Tenino SMP Periodic Update: Planning Commission Public Hearing

To Tenino Planning Commission

From: Rachel Granrath, Senior Planner SCJ Alliance

Date: May 12, 2021

Project: Tenino Shoreline Master Program (SMP) Update

Subject: Joint Public Hearing

Background

The City of Tenino received a $11,200 Ecology grant to complete a periodic review and update to the City's Shoreline Master Program (SMP). SCJ Alliance has been working with the City and Ecology to complete the review. In accordance with the Public Engagement Plan the following outreach efforts have been made:

- Planning Commission overview and kick-off meeting – July 8, 2020
- Agency Meeting – August 27, 2020 via Zoom
  - Attendees included Department of Ecology, Washington Department of Fish and Wildlife (WDFW), Thurston Conservation District, Thurston County Economic Development, City of Tenino Staff, Department of Commerce.
- Planning Commission Meeting on SMP updates and overview – September 8, 2020
- Planning Commission Plan Rollout - Wednesday, January 7, 2021
- Planning Commission Public Hearing – Wednesday, May 12, 2021
- City Council Public Hearing (tentative) – June 8, 2021

Over the course of the last year, the Commission, Staff and Consultant have been collaborating on the periodic update to the Shoreline Master Program. The draft before the Commission today is a result of many meetings, discussions, and updates over the course of months.

SMP Summary

The proposed amendments and periodic update elements are outlined in Exhibit A and Exhibit B, and follow the descriptions provided in the most recent Rollout presentation at the January 7, 2021 meeting. In addition to the periodic updates required for state and federal compliance, we are proposing amendments to commercial uses relative to the shoreline. From previous conversations and outreach, it is clear the City sees great value in commercial development that is harmonious with Scatter Creek. Examples include breweries, restaurants, education or vocational development relating to a future Riverwalk. This SMP amendment would require the City to amend its Comprehensive Plan and Zoning Codes.

Notice & Referral

Notice for the joint review and public hearing were published in the Tenino Independent on April 21, 2021. Notices were posted on the City's website and on notice boards as required. Agency review was sent out to all appropriate agencies. This was a joint noticed hearing for the City of Tenino and the Department of Ecology. At this time, the City and its consultant have received no comments or questions.

Staff Recommendation

Based on the staff report, exhibits, public and agency input, Staff recommends approval of the periodic update to the Tenino Shoreline Master Program.

Recommended Motion

I move to recommend approval of the Tenino Shoreline Master Program periodic update as outlined in this staff report and the Exhibits.

Exhibit A: Tenino Periodic Review Checklist
Exhibit B: Draft Tenino Shoreline Master Program
Exhibit C: Noticing Documents

Tenino Periodic Review Checklist

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct 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 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 2019 that may trigger the need for local SMP amendments during periodic reviews.

Prepared By	Jurisdiction	Date
Rachel Granrath, SCJ Alliance	City of Tenino Consultant	1st submittal 10/5/2020 2nd submittal 12/8/2020 comments in red below

Row	Summary of change	Review	Action	ECY Comments 10/2020
2019				
a.	OFM adjusted the **cost threshold for building freshwater docks**	3.5 Shoreline Exemptions (H) Exemptions listed – (8) contains outdated language/costs 9.0 Definitions – (139) Substantial Development contains outdated language/costs	Removed due to docks per ecology comment	Boating facities are prohibited in the SMP making this exemption not applicable to the Tenino SMP. It is discretionary as to whether the city would like to retain any of this language, but since it does not apply I recommend removing the entire exemptions regarding docks. ***ECY Comment 1/24/2021*** okay
b.	The Legislature removed the requirement for a shoreline permit for **disposal of dredged materials at Dredged Material Management Program sites** *(applies to 9 jurisdictions)*	Not applicable	No action needed	n/a
c.	The Legislature added **restoring native kelp, eelgrass beds and native oysters** as fish habitat enhancement projects.	Not applicable – the City has no saltwater shorelines, and the SMP does not contain a full list of fish habitat enhancement projects	No action needed	n/a

Row	Summary of change	Review	Action	ECY Comments 10/2020
2017				
a.	OFM adjusted the **cost threshold for substantial development** to $7,047.	3.5 Shoreline Exemptions (H) Exemptions listed – (1) contains outdated cost threshold 9.0 Definitions – (139) Substantial Development contains outdated cost threshold	Updated both instances to reflect new cost threshold *NOTE: Update City permit application forms to reflect this change if not already updated*	okay
b.	Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures.	9.0 Definitions – (34) Development does not include this clarification	Amended definition to include Ecology example language	okay
c.	Ecology adopted rules clarifying **exceptions to local review under the SMA.**	Not addressed	Amended Chapter 3 Shoreline Permits to include Ecology example language (inserted new Section 3.7)	okay
d.	Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute.	Permit filing procedures not described in SMP	No action needed Referenced City Code Sections relating to Process Chapter 100.40 and Critical Areas Title 112	Not including procedures to file permits with Ecology is a gap in the SMP that should be filled. Langauge was added to chapter 3 to identify the process, but more detail about city permit procedures and state permit procedures should be augemented for transparency.

Row	Summary of change	Review	Action	ECY Comments 10/2020
				ECY Comment 1/24/2021 Permit procedures: SMP 3.1 – TMC 100.40 and WAC 173-17. Add a suggestion, but looksk good.
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.	7.6 Forest Practices – indicates that resource areas for forest practices are designated outside City boundaries, prohibited along Scatter Creek within Tenino boundaries	No action needed	okay
f.	Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction**	Not applicable – no lands with exclusive federal jurisdication in City limits	No action needed	okay
g.	Ecology clarified "default" provisions for **nonconforming uses and development**.	9.0 Definitions – (82), (83), and (84) provide separate definitions for nonconforming uses, structures, and lots Chapter 4 Nonconforming Development addresses nonconforming uses, structures, and lots with some outdated language	Chapter 4 reorganized to provide separate sections for nonconforming uses, structures, and lots; language updated to comply with updated Ecology rule	okay
h.	Ecology adopted rule amendments to clarify the scope and process for conducting **periodic reviews**.	Not applicable – no description of periodic review included in SMP; no further clarification needed	No action needed	okay
i.	Ecology adopted a new rule creating an **optional SMP amendment process** that allows	1.11 Amendments – indicates SMP amendments shall be processed per WAC 173-26	No action needed	okay

Row	Summary of change	Review	Action	ECY Comments 10/2020
	for a shared local/state public comment period.	(which includes the new optional SMP process rule)		
j.	**Submittal** to Ecology of proposed SMP amendments.	Not applicable – SMP submittal process not described in SMP	No action needed	okay
2016				
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**.	Not addressed	3.5 Shoreline Exemptions (H) Exemptions listed – amended to include Ecology example language	okay
b.	Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system.	Wetlands critical areas guidance from Tenino's CAO is adopted by reference in SMP section 6.2(B)(2)(b) and 6.2(B)(2)(c) – the referenced CAO text applies the 2004 wetlands rating system	TMC 100.40 relating to process, and Critical Areas Title 112, and Natural Resource lands 108.30.160 are referenced in the SMP – code was updated in 2017 and reflects 2014 wetland rating system	REQUIRED CHANGE: 6.2.3 will need to be augemented to exclude this sction of the CAO and adopt the new rating system for use in shoreline jurisdiction. ***ECY Comments 1/24/2021*** 2014 Wetland rating system found in TMC 112.20.060. This is adopted by refenerce. See comment on pg. 34- please remove exception to this in SMP 6.2.B.3.g
2015				
a.	The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects.	Not addressed	Amended Chapter 3 Shoreline Permits to include Ecology example language (inserted new Section 3.6)	okay

Row	Summary of change	Review	Action	ECY Comments 10/2020
2014				
a.	The Legislature created a new definition and policy for **floating on-water residences** legally established before 7/1/2014.	Not applicable – the City has no floating on-water residences	No action needed	okay
2012				
a.	The Legislature amended the SMA to clarify **SMP appeal procedures**.	SMP appeal procedures are described in 6.2(B)(3)(c) with outdated information	Updated language for consistency with RCW 90.58.190 *Updated procedures per current TMC Sections*	This doesn't make sense. SMP appeal procedures are not found in the Critical areas section found in 6.2(B)(3)(c). Please update response. ***ECY Comment 1/24/2021*** See comment pg. 34. This does not seem appropriate plcae to have these. Administration, including permits and appeals found in SMP 3.
2011				
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**.	Wetland delineation is properly addressed/defined in 6.2(B)(3)(h)	No action needed	okay
b.	Ecology adopted rules for new commercial **geoduck aquaculture**.	Not applicable – the City has no saltwater shorelines	No action needed	okay
c.	The Legislature created a new definition and policy for **floating homes** permitted or legally	Not applicable – the City has no floating homes	No action needed	okay

Row	Summary of change	Review	Action	ECY Comments 10/2020
	established prior to January 1, 2011.			
d.	The Legislature authorizing a new **option to classify existing structures as conforming**.	Nonconforming structures are addressed in Chapter 4 Nonconforming Development	No action needed	okay
2010				
a.	The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**.	Not applicable – effective date is correctly defined in Section 1.12	No action needed	okay
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.	Relief for shoreline restoration projects is not addressed in SMP	Amended Section 3.1 General Provisions to adopt Ecology rule by reference	okay
b.	Ecology adopted a rule for certifying **wetland mitigation banks**.	Wetland mitigation banking is not addressed in SMP – but is allowed in Tenino's CAO TMC Title 112 which is adopted by reference in the SMP, 6.2(B)(2)(c)	No action needed Correct TMC Sections are now referenced	REQUIRED CHANGE: TMC 18D was repealed and replaced in 2012. Citations need tp be corrected in this section. ***ECY Comment 1/24/2021*** Please provide (in this checklist) a citation for allowances to use wetland mitigation banks from TMC that is adopted by reference, if applicable, to demonstrate consistency with with Rule change.

