair shall include damage incurred from accident, fire or the elements. Total replacement of a structure or facility, which is not common practice, does not constitute repair. In addition to the requirements of this section, the requirements of WRMC Chapter 17.72 – Nonconforming Use ~~(2007)~~ (2020) shall apply.

## CC. Performance bonding

As part of any mitigation plan that is not fully completed prior to commencing the proposed development activity, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city to ~~insure~~ensure mitigation is completed and successful.

1. The performance bond or other security shall be 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.
2. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney.
3. Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of three years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or owner to complete required mitigation, maintenance, monitoring, or restoration.
5. Public development proposals shall be relieved from having to comply with the bonding requirements of this section.
6. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due, or to comply with other provisions of an approved mitigation plan, shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the municipal code or any other law.
7. Any funds recovered pursuant to this section shall be used to complete the required mitigation.

## DD. Suspension – Revocation – Compliance monitoring

In addition to other penalties provided elsewhere, the City's Shoreline Administrator may suspend or revoke an approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application.

To assist in the enforcement of this Appendix, the city may require or perform periodic monitoring of critical area sites and their buffers before, during, and after any permitted development activity on or near a critical area. Such monitoring should include photos, land use surveys, and other documentation of the condition of the critical area and its buffer.

## EE. Penalties and enforcement

1. The City's Shoreline Administrator shall have authority to enforce this Appendix, any rule or regulation adopted, and any permit, order, or approval issued pursuant to this Appendix, against any violation or threatened violation thereof. The City's Shoreline Administrator is authorized to issue violation notices and administrative orders, levy fines and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this Appendix, or any rule or regulation adopted, or any permit, permit condition, approval, or order issued pursuant to this Appendix shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed a separate and distinct offense. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator.
2. The City's Shoreline Administrator may serve upon a person a cease and desist order if any activity being undertaken in a designated critical area or its buffer is in violation of this Appendix. Whenever any person violates this Appendix or any approval issued to implement this Appendix, the City's Shoreline Administrator may issue an order reasonably appropriate to cease such violation and to mitigate any environmental damage resulting therefrom.
3. Any person who undertakes any activity within a designated critical area or within a required buffer without first obtaining an approval required by this Appendix, except as specifically exempted, or any person who violates one or more conditions of any approval required by this Appendix or of any cease and desist order issued pursuant to this Appendix may incur a civil penalty as provided for in WRMC Chapter 17.81 – Administration and Enforcement ~~(2007)~~(2020).
4. The city's enforcement of this Appendix shall proceed according to SMP Chapter 6: Administration Section ~~K~~L: Enforcement and Penalties, WRMC Chapter 17.81 –

Administration and Enforcement ~~(2007)~~(2020), Shoreline Management Act 90.58.200 and .210, and WAC 173-27 Part II.

| WEST RICHLAND PLANNING COMMISSION ACTION ITEMS | | | | | |
|---|---|---|---|---|---|
| ***AGENDA*** | 5B | ***TYPE OF ACTION NEEDED*** | | | |
| ***MEETING DATE:*** | October 8, 2020 | ***Open Record Hearing*** | X | | |
| ***SUBJECT:*** | Discussion regarding Residential Setbacks and Fencing Standards Amendments | ***Recommend to Council*** | X | ***Final Decision*** | |
| ***Prepared by:*** | Eric Mendenhall, Community Development Director | ***1st Discussion*** | | ***Other*** | |
| ***Reviewed by:*** | Roscoe Slade, PW Director | ***2nd Discussion*** | X | | |

***CITY COMPREHENSIVE PLAN***

*The following Land Use Goals were considered during the process of the proposed development standard amendments:*

A. Demonstrate regard for private property owner's rights in all planning efforts.

B. Create a well-designed, healthy, and aesthetically pleasing City.

C. Enhance the environmental and aesthetic qualities of the City.

D. Provide for the orderly development of the City.

F. Maintain the unique character of the City and maintain or improve the character and livability of established neighborhoods.

J. Ensure compatibility of residential development with established and projected land use patterns.

***ATTACHMENTS***

1. *Draft Ordinance.*

***DESCRIPTION OF PROPOSAL:***

Following the adoption of the updated Title 17 in July staff found some conflict with the new code and feel that they needed to be addressed. Also, during the public hearing with the Planning Commission testimony was received regarding setback concerns with setbacks from access easements and other easements. While updating the document we also noticed inconsistencies with how the fencing setbacks between the code and how residents have been building their fences. Therefore, to correct the issue staff is proposing to reduce the fencing setback for corner lots on the street side yard to be allowed at the property line. The fencing must still meet the vision triangle to protect vehicular travels

at corners.

***FUTURE PROCESSING***

The following are dates and milestones of the staff, Planning Commission, City Council, and other action and processing related to this code amendment:

Completed:

- August 13, 2020: Discussion of the proposed regulations.
- September 17, 2020: Notice of Intent to Adopt 60-day review sent to Department of Commerce with a request for expedited review *(Expedited review will be requested)*
- September 17, 2020: A SEPA DNS was issued and noticed of the proposed amendments and have been transmitted to interested agencies;

To be completed:

- October 8, 2020: Public Hearing with the Planning Commission and recommendation to Council.
- October 13, 2020: Community Development Council Subcommittee discussion.
- November 3, 2020: Public Hearing at Council to allow public input;
- November 17, 2020: Council will hold a Public Hearing and likely take action;

**CITY OF WEST RICHLAND**
**ORDINANCE NO. ____-20**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST RICHLAND, WASHINGTION, AMENDING TITLE 17.54.050.1 AND 17.XX.XXX OF THE WEST RICHLAND MUNICIPAL CODE, WHICH UPDATES REQUIRED STRUCTURE SETBACKS AND FENCING SETBACKS IN RESIDENTIAL DISTRICTS;**

**WHEREAS,** the City would like to create a well-designed, healthy, and aesthetically pleasing City; and

**WHEREAS,** the City would like to provide for orderly development of the City; and

**WHEREAS,** the City would like staff to regularly review the City's zoning code for inconsistencies, better clarity, better functionally, and to ensure that the City's best interests are being protect; and