Row	Summary of change	Review	Action	ECY Comments 10/2020
c.	The Legislature added **moratoria authority** and procedures to the SMA.	Not addressed; per Ecology guidance: "The moratoria procedures may be included in an SMP but it is not necessary – local governments can simply rely on the statute or adopt these provisions into other ordinances."	No action needed; moratoria authority language can be included if the City wishes, but is optional (see Ecology guidance)	okay
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.	9.0 Definitions – (51)	Revised to utilize FEMA definition only	REQUIRED CHANGE: The city must identify which definition applies in shoreline jurisdiction. I believe it is the FEMA definition. ***ECY Comment 1/24/2021*** Ok, change in SMP 9.A.51
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.	2.3 Shorelines within the City of Tenino and its Urban Growth Area includes list of shorelines Figure 1 Tenino Shoreline Environment Designations contains a map of shorelines	No action needed	okay
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.	3.5 Shoreline Exemptions (H) Exemptions listed – fish habitat enhancement projects are not included in the list of exemptions	Amended 3.5(H) to include Ecology example language	okay

Additional amendments

Upon discussion with the City, Planning Commission, Stakeholders and Agencies, Tenino is proposing the following additional amendments. The primary purpose of these amendments are to allow for Economic Development relative to Scatter Creek such as trails, breweries, and ecotourism uses.

SMP Section	Summary of change	Discussion	*ECY Comments*
5.2 Economic Development Goals	Added Goal 5 and amended Goal 2	Amended to add goal language to support commercial development	okay
7.0 Use and Activities Policies and Regulations	Table 7.0 has been amended to allow Commercial uses and activities in the Urban Conversancy Shoreline Environment Designation	Amended to Permitted Use only beyond 150 feet of ordinanry high watermark Revised for consistency with WAC 173-26-241(3)(d).	REQURIED CHANGE: The city must augment this checklist with the commercial use and development section of the comprehensive update checklist to demonstrate consistency with the Rule found in WAC 173-26-241(3)(d).
Table 7.1 Regulations by Shoreline Environment Designation	Table 7.1 amended to allow Regulations to development un Urban Conservancy related to commercial development	Proposed Building Height up to 35' and Maximum impervious surface at 40%	
7.5 Commercial Development	Remove incompatable designation for commercial development and relate to Shoreline Commercial	City will need to amend its Zoning Code and Comprehensive Plan to designate Shoreline Commercial Zone as well as set up development standards associated with a new zone designation Ok based on conversation with city/ ecology on 11/14/2020	This is problematic. What is the timeline for this amendment to the comprehensive plan and zoning code? ***ECY Comment 1/24/2021*** Okay.

SMP Section	Summary of change	Discussion	*ECY Comments*
	Preference given first to water-dependent uses, then to water-oriented commercial uses. WAC 173-26-241(3)(d).		***ECY Comment 1/24/2021*** Okay, SMP 7.5.B.1.
	Water-enjoyment and water-related commercial uses required to provide public access and ecological restoration where feasible and avoid impacts to existing navigation, recreation, and public access. WAC 173-26-241(3)(d).		***ECY Comment 1/24/2021*** REQUIRED CHANGE: This is not in the SMP. Please add in. SMP 7.5.B.5 almost gets to this requirement, but this regulation needs to be augmented with the word public access. See page 50 for comment.
	New **non-water-oriented commercial uses** prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives. WAC 173-26-241(3)(d).		***ECY Comment 1/24/2021*** Okay, SMP 7.5.B.11
	Non-water-dependent commercial uses over water prohibited except in existing structures, and where necessary to support water-dependent uses. WAC 173-26-241(3)(d).		***ECY Comment 1/24/2021*** Okay, SMP 7.5.B.9

Exhibit B

City of Tenino
Washington

Shoreline Master Program Periodic Update

Draft: March 26, 2021

SCJ ALLIANCE
CONSULTING SERVICES

TENINO CITY COUNCIL

Wayne Fournier, Mayor
Linda Gotovac, Councilmember Position #1
Cutter Copeland, Councilmember Position #2
John O'Callahan, Councilmember Position #3
Jason Lawton, Councilmember Position #4
Rachel Davidson, Councilmember Position #5

TENINO PLANNING COMMISSION

William Rutherford, Planning Commissioner Position #2
Erin Konrady, Planning Commissioner Position #3
Cory Mounts, Planning Commissioner Position #4
Alex Murray, Planning Commissioner Position #5

STAFF

John Millard, Clerk/ Treasurer
Rachel Granrath, SCJ Alliance Consulting
Dan Penrose, SCJ Alliance Consulting

ACKNOWLEDGMENTS

The City of Tenino would like to acknowledge the many public and private agencies that have developed information on the shorelines of Tenino
that was used in this update.

The first part of this update was prepared with Grant Funding from the Washington State Department of Ecology Agreement No. SEASMP-1921 CiTen-00103

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1.0 General Provisions

1.1 Purposes

The purposes of this Shoreline Master Program are to:

A. Guide the future use and development of the City of Tenino's shorelines in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (Revised Code of Washington (RCW) 90.58) as amended; and

B. Promote the health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for use and development of City of Tenino shorelines; and

C. Ensure, at minimum, no net loss of shoreline ecological functions and processes; and

D. Plan for restoring shorelines that have been impaired or degraded in the past; and

E. Adhere to the policies contained in RCW 90.58.020 for shorelines of the state:

"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

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

F. Tenino's sole shoreline of the state is Scattercreek. It is important to note that while Scatter Creek meets the flow threshold of 20 cubic feet per second mean annual flow to be a shoreline of the state (see RCW 90.58.030(2)(e)), Scatter Creek does not have the flow or size to accommodate boat traffic. As a result, this SMP prohibits the

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establishment of "ports, marinas, or piers" and other water-dependent uses as it is a non-navigable waterway.

Commented [CS(1]: It is my assumption that you are adding this language to the SMP to identify that Scatter Creek is not navigable as described in the Rule, WAC 173-26-241(2)(d)(ii):

"Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration. In areas designated for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.
Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
Master programs shall assure that commercial development will not result in a net loss of shoreline ecological functions 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."

First, I agree with this if my assumption above is accurate. I think we have established that Scatter Creek will not be seeing boat traffic any time soon. However, there are several different definitions of navigable, none of which have been adopted into the RCW 90.58, which makes this confusing.

I recommend further augmenting this language to clearly describe the intent. As written it is a bit cryptic…. "lending itself to ports, marinas, or piers,"

Instead, please see language above, as an alternative. I think this ties the language back to the SMA and the need to identify that it's small and not going to get any water-dependent uses. Please assuage further to meet the needs of the city.

Commented [RG2R1]: Language as amended is fine

1.2 Applicability

A. All proposed uses and development, as defined in Sections 7 and 8, occurring within shoreline jurisdiction shall comply with this master program and RCW 90.58. This master program applies to all uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required.

B. The Program's shoreline uses and developments shall be classified as follows:

1. Permitted uses and developments - Uses and developments that are consistent with this Program and RCW 90.58. Such uses/developments shall require a shoreline substantial development permit, a shoreline conditional use permit, shoreline variance, and/or a statement that the use/development is exempt from a shoreline substantial development permit.

2. Prohibited uses and developments - Uses and developments that are inconsistent with this Program and/or RCW 90.58 and which cannot be allowed through any permit or variance.

C. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be permitted subject to review and approval by the City and/or the Washington State Department of Ecology. Many permitted uses/developments, including those that do not require a substantial development permit, can individually or cumulatively affect adjacent properties and/or natural resources and therefore must comply with the Program in order to avoid or minimize such adverse impacts. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of the project with the Shoreline Management Act and the Program.

D. This Program shall apply to:

1. All of the lands and waters of the City of Tenino that fall under the jurisdiction of RCW 90.58; and

2. Every person, individual, firm, partnership, association, organization, local or state governmental agency, public or municipal corporation, or other non-federal entity; and

3. All non-federal uses and developments undertaken on federal lands and on lands subject to non-federal ownership, lease, or easement, even though such lands may fall within the external boundaries of federally owned lands.

E. Federal agencies are subject to this Program and RCW 90.58, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.; and Washington Administrative Code (WAC) 173-27-060(1)).

F. The provisions of this Program shall not apply to lands held in trust by the United States for Indian Nations, tribes or individuals.

1.3 Governing Principles of this Master Program

A. The goals, policies and regulations of this Program are based on the governing principles in WAC 173-26-186 and the policy statements of RCW 90.58.020.

B. Any inconsistencies between this Program and RCW 90.58 must be resolved in accordance with the RCW.

C. The planning policies of this Program may be achieved by diverse means, one of which is regulation. The City may also acquire land, implement capital projects and programs, encourage voluntary measures, create incentive programs, or use other means to implement the Program planning policies.

D. When regulating use and development of private property, the City's actions must be consistent with all relevant legal limitations including constitutional limitations. This Program must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

E. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program may extend beyond shoreline jurisdiction.

F. The policies and regulations of this Program must be integrated and coordinated with the policies and rules of the City of Tenino Comprehensive Plan (Comprehensive Plan) and its implementing development regulations adopted under the Growth Management Act (RCW 36.70A).

G. The policies and regulations of this Program are intended to protect shoreline ecological functions by:

1. Requiring that current and potential ecological functions be identified and understood when evaluating new uses and developments;
2. Requiring adverse impacts to be mitigated in a manner that ensures no net loss of shoreline ecological functions. Mitigation sequencing, as described in Section 6.1B shall include avoiding first, then minimizing, and then replacing/compensating for lost functions and/or resources.
3. Ensuring that all uses and developments, including preferred uses and uses that are exempt from a shoreline substantial development permit, will not cause a net loss of shoreline ecological functions.
4. Preventing, to the greatest extent practicable, cumulative impacts from individual developments.
5. Fairly allocating the burden of preventing cumulative impacts among development opportunities.
6. Including regulations and regulatory incentives to restore shoreline ecological functions where such functions have been degraded by past actions.

1.4 Title

This document shall be known and may be cited as the Shoreline Master Program (SMP) for the City of Tenino, Washington.

1.5 Short title

This document may be referred to internally as the master program or program.

1.6 Authority

Authority for enactment and administration of this SMP is the Shoreline Management Act of 1971, Chapter 90.58, Revised Code of Washington (RCW), also referred to herein as the "SMA". All SMPs must satisfy the requirements of Chapter 173-26 WAC, State master program approval/amendment procedures and master program guidelines, and Chapter 173-27 WAC, Shoreline permitting and enforcement procedures.

1.7 Reference to Plans, Regulations or Information Sources

This documents makes references to both Revised Code of Washington (RCW) and Washington Administrative Code (WAC). As codes are amended, the most current regulations shall apply.

Commented [RG3]: Amended per city request

Deleted: Where this Program makes reference to any RCW or WAC, as amended and the current edition of other state, or federal regulations, shall apply.

1.8 Relationship to Other Land Use Regulations

A. In the case of development subject to the shoreline permit requirement of this program, the Administrator shall not issue a building permit for such development until a shoreline permit has been granted. Also, any permit issued by the Administrator for such development shall be subject to the same terms and conditions that apply to the shoreline permit.

B. In the case of development subject to regulations of this program but exempt from the shoreline substantial development permit requirement, any required statement of exemption shall be obtained prior to issuance of the building permit; provided that, for single family residences, a building permit reviewed and signed off by the Administrator may substitute for a written statement of exemption. A record of review documenting compliance with bulk and dimensional standards as well as policies and regulations of this program shall be included in the permit review.

C. In the case of zoning conditional use permits and/or variances required by Title 18 of the Tenino Municipal Code for development that is also within shorelines, the Administrator shall document compliance with bulk and dimensional standards as well as policies and regulations of this program in consideration of recommendations from the administrator. The Administrator shall attach conditions to such permits and variances as required to make such development consistent with this Program.

D. In the case of land divisions, such as short subdivisions, long plats, planned unit developments, and binding site plans that require City approval, the local decision maker shall document compliance with bulk and dimensional standards as well as policies and regulations of this program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities and future use associated with such land division(s) are consistent with this Program.

E. Developments within shoreline jurisdiction shall also comply with City development standards, and applicable state and federal regulations, where they do not conflict with the shoreline goals, shoreline policies, and development regulations of this Program.

F. Critical areas including frequently flooded areas, wetlands, fish and wildlife habitats and geologically hazardous areas that are located within shoreline jurisdiction are regulated by this Program as detailed in Section 6.2.

1.9 Liberal Construction

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

1.10 Severability

If any provision of this Program or its application to any person or legal entity or circumstances is held invalid, the remainder of the Program, or the application of the provision to other persons or legal entities or circumstances, shall not be affected.

The SMA and this Program adopted pursuant thereto comprise the basic state and City regulations for the use of shorelines in the City. In the event provisions of this Program conflict with other applicable City policies or regulations, the more restrictive shall prevail. Should any section or provision of this Program be declared invalid, such decision shall not affect the validity of this Program as a whole.

1.11 Amendments

Amendments to the Program including changes to the mapped shoreline environment designations shall be processed per WAC 173-26.

1.12 Effective Date

This master program and all amendments thereto shall become effective fourteen (14) days from the date of the Department of Ecology's written notice of final approval.

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2.0 Shoreline Jurisdiction and Environment Designations

2.1 Shorelines of the State

The jurisdiction of this Program is “shorelines of the state”, which includes all "shorelines" as defined in RCW 90.58.030.

2.2 Shoreline Jurisdiction for Streams and Flood Plains

Shoreline jurisdiction for streams where the mean annual flow is twenty (20) cubic feet per second or greater shall include the greater of the following:

A. Those lands which extend landward two hundred (200) feet as measured on a horizontal plane from the ordinary high water mark;

B. Those wetlands which are in proximity to and either influence or are influenced by the stream. This influence includes but is not limited to one or more of the following: Periodic inundation; location within a flood plain; or hydraulic continuity; and

2.3 Shorelines within the City of Tenino and its Urban Growth Area

The City of Tenino shall have authority over those shorelines within its municipal boundaries. The one shoreline within the city that meets the criteria of Section 2.2 is Scatter Creek.

2.4 Shoreline Environment Designations

The Shoreline Master Program Guidelines (Chapter 173-26 WAC) recommend a classification system for designating shorelines. The purpose and designation criteria for each of these “Shoreline Environment Designations” or “SEDs” are described in Sections 2.5 and 2.6. Management policies and regulations are found in Section 7.

2.5 Aquatic

C. The purpose of the “aquatic” environment is to protect, restore and manage the unique characteristics and resources of the areas waterward of the ordinary high- water mark.

D. The ‘aquatic” environment designation shall be applied to lands waterward of the ordinary high-water mark.

2.6 Urban Conservancy

E. The purpose of the "urban conservancy" environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

F. The "urban conservancy" environment designation shall be applied to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities and urban growth areas if any of the following characteristics apply:

1. Shoreline areas that are suitable for water-related or water-enjoyment uses;

2. Shoreline areas that are open space, flood plain or other sensitive areas that should not be more intensively developed;
3. Shoreline areas that have potential for ecological restoration;
4. Shoreline areas that retain important ecological functions, even though partially developed; or
5. Shoreline areas that have the potential for development that is compatible with ecological restoration.
6. Lands that may otherwise qualify for designation as urban conservancy and which are designated as "mineral resource lands" pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a designation within the "urban conservancy" environment that allows mining and associated uses in addition to other uses consistent with the urban conservancy environment.

2.7 Official Map

G. Shoreline Jurisdiction and the Shoreline Environment Designations are delineated on a map, hereby incorporated as a part of this SMP that shall be known as "Figure 1 Tenino Shoreline Environment Designations," as found in Appendix A.

H. The boundaries of shoreline jurisdiction on the map are approximate. The extent of shoreline jurisdiction shall be based upon an on-site inspection and the criteria found in Sections 2.5 and 2.6.

I. The official copy of this map shall reside with the Washington State Department of Ecology.

J. Copies of this map are available for public use from the City of Tenino.

2.8 Conflicts between Designation and Criteria

In the event that any of the boundaries shown on the maps conflict with the criteria outlined in Sections 2.5 and 2.6, the criteria shall control.

2.9 Shoreline Areas not Mapped or Designated

Per WAC 173-26-211 (2)(e), all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned an urban conservancy designation until the shoreline can be re-designated through a master program amendment.

3.0 Shoreline Permits

3.1 General Provisions

A. All development and use of shorelines of the state shall be carried out in a manner that is consistent with this SMP and the policy of the Act as required by RCW 90.58.140(1), whether or not a shoreline permit or statement of exemption is required.

B. No use, land or water alteration, or development shall be undertaken within shoreline jurisdiction of the Shoreline Management Act by any person without first obtaining a permit, except the administrator may issue a letter of exemption from a substantial development permit under Section 3.2.

C. Permit procedures not specifically defined in this master program shall follow Department of Ecology provisions in Chapter 173-27 WAC, as amended.

1. All permits are required to be filed with the Department of Ecology upon the city rendering its final decision consistent with WAC 173-27-130.

D. Permit procedures are outlined in Tenino Municipal Code Chapter 100.40, Procedures for land use permits and decisions, Appendix D to this document.

E. The administrator has authority to adopt procedures for administrative interpretation of this master program, following consultation with the Department of Ecology.