**WHEREAS,** the City undertook a multiyear review process, including many Planning Commission meetings, City Council workshops and public engagement; and

**WHEREAS**, the City Council understands that the proposed code is not perfect and that the zoning code is a "living document" that will need regular updates; and

**WHEREAS**, the City Council will review parking lot ideas to establish priority and need future amendments; and

**WHEREAS,** on March 4, 2020, the City's Community Development Department provided notice of intent to adopt the proposed amendments to the Washington State Department of Commerce for their required 60-day review period; and

**WHEREAS,** on March 4, 2020, the City's Community Development Department issued a State Environmental Policy Act (SEPA) notice to retain the threshold determination of DNS (Determination of Non-significance) on the proposed changes issued on May 17, 2017; and

**WHEREAS,** on June 11, 2020 the Planning Commission held a duly noticed public hearing to receive public testimony on the proposed changes; and

**WHEREAS,** on June 11, 2020, the Planning Commission voted unanimously to support the staff's recommended findings, conclusions, and recommendations on the proposed amendment and recommend approval of the zoning code amendment; and

**WHEREAS**, the City Council Community Development Subcommittee reviewed the proposed amendments on June 23, 2020 and recommended "do pass" to the full Council; and

**WHEREAS**, the City Council reviewed the proposed amendments in a duly noticed public hearing on July 7, 2020; and

**WHEREAS,** all parties wishing to comment on the proposed amendments were given an opportunity to do such;

**WHEREAS**, on July 21, 2020, the City Council voted to _____ the zoning code amendments; and

**WHEREAS**, the City Council finds it prudent and in the public interest to adopt the proposed amendments by ordinance;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST RICHLAND, WASHINGTON, does hereby ordain as follows:**

**SECTION 1: That West Richland Municipal Code 17.54.050 Area and dimensional regulations and standards tables**, is hereby amended to read as follows:

**17.54.050 Area and dimensional regulations and standards tables.**

A. Tables 17.54.050.1, 17.54.050.2 and 17.54.050.3 show the area and dimensional regulations and standards for the zoning districts in the city.

B. Notwithstanding the setbacks specified in Table 17.54.050.1, 17.54.050.2 and 17.54.050.3, no building is to be located within an established easement.

~~1. The exception is that lots in Section 6 and Section 8 of Willamette Heights may have accessory buildings within the patent rights-of-way/easements and the accessory building is on a nonpermanent foundation, the accessory building is 200 square feet or less in area and has a roof ridge height of 12 feet or less, the patent/easement is not shown as a "planned roadway" or "access easement" on the adopted local roadway plan, the patent/easement does not contain an established driveway or road, the patent/easement does not contain any utilities (e.g., water, sewer, power, phone, cable, irrigation) and the property owner signs a waiver that is recorded on the property indicating that the owner agrees to remove the accessory building from the easement within 10 days of receiving written notice from either the city, a utility, or a property owner relying on the easement for access or installation of utilities. It shall include a clause that the building may be removed by the city at the owner's expense, if the owner fails to comply with the request.~~

C. ~~All sides of a lot that abut a street (whether the street is existing or reserved by an easement or right-of-way) are to be considered front yards as to setback requirements except where one of the streets is an arterial and the lot does not have any access to it (see definition of "Yard, front" and "Lot, through"); however, when the lot is bordered by two or more streets, the setbacks for residential structures are authorized to be reduced as follows:~~ Exceptions to the setbacks standards are as follows:

~~1. The opposing side yard frontage corner lot setback may be reduced as set forth above when the frontage is on a local street and at least one frontage maintains the full front yard setback.~~

2. If the lot is a corner lot and one of the streets is a limited access roadway, as specified by Chapter 10.24 WRMC, and the lot does not gain direct access from the limited access roadway, a minimum setback of 10 feet from the right-of-way of the limited access roadway is authorized.

~~3. If the lot is a "through lot" (also known as "double frontage lot"), a minimum setback of 10 feet from the rear property line is authorized for one uninhabitable accessory structure that is 200 square feet or less per lot.~~

4. If one of the streets is a private access road within a private access easement, serves less than four lots or dwellings, and the city engineer and community development director determine that it is not likely to ever provide access to more than four lots or dwellings, a setback of 10 feet shall apply from the inner edge of the private access easement; or the setback must comply with the listed in the table 17.54.050.1, whichever is greater.

D. Lots located in Section 6 and Section 8 that are identified in the local roadway plan as adopted by the city must comply with listed setbacks in table 17.54.050.1, and shall be measured from the inner edge of the access easement. When no roadway is proposed as part of the local roadway plan, then the setback shall be measured from the property line, but in no case shall a structure be allowed within 5 feet of an access easement.

**SECTION 2: That West Richland Municipal Code Table 17.54.050.1 Residential site development standards table**, is hereby amended to read as follows:

**Table 17.54.050.1 Residential site development standards table**

KEY:
Residential Low-Density (RL-20, RL-40)
Residential Medium-Density (RM-6, RM-10)
Manufactured Home Park (MH-P)
Multifamily Residential (MR)
Downtown-Mixed Use (D-MU)
Urban Transition (UT)
**Planned Unit Development (PUD)**