F. The City of Tenino may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

3.2 Substantial Development Permit

A. A shoreline substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempted by Section 3.5.

B. In order to be approved, the decision maker shall find that the proposal is consistent with the following criteria:

1. All applicable regulations of this Program appropriate to the shoreline environment designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under Section 3.4.

2. All policies of this Program appropriate to the shoreline environment designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated.

C. The City is the final authority for a Shoreline Substantial Development Permit, unless there is an appeal filed with the State Shorelines Hearings Board.

3.3 Shoreline Conditional Use Permit

The purpose of a conditional use permit is to provide a system within the Program which

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C. Tenino Permit and appeal procedures are outlined in Tenino Municipal Code Chapter 100.40 , *Procedures for land use permits and decisions.*
(So, unless the city really wants the permit procedures in the appendix, I am unsure that they are needed.)
D. Once a final decision has been rendered all shoreline permits are filed with the department of Ecology per WAC 173-27-130.
1. Permit procedures not specifically defined in this master program shall follow Department of Ecology provisions in Chapter 173-27 WAC, as amended.
2. State shoreline permit appeal procedures to the shoreline hearings board are found in RCW 90.58.180.
3.Permit procedures not specifically defined in this master program shall follow Department of Ecology provisions ...

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allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, the City or department may attach special conditions to the permit to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the Program.

A. Uses which are classified or set forth in the Program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

   1. That the proposed use is consistent with the policies of RCW 90.58.020 and the Program;

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

   3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Program;

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

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

B. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

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

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

3.4 Shoreline Variance Permit

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

A. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown, and the public interest shall suffer no substantial detrimental effect.

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

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property.
2. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions.
3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
5. That the variance requested is the minimum necessary to afford relief; and
6. That the public interest will suffer no substantial detrimental effect.

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

1. That the strict application of the bulk, dimensional or performance standards set forth in the Program precludes all reasonable use of the property;
2. That the proposal is consistent with the criteria established under Section 3.4B(2) thru Section 3.4B(6); and,
3. That the public rights of navigation and use of the shorelines will not be adversely affected.

D. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

E. Variances from the use regulations of this master program are prohibited.

3.5 Shoreline Exemptions

A. An exemption from the substantial development permit process is not an exemption from compliance with the Act or this Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with

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the policies and regulatory provisions of this Program and the Act. A statement of exemption shall be obtained for exemptactivities.

A. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

B. The applicant has the burden of proving that a development or use is exempt.

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

D. A development or use that is classified as a conditional use pursuant to this Program or is an unclassified use, must obtain a shoreline conditional use permit even if the development or use does not require a shoreline substantial development permit.

E. When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of the Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.

F. All permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Administrator, including compliance with applicable bulk and dimensional standards and policies and regulations of this Program. The Administrator may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the Act and the Program. Chapter 9.0 defines "Administrator" as the person who is appointed by the City to administer the provisions of these regulations within the boundaries of that jurisdiction

G. Exemptions listed. The following shall be considered exempt from the requirement to obtain a shoreline substantial development permit in accordance with RCW 90.58.030 and WAC 173-27-040.

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed seven thousand forty-seven dollars ($7,047), or as adjusted by WAC 173-27-040, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of the 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;

2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

3. Construction of the normal protective bulkhead common to single family residences;

4. Emergency construction necessary to protect property from damage by the elements;

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5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

6. Construction or modification of navigational aids such as channel markers and anchor buoys;

7. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

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

9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands;

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

11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on May 21, 1976, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

    a. The activity does not interfere with the normal public use of the surface waters;

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

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

    d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

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(A) In in salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars ($2,500); or ¶
(B) in fresh waters, the fair market value of the dock does not exceed:¶
Twenty-two thousand five hundred dollars ($22,500) for docks that are constructed to replace existing docks, and are of equal or lesser square footage than the existing dock being replaced, or¶
Eleven thousand two hundred dollars ($11,200) for all other docks constructed in fresh waters;¶
ten thousand dollars, but however, if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;¶

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e. The activity is not subject to the permit requirements of RCW 90.58.550;

13. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under RCW 43.21C.

14. Consistent with WAC 173-27-040, a public or private project designed to improve fish or wildlife habitat or fish passage, that conforms to the provisions of RCW 77.55.181.

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I. Letter of exemption. All uses, land and water alterations, and development that are not defined as substantial developments are exempted from the requirement to obtain a shoreline substantial development permit. However, these developments must still comply with the standards of the Shoreline Master Program. In addition, these developments may still need a shoreline conditional use permit or a shoreline variance.

A project proponent must obtain confirmation that it conforms to the Shoreline Master Program and to state law. If it complies, a letter of exemption will be issued stating that there are no further Shoreline permits to obtain, and may contain conditions which the proponent must meet.

3.6 Special Procedures for Washington State Department of Transportation (WSDOT) Projects

H. 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.

I. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, WSDOT projects that address significant public safety risks may begin twenty-one (21) days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

3.7 Developments not Required to Obtain Shoreline Permits or Local Reviews

J. 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. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

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.

3.8 Unclassified uses and developments

This program does not attempt to identify or foresee all conceivable shoreline uses or types of development. When a use or development is proposed which is not readily classified within an existing use or development category, the administrator shall require a conditional use permit, and identify and apply those program policies and regulations which will best promote the policies of the Shoreline Management Act and the shoreline program, with special reference to the policies of the environmental designation in which the use or development will be located.

3.9 Inspections

Pursuant to RCW 90.58.200, the Administrator or his authorized representatives of that local government may enter land or structures to enforce the provisions of this Program. Entry shall be at reasonable times. If the land or structures are occupied, the Administrator shall first present proper credentials and request entry; and if the land or structures are unoccupied, the Administrator shall first make a reasonable effort to locate the owner, or other person having control of the property, and request entry.

3.10 Penalties and Enforcement

The Shoreline Management Act imposes significant penalties for violation of the act, regulations and master programs. A violation constitutes a gross misdemeanor, which is punishable by fine or imprisonment (RCW 90.58.220). In addition to the criminal penalty, the Act imposes liability on any person violating the act or conditions of a permit for all damage to public or private property arising from the violation. Furthermore, the violator may have to restore an area affected by a violation, and pay the entire cost of restoration, including attorney's fees and court costs (RCW 90.58.230).

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4.0 Nonconforming Development

Uses, structures, or lots within shoreline jurisdiction that do not meet the specific standards of this Program are subject to the nonconforming provisions of this section.

4.1 Nonconforming Uses

A. Uses that were legally established and are nonconforming with regard to the use regulations of the Program may continue as legal nonconforming uses.

B. In the absence of other more specific regulations in the Program, such uses shall not be enlarged or expanded, except upon approval of a Conditional Use Permit.

C. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming unless re-establishment of the use is authorized through a Conditional Use Permit which must be applied for within the two-year period. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations. A use authorized pursuant to section 4.2(E) of this Program shall be considered a conforming use for purposes of this section.

4.2 Nonconforming Structures

A. Structures that were legally established prior to the Program or amendments thereto, and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards, area, bulk, height or density may continue as legal nonconforming structures and may be maintained and repaired.

B. Nonconforming structures may be enlarged or expanded provided that said enlargement meets the applicable provisions of the Program, and does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction would not be allowed for new structures, unless a shoreline variance permit is obtained.

C. Nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a Conditional Use Permit and by conformance with the following requirements:

1. An expansion or enlargement to the main structure or the addition of a normal appurtenance as defined in WAC 173-27-040 (2)(g) to the main structure shall only be accomplished by:

   i. Addition of space above the building footprint of the main structure; and

   ii. Addition of space onto or behind that side of the main structure which is farthest away from the ordinary high-water mark.

   If these requirements cannot be accomplished without causing significant harm to

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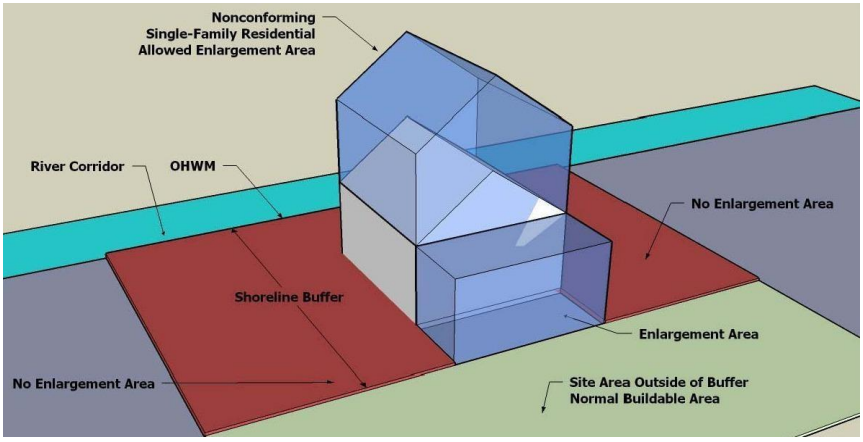
shoreline vegetation or other shoreline ecological functions, the Administrator may require additional site analysis to determine if an alternative location for the expansion or enlargement of the structure is feasible.