| | | ***RL-40*** | ***RL-20*** | ***RM-10*** | ***RM-6*** | ***MR*** | ***D-MU*** [11] |
|---|---|---|---|---|---|---|---|
| | **Minimum Dimensions/ Sizes [6]:** | | | | | | |
| | *Single-Family Lot Area* **(if served by City Water and Sewer)** | *40,000 s.f.* | *20,000 s.f.* | *10,000 s.f.* **(12,500 s.f. for corner lots)** | *6,000 s.f.* **(7,500 s.f. for corner lots)** | 3,000 s.f. | 3,000 s.f. |
| | **Single-Family Lot Area (if not served by City Sewer)** | **5 Acres [8]** | **5 Acres** | **10 Acres** | **10 Acres** | **10 Acres** | **N/A** |
| | *Townhouse/ Rowhouse Lot Size* | | | | *1,800 s.f. Not to exceed 9 units/ acre* | *1,800* | *1,800* |
| | *Duplex Lot Area* **per** *Dwelling Unit* | | | | | 4,000 | *2,000* |
| | *Multifamily Lot Area* **per** *Dwelling Unit* | | | | | *2,000* | *2,000* |
| | *Lot Width* **(at street frontage)** | *45'* | *45'* | *40'* | *30'* | *30'* | *30'* |
| | *Lot Depth* | *90'* | *90'* | *80'* | *80'* | | *80'* |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | *Front Yard Setback* ((2)3)(7) | *25'* | *25'* | *20'* | *20'* | *15'* | *20'* |
| | *Rear Yard Setback* (1)(2) (5) | *20'* | *20'* | *8'* | *8'* | *10'* | *8'* |
| | *Side Yard Setback* (1)(2)(3)(5) | ~~*20'*~~*10'* | *10'* | *5'* | *5'* | *5'* | *5'* |
| | *Street Side Yard* **Setback** - *Corner* **Lot** **(2)(9)** | ~~**20'**~~**15'** | **15'** | *15'* | *15'* | *15'* | *15'* |
| | *Open Space* | | | | | | |
| | | | | | | | |
| | Maximum Dimensions/ Sizes: | | | | | | |
| | *Lot Coverage* | *50%* | *50%* | *50%* | *40%* | *60%* | 60% |
| | *Building Height* (5) | *40'* | *40'* | *40'* | *40'* | *40'* | *40'*(10) |

| | |
|---|---|
| *(1)* | *Setbacks, when adjacent to a private road or driveway easement, are established from the inner edges of easement and are the same as noted above, except when serving 4 or less parcels the setbacks are measur and shall be the same in the table noted above.* |
| *(2)* | *Minor Projections Allowed. Minor features of a structure, such as eaves, chimneys, fire escapes, bay win long and which cantilever beyond the foundation of the structure, uncovered stairways, and uncovered de extend into a required setback up to two feet in residential districts. However, they may not be less than th a setback is required. Wheelchair ramps are allowed to project into the setback. Attached mechanical equ pumps, air conditioners, emergency generators and water pumps are allowed to project into the side or r*<br><br>*A covered porch, covered patio, deck 30 inches or higher, pergola, and any other roofed structure shall b building in the determination of the size of the yard or lot coverage.* |
| *(3)* | *Side yard setbacks* **are** *not applicable to Townhouse or Rowhouses.* |
| *(4)* | *The UT district has agricultural "Quarter/quarter zoning" which permits one residential dwelling on a o each one-sixteenth of a section of land.* |
| *(5)* | *Setbacks and maximum building heights for certain accessory buildings are reduced, as detailed in WRM* |
| *(6)* | *Exceptions to the setback requirements may be considered in accordance with WRMC 17.54.020, when a multiple lots. A setback exception pertaining only to an individual lot is to be considered through the vari 17.69 WRMC.* |

| | |
|---|---|
| *(7)* | *Minimum setbacks for separate garages or accessory buildings ordinarily appurtenant to the conduct of f and storage shed for large farm machinery, shall not be less than 60 feet from the front lot line.* |
| *(8)* | *The minimum lot size in the RL-40 zoning district remains at 40,000 square feet when a lot to be divided i from city sewer, and served with city water.* |
| *(9)* | *Not applicable to a garage door and/or carport opening which must maintain the front yard setback.* |
| *(10)* | *New commercial and/or multifamily buildings within the downtown – mixed use district over 40 feet in he the conditional use permit process set forth in Chapter 17.66 WRMC.* |
| *(11)* | *The standards of WRMC 17.49.080 apply.* |

**SECTION 3:** **That West Richland Municipal Code 17.09.260 Y definitions**, is hereby amended to read as follows:

"Yard" means an unoccupied space open from the ground line to the sky on the same lot with the building or structure.

"Yard, front" means an open and unoccupied space on the same lot with the main building and which space extends the full width of the lot situated between the street line and the front line of the building, projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the front property line. Covered porches, covered carports, enclosed parking or storage spaces (garages), or raised platforms (decks) higher than two inches above the average grade whether enclosed or unenclosed shall be considered as a part of the structures and shall not be projected into the required front yard. For the purpose of this title, the front yard is that area abutting the street, the name of which constitutes the common address of the property. ~~Where a side or rear yard abuts a street, it shall be considered as a front yard as to setback requirements unless such side or rear yards are specifically provided with alternate requirements.~~

"Yard, rear" means an open unoccupied space on the same lot with main building extending the full width of lot and situated between rear line of lot and rear line of building. Depth of the rear yard shall be measured between rear line of the lot or centerline of an access easement and the rear line of the building.

"Yard, side" means an open unoccupied space on the same lot with the building or buildings, which space is situated between the furthermost projection of the building and the side lines of the lot extending from the front yard to the rear yard. Any lot line not a rear line or a front line is a side line.

**SECTION 4:** **That West Richland Municipal Code 17.56.020 General provisions -**

**Fencing**, is hereby amended to read as follows:

A. ~~Wire Mesh Fences without Slats~~Fences.

1. ~~Seven feet high anywhere on the lot; provided, that they shall be no closer to a street right-of-way than the building setback line in the same zone, except as provided for in subsection C of this section.~~

2. ~~Four feet high anywhere on the lot.~~ Fences, located within the required front yard, shall not exceed a height of three feet where fences would provide less than 50 percent visibility. Fences providing at least 50 percent visibility shall not exceed a height of four feet within the required front yard. Examples of fences that could meet the 50 percent visibility include spaced rail fences, spaced picket fences, and chain link fences.

3. Corner lots may construct a fence beyond the front yard setback to the maximum height at the property line or 2 feet from the back of sidewalk, whichever is greater; provided, that all sight distance requirements are met.

4. No fence shall exceed a total height of seven feet above existing or finished grade in a residential zone,

3. Wire mesh fences constructed in conjunction with public playgrounds, public utilities and other public installations up to the street right-of-way line. Such fences may be any height necessary for safety and security. Said fences must be approved by the city engineer to ensure they are installed in accordance with WRMC 12.08.060, Visibility.

~~B. Other Fences.~~

~~1. Seven feet high anywhere on the lot; provided, that they shall be no closer to the street right-of-way than the building setback line in the zone, except as provided in subsection C of this section.~~

~~2. Three feet high anywhere on the lot.~~

C. Other Provisions.

1. Fence height shall be measured along the fence line to grade, i.e., top of fence to grade upon which the fence is proposed.