Figure 4.1 - Possible Expansion to a Nonconforming Single Family Residence



D. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

E. In the absence of other more specific regulations, a structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a Conditional Use Permit. A Conditional Use Permit may be approved only upon a finding that:

1. No reasonable alternative conforming use is practical; and

2. The proposed use will be at least as consistent with the policies and provisions of the Program and the Shoreline Management Act and as compatible with the uses in the area as the preexisting use.

In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Program and the Shoreline Management Act, and to assure that the use will not become a nuisance or hazard.

F. Existing residential buildings that have a change in use to another legal, conforming use shall conform to the buffer and structure setback requirements and all other requirements of the Program.

G. A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the Program and the Shoreline Management Act.

H. If a nonconforming structure is damaged to an extent not exceeding seventy-five percent (75%) of the replacement cost of the original structure, it may be reconstructed

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Existing nonconforming residential buildings may be replaced within the existing footprint upon approval of a shoreline substantial development permit.¶
For the replacement of manufactured homes and mobile homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the conversion of single-wide manufactured homes to double-wide manufactured homes, upon approval of a shoreline conditional use permit.¶
Existing nonconforming single family residences may be enlarged or expanded in conformance with the applicable bulk and dimensional standards upon approval of a shoreline conditional use permit and by conformance with the following requirements:¶
An expansion or enlargement to the main structure or the addition of a normal appurtenance as defined in 'WAC 173-27-040(2)(g) to the main structure shall only be accomplished by:¶
Addition of space above the building footprint of the main structure; and¶
Addition of space onto or behind that side of the main structure which is farthest away from the ordinary high-water mark.¶
If the requirements in i to ii above cannot be accomplished without causing significant harm to shoreline vegetation or other shoreline ecological functions, the Administrator may require additional site analysis to determine if an alternative location for the expansion or enlargement of the structure is feasible.¶

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to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the structure within two (2) years of the date the damage occurred and all permits are obtained, except that nonconforming single-family residences, manufactured homes and mobile homes may be reconstructed regardless of the extent of damage so long as application is made within the times required by this subsection.

4.3 Nonconforming Lots

A. An undeveloped lot, tract, parcel, site or division of land which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this Program and does not conform to the present lot size standards may be developed if permitted by other land use regulations of the City if such development conforms to all other requirements of this Program and the Act.

B. When lot size would prevent development of a nonconforming lot consistent with the applicable buffer or setback requirements, the Administrator may authorize development under the following conditions:

1. A written request is received from the project proponent.
2. The development will be located as far landward as possible from the ordinary high-water mark.
3. The decision of the Administrator is based upon the shoreline variance criteria found in Section 3.4 of this Program.

C. Upon receiving a written request for development of a nonconforming lot, the Administrator shall mail notice of the request to all property owners within three hundred (300) feet. At a minimum, the notice shall state the following:

1. The decision on the request will be made within ten (10) days from the date that the notice was mailed; and
2. Interested citizens may contact the Administrator for further information.

D. Appeal of the Administrator's decision shall be made in accordance with the appeal procedures set forth in Title 18.40.080, 18.40.090 and 18.40.100 of the Tenino Municipal Code.

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Deleted: <#>Residential structures and uses located in a residential zone district and in existence at the time of adoption of this Program shall not be deemed nonconforming in terms of height, use, or location provisions of this Program. Such buildings may be rebuilt after a fire or other natural disaster to their original dimensions, location and height, but may not be enlarged except as provided in the Section 4.1 E.3 below.¶

Moved up [1]: <#>Residential structures and uses located in a zone district other than a residential zone district and in existence at the time of adoption of this Program shall be deemed nonconforming in terms of height, use, or location provisions of this Program. Such structures shall comply with the following requirements:¶
Existing nonconforming residential buildings may be replaced within the existing footprint upon approval of a shoreline substantial development permit.¶
For the replacement of manufactured homes and mobile homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the conversion of single-wide manufactured homes to double-wide manufactured homes, upon approval of a shoreline conditional use permit.¶
Existing nonconforming single family residences may be enlarged or expanded in conformance with the applicable bulk and dimensional standards upon approval of a shoreline conditional use permit and by conformance with the following requirements:¶
An expansion or enlargement to the main structure or the addition of a normal appurtenance as defined in 'WAC 173-27-040(2)(g) to the main structure shall only be accomplished by:¶
Addition of space above the building footprint of the main structure; and¶
Addition of space onto or behind that side of the main structure which is farthest away from the ordinary high-water mark.¶
If the requirements in i to ii above cannot be accomplished without causing significant harm to shoreline vegetation or other shoreline ecological functions, the Administrator may require additional site analysis to determine if an alternative location for the expansion or enlargement of the structure is feasible.¶

Deleted: <#>A use which is classified as a conditional use but which existed prior to adoption of this Program or any amendment thereto, and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.¶
A structure for which a variance has been issued shall be considered a legal nonconforming structure, and the requirements of this section shall apply as they apply to preexisting nonconformities.¶
A structure which is being or has been used for a nonconforming use shall not be used for a different ...

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5.0 Master Program Goals

This section describes the overall goals of the master program, which apply to all uses and developments within shoreline jurisdiction regardless of the designated shoreline environment in which they occur. These goals are informed by WAC 173-26 and the governing principles described in Section 1.3.

The general policies and regulations in Section 6.0 and the specific use policies and shoreline modification regulations in Sections 7.0 and 8.0 are the means by which these goals are implemented. Achievement of these goals shall be consistent with the state's policies of avoiding cumulative impacts and ensuring no net loss of shoreline processes, functions, and values.

These goals are not listed in order of priority.

5.1 Conservation

A. Purpose

As required by RCW 90.58.100(2)(f), the conservation goals address the protection of natural resources, scenic vistas, aesthetics, and vital shoreline areas for fisheries and wildlife for the benefit of present and future generations.

B. Goals

1. Preserve, enhance and protect shoreline resources (i.e., wetlands and fish and wildlife habitats) for their ecological functions and values, and aesthetic and scenic qualities.
2. Maintain and sustain natural shoreline formation processes through effective shoreline management.
3. Promote restoration and enhancement of areas that are biologically and/or aesthetically degraded while maintaining appropriate use of the shoreline.
4. Protect and enhance native shoreline vegetation to maintain water quality, fish and wildlife habitat, and other ecological functions, values and processes.

5.2 Economic Development

A. Purpose

As required by RCW 90.58.100(2)(a), the economic development goals address the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines.

B. Goals

1. Encourage viable, orderly economic growth through economic activities that benefit the local economy and are environmentally sensitive. Such activities should not disrupt or degrade the shoreline or surrounding environment.

2. Accommodate and promote water-oriented industrial and commercial uses and development, giving highest preference to water-dependent uses or uses that integrate views, education, and access to Scatter Creek.
3. Encourage water-oriented recreational use as an economic asset that will enhance public enjoyment of the shoreline.
4. Encourage economic development in areas already partially developed with similar uses when consistent with this Program and the Tenino Comprehensive Plan.
5. Encourage water-oriented commercial development as identified in Tenino's Shoreline Commercial Zone in order to foster tourism and commercial uses related to Scatter Creek.

Commented [CS(16]: This goal needs to be tied to SMA policy. I recommend that addition of 'water-oriented' to achieve this. As an alternative, you can find the underlying policies of SMA in WAC 173-26-176, specific (3)(a) seem to apply.

5.3 Historic, Archeological, Cultural, Scientific and Educational Resources

A. Purpose

As required by RCW 90.58.100(2)(g), these goals address protection and restoration of buildings, sites and areas having historic, archeological, cultural, scientific or educational significance.

B. Goals

1. Maintain finite and irreplaceable links to the past by identifying, preserving, protecting, and where appropriate, restoring historic, archaeological, cultural, scientific and educational (HACSE) sites.
2. Protect HACSE sites and buildings identified on national, state or local historic registers from destruction or alternation, and from encroachment by incompatible uses.
3. Foster greater appreciation for shoreline management, maritime activities, environmental conservation, natural history and cultural heritage by educating and informing citizens of all ages through diverse means.
4. Ensure that tribal organizations and the Washington State Department of Archaeology and Historic Preservation are involved in the review of projects that could potentially affect such resources.

5.4 Public Access

A. Purpose

As required by RCW 90.58.100(2)(b), the public access goals address the ability of the public to reach, touch and travel on the shorelines of the state and to view the water and the shoreline from adjacent locations.

B. Goals

1. Increase the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and/or to view the water and the shoreline from adjacent locations, provided that private rights, the public safety, and shoreline ecological functions and processes are protected consistent with the U.S. and State constitutions, and state statutes.
2. Locate, design, manage and maintain public access in a manner that protects

shoreline ecological functions and processes and the public health and safety.

3. Design and manage public access in a manner that ensures compatibility with water-dependent uses.
4. Where appropriate, acquire access to shorelands. Encourage cooperation among the City and Thurston County, landowners, developers, other agencies and organizations to enhance and increase public access to shorelines as specific opportunities arise.
5. Provide and protect visual access to shorelines.
6. Require public access to and along the shorelines as a condition of approval for shoreline development activities commensurate with the impacts of such development and the corresponding benefit to the public, and consistent with constitutional limitations.
7. Develop and manage public access to prevent adverse impacts to adjacent private shoreline properties and developments

5.5 Recreation

A. Purpose

As required by RCW 90.58.100(2)(c), the recreational goals address the creation and expansion of water-oriented public recreational opportunities.

B. Goals

1. Encourage diverse recreational opportunities in shoreline areas that can support such use and development without human health, safety, and/or security risks, and without adverse effects on shoreline functions, processes, values, private property rights, and/or neighboring uses.
2. Plan for future shoreline recreational needs and acquire (i.e. through purchase, donation or other agreement) shoreline areas that have a high potential to provide recreation areas.
3. Provide for both active and passive recreational needs when developing recreational areas.
4. Support other governmental and non-governmental efforts to acquire and develop additional shoreline properties for public recreational uses.

5.6 Restoration and Enhancement

A. Purpose

As required by WAC 173-26-186, the restoration and enhancement goals address reestablishment, rehabilitation and improvement of impaired shoreline ecological functions, values and/or processes.

B. Goals

1. Improve impaired shoreline ecological functions and/or processes through voluntary and incentive-based public and private programs and actions that are consistent with this Program and other approved restoration plans.

2. Provide fundamental support to restoration work by various organizations by identifying shoreline restoration priorities, and by organizing information on available funding sources for restoration opportunities.

3. Target restoration and enhancement towards improving habitat requirements of priority and/or locally important wildlife species.

5.7 Shoreline Use

A. Purpose

As required by RCW 90.58.100(2)(e), the shoreline use goals address the general distribution, location, and extent of housing, business, industry, transportation, agriculture, natural resources, aquaculture, recreation, education, navigation and other categories of public and private land use.

B. Goals

1. Ensure that shoreline use patterns are compatible with the ecological functions and values of the shoreline and avoid disruption of natural shoreline processes.
2. Protect water quality and aquatic habitat with all new shoreline development.
3. Increase protection of shoreline ecological resources by properly siting and regulating water-dependent and residential uses that have preferred status for use of waterfront lands.
4. Encourage uses that allow for or include restoration so that areas affected by past activities or catastrophic events can be improved.
5. Ensure that all new development is consistent with the Tenino Comprehensive Plan.
6. Limit development intensity in ecologically sensitive and fragile areas.
7. Reduce health and safety risks by limiting development in areas subject to flooding, erosion, landslides, channel migration and other hazards.

5.8 Transportation and Utilities

A. Purpose

As required by RCW 90.58.100(2)(d), transportation and utilities goals address circulation and the general location and extent of thoroughfares, transportation routes and other public utilities and facilities.

B. Goals

1. Develop efficient and economical transportation and utility systems in a manner that assures the safe movement of people, goods and services without adverse effects on shoreline use and development or shoreline ecological functions, processes or values.
2. Locate, construct and maintain new transportation and utility facilities in areas that do not require shoreline stabilization, dredging, extensive cut/fill and other forms of shoreline alteration.

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6.0 General Policies and Regulations

The following general policies and regulations apply to all shorelines of the state that are located in Tenino, regardless of the specific shoreline environment designation.

These policies and regulations are not listed in order of priority.

6.1 Environment Impact Mitigation

A. Policies

1. All shoreline uses and developments should be carried out in a manner that avoids and minimizes adverse impacts so that the resulting ecological condition does not become worse than the current condition. This means assuring no net loss of ecological functions and processes and protecting critical areas identified in Section 6.2 that are located in the shoreline. Should a proposed use and development potentially create significant adverse environmental impacts not otherwise avoided or mitigated by compliance with this Program, the Administrator should require mitigation measures to ensure no net loss of shoreline ecological functions.

B. Regulations

1. To the extent Washington's State Environmental Policy Act of 1971 (SEPA) RCW 43.21C, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (TMC Title 110, TMC Chapter 112.10 and WAC 197–11).
2. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority.
    a. Avoiding the adverse 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 adverse impact by replacing, enhancing, or providing substitute resources or environments;
    f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
3. In determining appropriate mitigation measures applicable to shoreline development,

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lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

4. Required mitigation shall not be in excess of necessary to assure that proposed uses or development will result in no net loss of shoreline ecological functions.
5. Mitigation actions shall not have a significant adverse impact on other shoreline functions fostered by the policies of the Shoreline Management Act.
6. When compensatory measures are appropriate pursuant to the priority of mitigation sequencing above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

6.2 Critical Areas and Shoreline Vegetation Conservation

A. Policies

1. Adopt regulations to assure that development within the shoreline jurisdiction results in no let loss of ecological functions necessary to sustain the natural shoreline.
2. Provide a level of protection to critical areas within the shoreline that is equal to that which is provided by the City's critical areas regulations adopted pursuant to the Growth Management Act and the City's Comprehensive Plan. If conflicts between the SMP and the critical area regulations arise, the regulations that are most consistent with the SMA or its WAC provisions will govern.
3. Allow activities in critical areas that protect and, where possible, restore the ecological functions and ecosystem-wide processes of the City's shoreline.
4. Preserve, protect, restore and/or mitigate wetlands and habitat protection areas within and associated with the City's shorelines to achieve no net loss of wetland and habitat protection areas and their functions.
5. Developments in shoreline areas that are identified as geologically hazardous should be avoided.
6. Limit the removal of vegetation along the shoreline to the minimum necessary to accommodate the approved shoreline development.
7. Prefer native vegetation along the shoreline over a site cleared of vegetation to create views and lawns.
8. Allow limited selective clearing of native shoreline vegetation for views and lawns provided that slope stability and ecological functions are not compromised.
9. Preserve existing native vegetation along the shoreline and require planting when it does not exist.

10. Provide flexibility when balancing overlapping shoreline policies regarding vegetation conservation, a preference for water-oriented uses, and requirements to provide public access.

B. Regulations

1. Defined in the critical areas code in 112, all of the other codes apply loosely? Proposals within critical areas and shorelines should be consistent with the following codes. All shoreline uses and activities shall be located, designed, constructed and managed to protect and/ or enhance the ecological functions and ecosystem-wide processes provided by critical areas including, but not limited to: wetlands, fish and wildlife habitats, geologically hazardous areas and frequently flooded areas as defined and designated by Title 100 (General Provisions), Title 106 (Zoning) Title 112 (Critical Areas), and 108 (Development Standards) of the Tenino Municipal Code.

2. The following regulations of the Tenino Municipal Code (TMC) pertaining to the protection of critical areas are hereby adopted as a part of this Program.

   a. TMC Title 112 *Critical Areas (*last amended by Ordinance No. 880 on September 12, 2017.

   b. TMC Chapter 100.20 *Definitions (*last amended by Ordinance No. 881 on September 26, 2017.

3. Exceptions to the applicability of the critical areas regulations adopted by reference above in shoreline jurisdiction are listed below.

   a. TMC Section 112.20.030(C) *Exceptions* does not apply within shoreline jurisdiction. Within shoreline jurisdiction SMP Section 3.5 *Exemptions* apply.

   b. TMC Chapter 100.20 *Definitions*

   c. TMC Section 100.30.130 (D)(3)*Enforcement* (Decision and appeals)

   d. TMC Section 112.10.060 *Reasonable Use Exceptions* do not apply within shoreline jurisdiction Within shoreline jurisdiction a shoreline variance shall serve as a reasonable use exception review.

   e. TMC Section 112.20.*050 Critical area protective measures*

   f. TMC 112.20.040 *Allowed Activities* does not apply within shoreline jurisdiction.

   g. TMC Section 112.20.060 (5) *Mitigation Ratios*

4. Tenino Municipal Code outlines the process for shoreline permits as listed below:

   a. TMC Section 112.10.050 *Review Process* (last amended by Ordinance No. 880 on September 12, 2017);

   b. TMC Table 100.40.070 *Application Processing Procedures* (last amended by Ordinance No. 731 on February 13, 2007).

5. Any provision of the critical areas regulations that is not consistent with the Shoreline Management Act Chapter, 90.58 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction.

6. The provisions of the City's critical areas regulations do not extend shoreline jurisdiction beyond the limits specified in this Program.

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It appears that the city repealed these ordinances in 2012 – Does that city plan on keeping this as the code regulating critical areas in the SMP? Or does the city intend on incorporating the current critical areas code found in TMC 112?

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7. Required critical area buffers consist of an undisturbed area of native vegetation or areas identified for restoration. These areas of existing native vegetation shall be preserved to the maximum extent feasible within the vegetation conservation area consistent with safe construction practices, and other provisions of this section. Native trees and shrubs shall be preserved to maintain and provide shoreline ecological functions such as habitat, shade and slope stabilization.

8. Within critical area buffers no more than fifteen percent (15%) of the area with native shoreline vegetation shall be cleared. All native trees in the vegetation conservation area over four (4) inches in diameter at breast height shall be retained. Trees determined by the City to be hazardous or diseased may be removed.

9. The Administrator may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings that are demonstrated to provide greater benefit to shoreline ecological functions than would be provided by strict application of this section.

10. Critical area buffer regulations shall not apply to the removal of aquatic weeds and freshwater algae undertaken pursuant to WAC 173-201A.

11. In the absence of a development proposal, existing, lawfully established landscaping and gardens within a vegetation conservation buffer may be maintained in its existing condition including but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code, provided this does not apply to areas previously established as mitigation sites, or other areas protected via conservation easements or similar restrictive covenants.