2. Fences shall be constructed and maintained in accordance with the requirements of WRMC 12.08.060, Visibility.

3. Fences shall not be constructed within the ~~33' Federal Land Patents~~Land Patents accepted in Ordinance 10-20 that are shown as a “planned roadway” on the adopted local roadway plan.

4. No fence shall form a sight obstruction per WRMC 12.08.060, Visibility, and 12.50.010, Vegetation Obstructions.

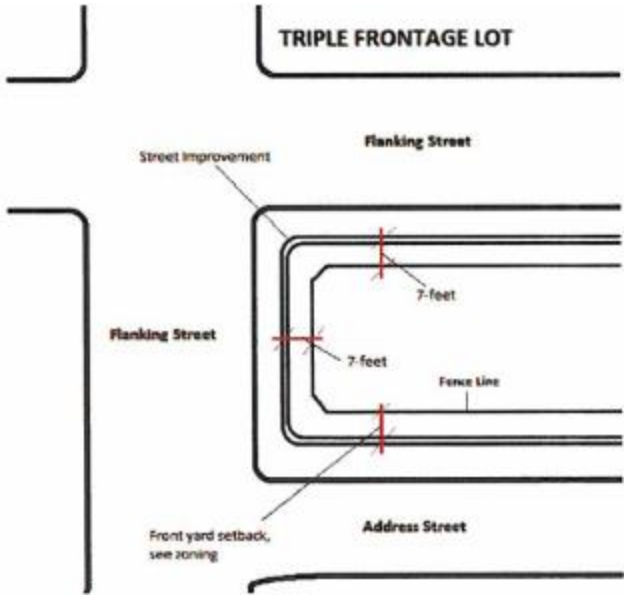
~~5. For corner lots and lots with triple street frontages, fencing over three feet in height must be set back seven feet from the closest street improvement, i.e., back of sidewalk, or edge of pavement. At no point shall fences be permitted on the public right-of-way (see diagrams below).~~

~~6~~5. Fences up to seven feet high may be built up to the street right-of-way line and adjacent to arterial streets on lots having access to other streets when provisions for such fencing are included in approved subdivision plats. Said lots are adjacent to a limited access roadway per Chapter 12.01 WRMC, Functional Classification of Public Streets (see diagram below). When fences are constructed under this provision, the following requirements shall apply:

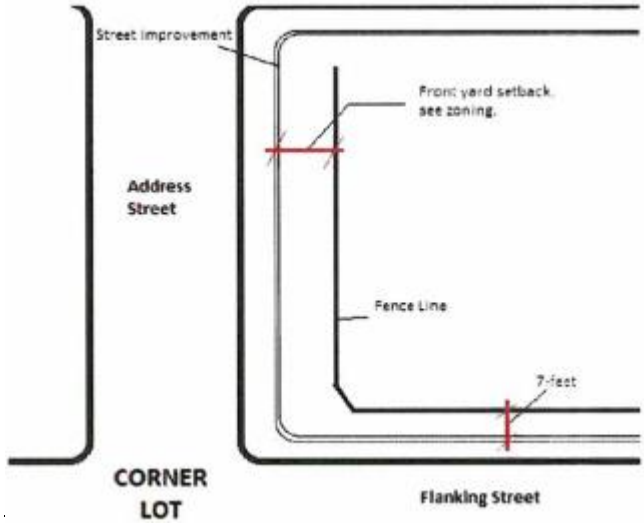
a. The adjacent strip of land between the fence and the back of curb or roadway shall be improved by the property owner concurrent with installation of fencing;

b. The property owner shall provide and maintain a treatment for the strip of land between the fence and the back of curb or roadway consisting of a minimum treatment with grass, decorative rock, bark, wood or any combination of such or similar materials in a manner that will minimize disturbance by natural elements or pedestrians;

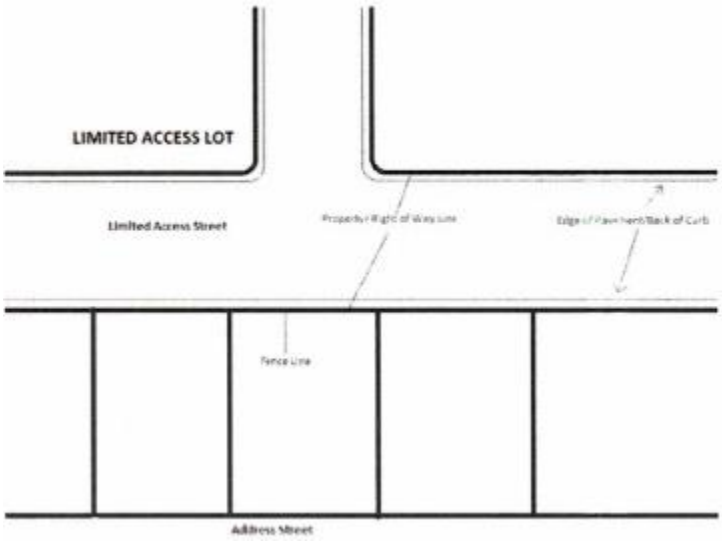
c. No vehicular access is allowed through any such fence.”




**~~Diagram 1~~**




**~~Diagram 2~~**




~~**Diagram 3**~~

**<u>Section 5.</u> Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the Code Reviser are authorized to make the necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

**<u>Section 6.</u> Severability / Validity.** The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance.

**<u>Section 7</u>. Effective Date**. This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication, as provided by law.

**<u>Section 8</u>. Transmittal to State**. Pursuant to RCW 36.70A.106, a complete and accurate copy of this ordinance shall be transmitted to the Department of Commerce within ten (10) days of adoption.

| WEST RICHLAND PLANNING COMMISSION ACTION ITEMS | | | | | |
|---|---|---|---|---|---|
| ***AGENDA*** | 5C | ***TYPE OF ACTION NEEDED*** | | | |
| ***MEETING DATE:*** | October 8, 2020 | ***Open Record Hearing*** | X | | |
| ***SUBJECT:*** | Discussion regarding Floodplain Regulations – Critical Area Code Amendments | ***Recommend to Council*** | X | ***Final Decision*** | |
| ***Prepared by:*** | Eric Mendenhall, Community Development Director | ***1st Discussion*** | | ***Other*** | |
| ***Reviewed by:*** | Roscoe Slade, PW Director | ***2nd Discussion*** | X | | |

***CITY COMPREHENSIVE PLAN***

1. *Environmental*

***Goal 1:*** *Preserve the natural environment when possible.*

***Policy 1:*** *Review new development in the City with sensitivity to environmental issues. Strategy 1 – Comply with State Law; Strategy 2 – Comply with local development regulations.*

***Policy 3:*** *Preserve natural drainage ways. Strategy 1 – Identify drainage ways, their role in the area, and the importance of maintaining the systems; Strategy 2 – Review development plans to limit impacts on natural drainage ways; Strategy 3 – Work with the County and adjoining jurisdictions in the protection of critical areas.*

***Policy 4:*** *Regulate development in hazardous areas. Strategy 1 – Require engineering, architectural, or geo-technical investigations and verifications for approval of development permits or authorizations in hazardous areas.*

***Policy 6:*** *Protect surface water and groundwater supplies. Strategy 1 – Restrict development that significantly degrades or depletes surface waters or groundwater.*

***ATTACHMENTS***

1. *Draft Ordinance.*

***DESCRIPTION OF PROPOSAL:***

On May 11, 2020 West Richland participated in a Community Assistance Visit (CAV) from WA State Department of Ecology (Ecology), who acts on behalf of FEMA for this service. The CAV's purpose is to

review floodplain regulations, permitting, and process to ensure they comply with state and federal standards. The City received a great review from Ecology for current efforts. They did review the floodplain regulations that were updated in 2017 and found some things that need to be addressed. Some of the items are required to be updated to be consistent with state and federal laws. There are also some recommendations from Ecology that we will discuss further at the meeting.

***FUTURE PROCESSING***

The following are dates and milestones of the staff, Planning Commission, City Council, and other action and processing related to this code amendment:

Completed:

- August 13, 2020: Discussion of the proposed regulations.
- September 17, 2020: Notice of Intent to Adopt 60-day review sent to Department of Commerce with a request for expedited review *(Expedited review will be requested)*
- September 17, 2020: A SEPA DNS was issued and noticed of the proposed amendments and have been transmitted to interested agencies;

To be completed:

- October 8, 2020: Public Hearing with the Planning Commission and recommendation to Council.
- October 13, 2020: Community Development Council Subcommittee discussion.
- November 3, 2020: Public Hearing at Council to allow public input;
- November 17, 2020: Council will hold a Public Hearing and likely take action;

**CITY OF WEST RICHLAND**
**ORDINANCE NO. _____-20**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST RICHLAND, WASHINGTION, AMENDING CHAPTER 18.16 OF THE WEST RICHLAND MUNICIPAL CODE, WHICH UPDATES THE FLOODPLAIN DAMAGE PREVENTION CODE AND ADDRESSES COMMENTS RECEIVED BY WASHINGTON STATE DEPARTMENT OF ECOLOGY FOLLOWING A COMMUNITY ASSISTANCE VISIT ON MAY 11, 2020;**

**WHEREAS,** the Washington State Department of Ecology met with City Staff for the City's Community Assistance Visit (CAV) on May 11, 2020; and

**WHEREAS,** the Department of Ecology provided required and recommended changes to the City's floodplain damage prevention code; and

**WHEREAS,** required changes must be updated to comply with state and federal requirements for the National Flood Insurance Program; and

**WHEREAS,** the City desires to keep flood insurance rate premiums low; and

**WHEREAS**, the City desires to maintain and protect the floodplain; and

**WHEREAS,** on September 17, 2020, the City's Community Development Department provided notice of intent to adopt the proposed amendments to the Washington State Department of Commerce for their required 60-day review period; and

**WHEREAS,** on September 17, 2020, the City's Community Development Department issued a State Environmental Policy Act (SEPA) notice threshold determination of DNS (Determination of Non-significance) on the proposed changes; and

**WHEREAS,** on October 8, 2020 the Planning Commission held a duly noticed public hearing to receive public testimony on the proposed changes; and

**WHEREAS,** on October 8, 2020, the Planning Commission voted unanimously to support the staff's recommended findings, conclusions, and recommendations on the proposed amendment and recommend approval of the zoning code amendment; and

**WHEREAS**, the City Council Community Development Subcommittee reviewed the proposed amendments on October 20, 2020 and recommended "do pass" to the full Council; and

**WHEREAS**, the City Council reviewed the proposed amendments in a duly noticed public hearing on November 3, 2020; and

**WHEREAS,** all parties wishing to comment on the proposed amendments were given an opportunity to do such;

**WHEREAS**, on November 3, 2020, the City Council voted to _____ the Floodplain Damage Prevention code amendments; and

**WHEREAS**, the City Council finds it prudent and in the public interest to adopt the proposed amendments by ordinance;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST RICHLAND, WASHINGTON, does hereby ordain as follows:**

**SECTION 1: That West Richland Municipal Code Chapter 18.16 - Flood Damage Prevention**, is hereby amended to read as follows:

## Chapter 18.16

## FLOOD DAMAGE PREVENTION

Sections:


18.16.010 Findings of fact – Purpose.
18.16.020 Methods of reducing flood losses.
18.16.030 Definitions.
18.16.040 General provisions.
18.16.050 Administration.
18.16.060 General standards for flood hazard reduction.
18.16.070 Specific standards for flood hazard reduction.
18.16.080 Floodways.
18.16.090 Critical facilities.


Statutory Authorization
The Legislature of the State of Washington has delegated the responsibility to local communities to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of West Richland, does ordain as follows:

**18.16.010 Findings of fact – Purpose.**

A. The flood hazard areas of the ~~city~~ City of West Richland are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health.

2. To minimize expenditure of public money for costly flood control projects.

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

4. To minimize prolonged business interruptions.

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.

6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard to minimize future flood blight areas.

7. To ensure that potential buyers are notified that property is in an area of special flood hazard.

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

9. To maintain community eligibility in the national flood insurance program and disaster relief. [Ord. 7-17 § 1, 2017; Ord. 432 § 1, 1981].