12. Alterations to critical areas and/or their buffers may be allowed without a shoreline variance permit to accommodate allowed uses listed below, provided the uses are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions and comply with the Program and all applicable regulations for critical areas as modified by 6.2.B.3.

    a. Uses and activities allowed in the City's critical areas regulations when also allowed in the applicable shoreline environment;

    b. Public trails and shared use paths when located on abandoned railroad corridors;

    c. Pedestrian trail access from upland areas to the shoreline, piers, docks, launch ramps, viewing platforms, wildlife viewing blinds and other similar water-oriented uses;

    d. Allowed water-oriented uses in all shoreline environments. The uses must increase public access to the shoreline, provided that development is located, designed, constructed and operated to minimize critical area disturbance to the maximum extent feasible. Such development or redevelopment shall restore or enhance degraded ecological functions. Such development shall not be exempt from the provisions of Section 6.1, Environmental Impact Mitigation; and Section 6.2, Critical Areas and Shoreline Vegetation Conservation.

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Commented [CS(37]: !!! I am unsure what the required buffer is for Scatter Creek. It is not clear in TMC 112.20.100. The use and development regulations cite to this as the appropriate shoreline setback. This needs to be identified.

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6.3 Public Access

C. Policies

1. Land uses that provide opportunities for substantial numbers of the people to enjoy the shorelines of the state are preferred.

2. Physical or visual access to shorelines should be incorporated in all new development when the development would either generate a demand for one or more forms of such access, and/or would impair existing legal access opportunities or rights. Public health and safety concerns should also be adequately addressed and maintenance of shoreline ecological functions and/or processes should be assured.

3. Public access should be provided for water-oriented uses and nonwater-dependent uses and developments that increase public use of the shorelines and public aquatic lands, or that would impair existing, legal access opportunities.

4. Provide public access as a part of a residential development of single family units on five or more lots, or when there has been significant historical usage by the public. Historic use is regular use by the public over a period of years rather than incidental or occasional use by one or only few members of the public. This policy is not intended to apply to construction of an individual dwelling on a single lot.

5. Nonwater-oriented uses or activities located on the shoreline should provide public access as a public benefit.

6. Public access area and/or facility requirements should be commensurate with the scale and character of the development and should be reasonable, effective and fair to all affected parties including but not limited to the land owner and the public.

7. Public access design should provide for public safety and minimize potential impacts to private property, individual privacy, and protect shoreline ecological functions and processes.

8. Shoreline development by public entities, such as local governments, port districts, state agencies, and public utility districts, should provide 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 shoreline.

D. Development Standards

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

2. Public access shall be evaluated for all shoreline permits. Public access will not be required for the following uses, except as determined on a case-by-case basis in Section 6.1 C, mitigation sequencing. Provided the incentive agreement program may offer incentives to a developer to acquire public access for any activity:

   a. Agriculture,

   b. Dredging,

   c. Ecological restoration or enhancement activities not associated with

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development,

d. Instream structures,

e. Fill and excavation,

f. Shoreline stabilization, and

g. Single-family residential development of four (4) or fewer lots.

3. In addition to the list of uses in Section 6.3 B.2 above, the Administrator may waive public access requirements when one or more of the following provisions apply:

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

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

   c. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access is unreasonably disproportionate to the total long term cost of the proposed development;

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

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

4. Before public access is waived per Section 6.3 B.3 above, the City must determine that all reasonable alternatives have been exhausted; including, but not limited to:

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

   b. Designing separation of uses and activities (e.g. fences, terracing, use of one-way glazing, hedges, landscaping, etc.); and

   c. Providing for access at a site geographically separated from the proposal such as a street end, vista, or trail system.

5. When provisions for public access are waived, this decisions shall be made in writing listing the rationale per Section 6.3 B.3 above. Parcels within shoreline jurisdiction, which do not front onto a stream, or wetland shoreline will not be required to provide shoreline public access

6. If public access on shoreline parcels is demonstrated to be infeasible or inappropriate on site due to significant interference to operations or hazards to life and property, alternative visual access opportunities may be provided at a location not directly adjacent to the water such as a viewpoint, observation tower, or other areas serving as a means to view public waters.

7. This master program shall seek opportunities to increase public access to existing publicly owned shorelines, such as street ends, and unopened rights-of-ways. Public access to the shoreline shall be balanced with the preservation of shoreline habitat and ecological functions on a case-by-case basis.

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8. Public access shall incorporate the following location and design criteria:
    a. Where open space is provided along the shoreline, and public access can be provided in a manner that will not adversely impact shoreline ecological functions and/or processes, a public pedestrian access walkway parallel to the ordinary high water mark of the property is preferred. The walkway shall be buffered from sensitive ecological features and provide limited and controlled access to sensitive features and the water's edge where appropriate. Fencing may be provided to control damage to plants and other sensitive ecological features, where appropriate. Trails shall be constructed of permeable materials and limited in width to reduce impacts to ecologically sensitive resources, except for a shared use trail or public access which is part of a boardwalk.
    b. Public access shall be located adjacent to other public areas, accesses and connecting trails, connected to the nearest public street; and include provisions for handicapped and physically impaired persons where feasible.
    c. Where views of the water or shoreline are available and physical access to the water's edge is not present or appropriate, a public viewing area shall be provided.
    d. Design shall minimize intrusions on privacy by avoiding locations adjacent to windows and/or outdoor private open spaces or by screening or other separation techniques.
    e. Design shall provide for the safety of users, including the control of offensive conduct through public visibility of the public access area, or through provisions for oversight. The Administrator may authorize a public access to be temporarily closed in order to develop a program to address offensive conduct. If offensive conduct cannot be reasonably controlled, alternative facilities may be approved through a permit revision.
    f. Public amenities appropriate to the use of a public access area such as benches, picnic tables and sufficient public parking to serve the users shall be provided.
    g. Commercial developments that attract a substantial number of persons and developments by government/public entities may be required to provide public restrooms, facilities for disposal of animal waste and other appropriate public facilities.
9. The minimum width of public access easements shall be ten (10) feet in width, with twenty (20) feet being the preferred width where significant public use is expected. The Administrator may reduce the width of public access easements, if undue hardship would result or increase the width is necessary to serve the intended function. However, the reduction or enlargement shall only be what is necessary to achieve the intended purpose and it shall be made in writing per Section 6.3 B.5.
10. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.
11. Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

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12. Public access provisions shall run with the land and be recorded via a legal instrument such as an easement, or as a dedication on the face of a plat or short plat. Such legal instruments shall be recorded with the Thurston County Auditor's Office prior to the time of building permit approval, occupancy or plat recordation, whichever comes first.
13. Maintenance of the public access facility shall normally be the responsibility of an accepted public or non-profit agency through a formal agreement recorded with the Thurston County Auditor's Office. However, if appropriate given the use, this responsibility may be required of the owner, future homeowner's association, or other entity approved by the City.
14. Public access facilities shall be available to the public twenty four (24) hours per day unless specific exceptions are granted in a shoreline permit.
15. The standard State approved logo or other approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner/developer. Such signs shall be posted in conspicuous locations at public access sites.

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6.4 Water Quality

A. Policies

1. Locate, design, construct, and maintain shoreline uses and activities to avoid significant ecological impacts by altering water quality, quantity, or hydrology.
2. Require reasonable setbacks, buffers, and storm water storage basins and encourage low-impact development techniques and materials to achieve the objective of lessening negative impacts on water quality.
3. Locate, design, construct, and maintain measures for controlling erosion, stream flow rates, or flood waters through the use of stream control works so as to not degrade the existing water quality.
4. The City will seek to improve water quality, quantity, and flow characteristics in order to protect and restore ecological functions and ecosystem-wide processes of shorelines within Shoreline Management Act jurisdiction. This will be implemented through the regulation of development and activities, through the design of new public works, such as roads, drainage, and water treatment facilities, and through coordination with other local, state, and federal water quality regulations and programs.
5. Prohibit uses and activities that pose a risk of contamination of ground or surface waters, such as:
    a. Storage, disposal, or land application of waste (excluding secondary/tertiary treated effluent from municipal sewer systems), including solid waste landfills,
    b. Operations for confinement feeding of animals,
    c. Junk yards and auto wrecking yards,
    d. Storage of hazardous or dangerous substances within a floodplain, and
    e. Alterations to structures and uses served by septic systems that do not meet state septic requirements.

B. Development Standards

1. The development of new septic systems within shoreline jurisdiction is prohibited.

Commented [RG41]: City comment

Deleted: New development within shoreline jurisdiction shall not be allowed on septic systems.¶ When projects are proposed for existing development operating on septic systems, they shall be required to connect to municipal sewer.¶

2. New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the City's current stormwater management standards. Alternative measures may be considered where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.
3. Best management practices for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved temporary erosion and sediment control plan, or administrative conditions.
4. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in or above shoreline water bodies.
5. All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff.