**18.16.020 Methods of reducing flood losses.**
In order to accomplish its purposes, this chapter includes methods and provisions for:

A. Restricting and prohibiting ~~uses~~ development which ~~are~~ is dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.

B. Requiring that ~~uses~~ development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters.

D. Controlling filling, grading, dredging, and other development which may increase flood damage.

E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. [Ord. 7-17 § 1, 2017; Ord. 432 § 1, 1981].

**18.16.030 Definitions.**
Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

"Appeal" means a request for review of the ~~community development director's~~floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

"Area of shallow flooding" means a designated AO, ~~or~~ AH, AR/AO or AR/AH Zone on the F~~f~~lood ~~i~~Insurance ~~r~~Rate ~~m~~Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on the Flood Insurance Rate Map (FIRM) ~~maps always~~ includes the letters A, AO, AH, A1-30, AE, A99, and AR. ~~or V~~. "Special flood hazard area" is synonymous in the meaning with the phrase "area of special flood hazard."

"ASCE 24" means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "100-year flood"). ~~Designated on flood insurance rate maps by the letters A or V.~~

"Base Flood Elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.

"Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.

~~"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.~~

"Building" see "Structure."

"Building Code" means the currently effective versions of the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council.

"Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

"Cumulative substantial damage" means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

"Designated floodway" means the regulatory floodway which has been delineated on the flood insurance rate map (FIRM) or the flood boundary/floodway map (FBFM) of a community's flood insurance study.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials located within the area of special flood hazard.

"Elevated building" means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Elevation certificate" means ~~the official form (FEMA Form 81-31)~~an administrative tool of the National Flood Insurance Program (NFIP) that can be used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate and to sup0port a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F) with Section B completed by community officials.

'Essential Facility" has the same meaning as "Essential Facility" defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

"Existing mobile/manufactured home park" or "mobile/manufactured home subdivision" means a mobile home park or subdivision for which the construction of facilities for servicing the spaces/lots on which the mobile/manufactured home is to be affixed (including at a minimum the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before May 23, 1981, the effective date of the ordinance codified in this chapter.

"Expansion to an existing mobile/manufactured home park or mobile/manufactured home subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including installation of utilities, either final site grading or pouring of concrete, or the construction of streets).

"Farmhouse" means a single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.

"Flood" or "flooding" means:

1. ~~a~~ A general and temporary condition of partial or complete inundation of normally dry land areas from:

~~1~~a. The overflow of inland or tidal water; and/or

~~2~~b. Unusual and rapid accumulation or runoff of surface waters from any source.

c. Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

"Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

~~"Flood insurance study" means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.~~ See "Flood Elevation Study."

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."

"Floodplain administrator" means the community official designated by title to administer and enforce the floodplain management regulations.

"Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate of improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~a designated height. Also referred to as "Regulatory Floodway."

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Habitable floor" means any floor usable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   a) By an approved state program as determined by the Secretary of the Interior, or

   b) Directly by the Secretary of the Interior in states without approved programs.

"Increased cost of compliance" means a flood insurance claim payment up to $30,000 directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single instance of substantial damage or as a result of cumulative substantial damage.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at WRMC 18.16.070(A)(2), (i.e., provided there are adequate flood ventilation openings).

"Mean Sea Level" means, for the purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" or "manufactured home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles, recreational park trailers, or travel trailers. Furthermore, a manufactured home is a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act. A mobile home is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state.

"Mobile/manufactured home park" or "mobile/manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home or manufactured home lots/spaces for rent or sale.

"New construction" For the purposed of determining insurance rates, means structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after ~~May 23, 1981~~December 31, 1974, ~~the effective date of the ordinance codified in this chapter~~whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvement to such structures.

"New mobile/manufactured home park or mobile/manufactured home subdivision" means a mobile/manufactured home park or subdivision for which the construction of facilities for servicing the space or lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after May 23, 1981, the effective date of the ordinance codified in this chapter.

"One-hundred-year flood or 100-year flood" see "Base flood"

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

"Reasonably Safe from Flooding" means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable date known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

"Recreational vehicle" means a vehicle:

1. Built on a single chassis.

2. Four hundred square feet or less when measured at the largest horizontal projection.

3. Designed to be self-propelled or permanently towable by a light duty truck.

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. 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 foundations 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.

"Structure" means a walled and roofed building and a gas or liquid storage tank that is principally aboveground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any ~~repair,~~ reconstruction, rehabilitation, addition, or other improvement of a structure when cost equals/exceeds 50 percent of the market value of the structure~~, either:~~ before the "start of construction~~:~~" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

~~1. Before the improvement or repair is started.~~

~~2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

3. This term can exclude:

a. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions~~.~~; or

b. Any alteration of a ~~structure listed on the National Register of Historic Places or State Inventory of Historic Places that does not expand the footprint of the structure. Reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places that would expand the footprint of the structure may be considered under the variance provisions of this chapter.~~ "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Water surface elevation" means the height, in relation to the vertical datum utilized in the applicable flood insurance study of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Water dependent" means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. [Ord. 7-17 § 1, 2017; Ord. 36-06 § 1, 2006; Ord. 432 § 1, 1981].

**18.16.040 General provisions.**

A. Lands to Which This Chapter Applies. This chapter applies to all areas of special flood hazard within ~~city's~~ the City of West Richland jurisdiction and as an overlay zone shall impose requirements on such areas in addition to those of zoning districts in which such areas are located.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study – ~~City~~ Town of West Richland, Washington," dated March 30, 1981, and any revisions thereto, with an accompanying flood insurance rate map and flood boundary-floodway map dated September 30, 1981, and any revisions thereto, is hereby adopted by reference and declared to be a part of this chapter. The study and maps are on file ~~in the community development department~~ at 3100 Belmont Boulevard, West Richland, WA 99353. For areas within Benton County which are annexed to the city, studies and maps prepared by the Federal Insurance Administration for Benton County shall be utilized to regulate development within any such identified flood hazard areas. The best available information for flood hazard area identification as outlined in Section 18.16.050(C)(2) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 18.16.050(C)(2).

C. Compliance. All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.

~~C~~D. Penalty for Noncompliance. No structure or land shall, after the effective date of the ordinance codified in this chapter, be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor as set forth by Chapter 1.16 WRMC. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $xxx or imprisoned for not more than ___ days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of West Richland from taking such other lawful action as is necessary to prevent or remedy any violation.

~~D~~E. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another chapter, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

~~E~~F. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements.

2. Liberally construed in favor of the city.

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

~~F~~G. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the ~~city~~ City of West Richland, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. [Ord. 7-17 § 1, 2017; Ord. 36-06 § 1, 2006; Ord. 432 § 1, 1981].

H. Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

**18.16.050 Administration.**

A. Establishment of a Flood Hazard Development Permit.

1. Development Permit Required. A flood hazard development permit shall be obtained before construction or development begins within any area of special flood hazard established in WRMC 18.16.040(B). The development permit shall be for all structures, including mobile/manufactured homes, as set forth in WRMC 18.16.030, Definitions, and for all other development, including fill and other activities, also as set forth in the definitions. A development shall be denied, approved or conditionally approved in accordance with the standards of this chapter and may be processed in conjunction with other city development applications (e.g., site plan approval permit, conditional use permit, or planned development permit).

2. Application for a flood hazard development permit shall be made on forms furnished by the community development department and be accompanied by a filing fee set by the city council. The application shall include all information required for any other development application with which it may be filed and include but not be limited to two full-size copies of the site plan, construction drawings and elevations, plus a reproducible site plan no larger than 11 inches by 17 inches. The site plan shall be drawn to scale and show the nature, location, dimensions, and elevations of the property and area in question, existing and proposed structures, fences or walls, fill or grading, storage of materials, drainage facilities, and any other information deemed necessary by the city to determine compliance with this chapter. Specifically, the following specific information is required:

a. Proposed ~~E~~elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures; recorded on a current elevation certificate (FF 81-31) with Section B completed by the ~~local official~~Floodplain Administrator.

b. Proposed ~~E~~elevation in relation to mean sea level to which any structure ~~has been~~will be floodproofed.

c. Certification by a registered professional engineer in the state that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in WRMC 18.16.070.

d. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

e. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation; and

f. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

B. Designation of the ~~Local~~ Floodplain Administrator. The community development director or designee shall administer and implement this chapter by granting or denying development permit applications in accordance with provisions of this chapter. The ~~director~~ Floodplain Administrator may require substantiation that conditions of approval and standards of this chapter have been met and required certifications provided and, if not forthcoming, may revoke the development permit and require that development discontinue, the structure be vacated, and violations be corrected at property owner's expense. When the first floor of a residential structure is required to be elevated as provided in WRMC 18.16.070, the ~~director~~ Floodplain Administrator shall require that applicant submit a statement from a professional surveyor indicating elevation to which first floor was actually constructed.

C. Duties and Responsibilities of the ~~Director~~Floodplain Administrator. Duties of the community development director or his/her designee shall include, but not be limited to:

1. Permit Review.

a. Review all developments to determine if the development proposed is in the floodway; if located in the floodway, assure that the encroachment provisions of WRMC 18.16.080 are met.

b. Review all developments to determine that the permit requirements of this chapter have been satisfied.

c. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local agencies from which prior approval is required.

d. Review all development permits to determine that the site is reasonable safe from flooding.

e. Notify FEMA when annexations occur in the Special Flood Hazard Area.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with WRMC 18.16.040(B), Basis for Establishing the Areas of Special Flood Hazard, the ~~director~~ Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer WRMC 18.16.070 and 18.16.080.

3. Information to Be Obtained and Maintained.

a. Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in subsection (C)(2) of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement; recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official.

b. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection (C)(2) of this section:

i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed.

ii. Maintain the floodproofing certifications required in subsection (A)(2)(c) of this section.

c. Maintain for public inspection all records pertaining to the provisions of this chapter.

d. Certification required by Section 18.16.080(A) (floodway encroachments)

e. Records of all variance actions, including justification for their issuance.

f. Improvement and damage calculations.

4. Alteration of Watercourses.

a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance ~~Administration~~Administrator through appropriate notification means.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and the actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP.

D. Variance Procedure.

1. Board of Adjustment.

a. The board of adjustment shall hear and decide requests for variances from the requirements of this chapter.

b. The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the ~~director~~ Floodplain Administrator in the enforcement or administration of this chapter.

c. Those aggrieved by the decision of the board of adjustment on a variance application may appeal such decision to the city council. The decision of the city council is final unless, within 20 days from the date of the action, an aggrieved party or persons obtains a writ of certiorari from the superior court in and for Benton County, for the purpose of review of the action taken.

d. In reviewing variance applications, the board of adjustment shall consider all technical evaluations, relevant factors, and standards specified in this chapter, and:

i. The danger that materials may be swept onto other lands to the injury of others.

ii. The danger to life and property due to flooding or erosion damage.

iii. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

iv. The importance of the services provided by the proposed facility to the community.

v. The necessity to the facility of a waterfront location, where applicable.

vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

vii. The compatibility of the proposed use with existing and proposed development.

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.

ix. The safety of access to the property in times of flood for ordinary and emergency vehicles.

x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site.

xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

e. Upon consideration of these factors and the purposes of this chapter, the board of adjustment may approve, deny, or attach conditions to the granting of variances as deemed necessary to further the purposes of this chapter.

f. The city shall maintain records of all appeal actions, including technical information, and report variances to the Federal Insurance Administration upon request.

2. Conditions for Variances.

a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on an existing small (one-half acre or less) lot contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the factors in this subsection D have been fully considered. As lot size increases beyond one-half acre, technical justification required for issuing a variance increases.

b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places. If the improvements to the historic structure do not expand the footprint of the structure, they can be exempted from the definition of "substantial improvement" and the variance procedure (see definition of "substantial improvement").

c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

e. Variances shall only be issued upon:

i. A showing of good and sufficient cause.

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant.

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (D)(1)(d) of this section, or conflict with existing local laws or ordinances.

iv. A showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 18.16.0.30 of this ordinance in the definition of "Functionally Dependent Use."

f. Variances as interpreted in the national flood insurance program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, and otherwise complies with WRMC 18.16.060(A), (C) and (D) (general standards).

h. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

i. the issuance of a variance to construct a structure ~~will be permitted to be built with a lowest floor elevation~~ below the base flood elevation ~~and that the~~will result in increased cost of flood insurance ~~will be commensurate with the increased risk resulting from the reduced lowest floor elevation~~ with premium rates as high as $25 for $100 of insurance coverage, and

ii. Such construction below the BFE increases risks to life and property.

i. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

j. The Floodplain Administrator shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.

~~.~~[Ord. 7-17 § 1, 2017; Ord. 36-06 § 1, 2006; Ord. 432 § 1, 1981].

**18.16.060 General standards for flood hazard reduction.**

In all areas of special flood hazard the following general standards are required:

A. Anchoring.

1. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

2. All mobile/manufactured homes shall be anchored to resist flotation, collapse, or lateral movement and shall be installed using methods and practices that minimize flood damage by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:

a. Over-the-top ties shall be provided at each of the four corners of the mobile/manufactured home, with two additional ties per side at intermediate locations, with mobile/manufactured homes less than 50 feet long requiring only one additional tie per side;

b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;

c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and

d. Any additions to the mobile/manufactured home shall be similarly anchored.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

2. Water wells shall be located on high ground that is not in the floodway;

3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (WRMC 18.16.050(C)(2)), applications for ~~building permits~~floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates. [Ord. 7-17 § 1, 2017; Ord. 36-06 § 1, 2006; Ord. 432 § 1, 1981].

F. Changes to Special Flood Hazard Area

1. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

2. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

G. Storage of Materials and Equipment

1. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

2. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

**18.16.070 Specific standards for flood hazard reduction.**

In all areas of special flood hazard where base flood elevation data have been provided as set forth in WRMC 18.16.040(B), Basis for Establishing the Areas of Special Flood Hazard, or in WRMC 18.16.050(C)(2), Use of Other Base Flood Data, the following standards are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure, including mobile and manufactured homes, shall have the lowest floor, including the basement, elevated to at least one foot above base flood elevation. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the BFE.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if used solely for parking access or storage, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters. (Note: Foundation vent standards required by the IBC/IRC outside the floodplain do not meet this standard.)

d. A garage attached to a residential structure constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

3. New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall meet the requirements of subsection 1 or 2 below:

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

a. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained:

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the BFE, or as required by ASCE 24, whichever is greater.

b. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

c. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if used solely for parking access or storage, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
ii) The bottom of all openings shall be no higher than one foot above grade.
iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
iv) A garage attached to a structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

2) If the requirements of subsection 1 are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

~~1~~a.~~.~~ Be dry floodproofed, so that below one foot or more above base flood level the structure is watertight, with walls substantially impermeable to the passage of water or dry flood proofed to the elevation required by ASCE 24, whichever is greater.

~~2~~b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

~~3~~c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in WRMC 18.16.050(C)(3).

~~4~~d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section.

C. Manufactured/Mobile Homes.

1. All manufactured homes and mobile homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured/mobile home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

D. Recreational vehicles, park trailers or travel trailers placed on sites are required to:

1. Be on the site for fewer than 180 consecutive days; and

2. Be fully licensed and ready for highway use, on wheels or jacking system, attached to site only by quick disconnect type utilities and security devices, and have no permanently attached additions~~.~~; or [Ord. 7-17 § 1, 2017; Ord. 36-06 § 1, 2006; Ord. 432 § 1, 1981].

3. Meet the requirements of Section 18.16.070(C).

E. Enclosed Area Below the Lowest Floor. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

F. Appurtenant Structures (Detached Garages & Small Storage Structures)

For A Zones (A, AE, A1-30, AH, AO):

1) Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:

a) Use of the appurtenant structure must be limited to parking of vehicles or limited storage;

b) The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;

c) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;

d) Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;

e) The appurtenant structure must comply with floodway encroachment provisions in Section 18.16.080(A);

f) The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 18.16.070(A)(2)

g) The structure shall have low damage potential,

h) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use, and

i) The structure shall not be used for human habitation.

2) Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 18.16.070(A).

3) Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

**18.16.080 Floodways.**

Located within areas of special flood hazard established in WRMC 18.16.040(B) are areas designated as floodways. Since the floodway is an extremely hazardous area, due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for: (1) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (2) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (a) before the repair or reconstruction is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

C. If subsection A of this section is satisfied all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of WRMC 18.16.060 through 18.16.090. [Ord. 7-17 § 1, 2017; Ord. 36-06 § 1, 2006; Ord. 432 § 1, 1981].

D. Replacement of Farmhouses in Floodway. Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:

a) The new farmhouse is a replacement for an existing farmhouse on the same farm site;
b) There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;
c) Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
d) A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
e) A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;
f) For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;
g) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;
h) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and
i) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

E. Substantially Damaged Residences in Floodway

a) For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).

b) Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

i) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.

ii) A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.

iii) Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.

iv) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.

v) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.

vi) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters.

vii) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

**18.16.085 General Requirements for Other Development.**

All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the state building codes with adopted amendments and any City of West Richland amendments, shall:

1) Be located and constructed to minimize flood damage;

2) Meet the encroachment limitations of this ordinance if located in a regulatory floodway;

3) Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

4) Be constructed of flood damage-resistant materials;

5) Meet the flood opening requirements of Section 18.16.070(A)(2), and

6) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**18.16.090 Critical facilities.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. The ~~director~~ Floodplain Administrator may also require access routes to be elevated one foot above the base flood elevation, where vehicle access to the critical facility would likely be needed during a flood event. The construction or filling for such access roads is subject to the standards of this chapter. [Ord. 7-17 § 1, 2017; Ord. 36-06 § 1, 2006].

**18.16.095 Livestock Sanctuary Areas.**

Elevated areas for the for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter.

**Section 2. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the Code Reviser are authorized to make the necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

**Section 3. Severability / Validity.** The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance.

**Section 4. Effective Date**. This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication, as provided by law.

**Section 5. Transmittal to State**. Pursuant to RCW 36.70A.106, a complete and accurate copy of this ordinance shall be transmitted to the Department of Commerce within ten (10) days of adoption.