6.5 Parking

A. Policies

1. Allow parking within the shoreline jurisdiction only for an approved use.
2. Design and construct parking facilities to minimize off-site light and glare by using fully shielded and appropriately aimed fixtures to provide appropriate lighting levels.
3. Locate parking facilities landward from the ordinary high water mark and recreational beaches.
4. Link parking facilities with the shoreline and to the buildings they serve by walkways.

B. Development Standards

1. Parking facilities within the shoreline is only allowed as necessary to support an authorized use. Any other type of parking is prohibited.
2. Parking facilities shall be located landward of the principal building, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
3. Over water parking facilities are prohibited.
4. Parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shorelines and abutting properties.
5. Parking associated with shoreline access shall be located outside critical area buffers. See Section 6.2.
6. Refer to Section 6.4 for the water quality development standards which include on-site stormwater control measures.

6.6 Signage

A. Policies

1. Design signs within shoreline jurisdiction so that they interfere as little as possible with visual access to the shoreline.
2. Design and locate signs to ensure compatibility with the shoreline environment designation, and adjacent land and water uses.
3. Prohibit billboards within all shoreline environment designation.

B. Development Standards

1. Off-premise signs are prohibited within any shoreline environment designation. Traffic signs are not to be considered off-premise signs.
2. All public access shall be marked with signs approved by the Administrator.

6.7 Historical or Archeological Resources

A. Policies

1. Coordinate development review within the shoreline with the Washington State Department of Archaeology and Historic Preservation and affected Indian tribes regarding historic or archaeological interest.
2. Provide for the protection, rehabilitation, restoration and reconstruction of historic structures listed on the federal, state or local historic registers.

3. Report the discovery of a historic or prehistoric site during excavation or development to the Washington State Department of Archeology and Historic Preservation and to the affected Indian tribes.
4. Encourage the enrollment of historic structures or sites on the Federal, state or local historic registers.

B. Development Standards

1. The protection, rehabilitation, restoration, and reconstruction of historic structures shall be governed by *The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Applying the Standards* (1992), as amended.
2. The City shall consult with the Washington Department of Archaeology and Historic Preservation and the affected Indian tribes when known sites are proposed for development. Their comments and recommendations shall be given substantial weight, which may result in denying a development permit where the historic or archaeological value of the site outweighs the development value.
3. The discovery of a historic or pre-historic site during excavation or development shall be reported to the Administrator, the Washington State Department of Archaeology and Historic Preservation, and the affected Indian tribes.
4. Should a historic, cultural or archeological site or artifact of potential significance be discovered in the process of development on the shoreline, then work on that portion of the development site shall be stopped immediately and reported to the Administrator as soon as possible.
5. When warranted by preliminary evaluation or an inadvertent discovery occurs, the Administrator shall then require a site assessment be conducted by a professional archeologist or historic preservation professional, as applicable, to determine the significance of the discovery and the extent of damage to the resource. Once the site assessment is complete, it shall be distributed to the Washington Department of Archaeology and Historic Preservation, and the affected Tribe for a 15-day review period. In the case of case of human remains, this shall be a 30-day review period.
6. If there is a positive determination of a sites' significance, the Administrator may require additional provisions that are deemed to be reasonable and necessary. If the site is determined not to be significant by the above listed agencies or governments, or if the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.

6.8 Scientific or Educational Uses

A. Policies

1. Conduct scientific studies and educational uses of the shoreline in a way to minimize impacts in accordance with the applicable environmental designations.
2. Require a shoreline permit for scientific and educational activities which may significantly affect water quality or natural systems.

B. Development Standards

1. Scientific or educational uses and activities are limited to those which will not:
    a. Jeopardize existing wildlife populations or organisms;
    b. Permanently alter the character of biological habitats; and
    c. Degrade the character of the shoreline environment in which they are located.
2. Temporary disruptions of biological systems may be permitted when a scientific activity will result in their restoration or improvement.
3. Permits encompassing a variety of activities over an extended period of time may be granted provided limits on the duration of approval are established.
4. Temporary facilities necessary for the conduct of a scientific project shall be removed at the conclusion of the prescribed research activity period.
5. Proposals for shoreline development or use in or on known sites of scientific value that would adversely affect, damage, or diminish such resources shall be prohibited. Such proposals may be allowed by shoreline conditional use permit if it is shown that the materials, artifacts or resources are recoverable and transferrable through adequate evaluation by qualified personnel.

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7.0 Uses and Activities Policies and Regulations

This section describes policies and regulations that apply to specific uses and activities in shoreline jurisdiction. Policies and regulations are intended to work in concert with all other policies and regulations contained in this Program.

Uses and activities shall be subject to the policies and development standards for that specific uses or activity. When there are no development standards for a specific use or activity, the proposed use shall assure no net loss of shoreline ecological functions.

Table 7.0 - Uses and Activities by Shoreline Environment Designation

USES & ACTIVITIES	Urban Conservancy	Aquatic
Agriculture	P	NA
Aquaculture	X	X
Boating Facilities	X	X
Commercial	P[2]	X
Forest Practices	X	X
Industrial	X	X
Mining	C	X
Recreation	C[1] / P[2]	C
Residential • Single-Family	P	X
Solid Waste Disposal	X	X
Transportation • Roads and Railroads • Shared Use Path	C[1] / P[2] P	C C
Utilities	C[1] / P[2]	C

Deleted: X

P = Permitted Use; Use may require Substantial Development Permit or statement of exemption approval
C = Requires a Shoreline Conditional Use Permit
X = Prohibited; not eligible for a Substantial Development Permit or Shoreline Conditional Use Permit
NA = Not applicable, refer to the appropriate master program section for additional standards

1 = Within one hundred (150) feet from the ordinary high water mark
2 = Beyond one hundred (150) feet from the ordinary high water mark

Table 7.1 - Regulations by Shoreline Environment Designation

REGULATIONS	Urban Conservancy	Aquatic
Agriculture		
OHWM setback	*	NA
Building height	35’	NA
Mining		
OHWM setback	*	NA
Building Height	25’	NA
Commercial Development		
OHWM setback	*	NA
Building Height	35’	NA
Maximum Impervious Surfaces	40%	NA
Recreation Development		
OHWM setback	*	NA
Building Height	25’	NA
Residential Development		
Single-Family Dwellings		
OHWM setback	*	NA
Maximum Density	1 du/ac	NA
Building Height	35’	NA
Maximum Impervious Surfaces	30%	NA
Transportation		
Roads and Railroads		
OHWM setback	*	NA
Trails/Shared Use Paths		
OHWM setback	*	NA
Utilities		
OHWM setback	*	NA
Building height	35’	NA

OHWM = Ordinary high water mark
* = Use must be located outside of critical area buffer. Refer to Section 6.2. Certain exceptions apply.
NA = Not applicable, refer to the appropriate master program section for additional standards

7.1 General Policies

A. Evaluate new shoreline development or use for their effects on public health.

B. Assess project-specific impacts and a project's potential for net loss of ecosystem-wide processes or ecological functions during permit review.

C. Require mitigation of site specific development impacts to protect existing ecological functions.

D. Prohibit private or public development which would degrade existing ecological functions.

E. Eliminate prohibited shoreline uses and poor quality shoreline conditions when authorizing a new shoreline development or activity.

F. Require developers, property owners, community groups and others to enhance degraded shorelines and return them to an ecologically functioning condition.

G. Provide appropriate enforcement measures which ensure that all conditions are met and require that improvements or mitigation is installed.

I. Monitor and track developments approved within shoreline jurisdiction so that this data will be available during future reviews and updates of this Program.

7.2 Agriculture

A. Policies

1. Prevent soil erosion and minimize siltation, turbidity, pollution and other environmental degradation in watercourses with new and expanded agricultural practices.

2. Prohibit the creation of new agricultural lands by diking, draining or filling associated wetlands.

3. Agriculture is a preferred use on floodplains.

B. Regulations

Agricultural uses and activities may be allowed by shoreline environment designation as listed in Table 7.0 and shall be subject to the regulations of Table 7.1 and the regulations listed below.

1. Agricultural development shall conform to applicable state and federal policies and regulations.

2. Appropriate farm management techniques shall be used to prevent contamination of nearby water bodies and adverse effects on plant, fish and animal life from fertilizer and pesticide use and application.

3. New agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities shall be subject to the following:

   a. A shoreline substantial development permit shall be required, and

b. Agricultural uses and development in support of agricultural uses:

i. Shall be located and designed to have a no net loss of ecological functions, and

ii. Shall not have a significant adverse impact on other shoreline resources and values.

4. Confinement lots, feeding operations, lot wastes, stockpiles of manure solids and storage of noxious chemicals are prohibited within the floodway and within two hundred (200) feet landward of the ordinary high water mark, whichever is greater.

7.3 Aquaculture

Due to the high use of water resources and the possible conflict with other beneficial uses of water within an urban area, aquaculture uses, and facilities are incompatible within the shoreline areas of the City.

A. Policy

1. Prohibit aquaculture uses and facilities within all shoreline environment designations.

B. Regulation

1. Uses and facilities for aquaculture are prohibited within all shoreline environment designations.

7.4 Boating Facilities

Boating facilities are incompatible with goals for shoreline areas along Scatter Creek.

A. Policy

1. Prohibit boating facilities within all shoreline environment designations.

B. Regulation

1. Boating facilities are prohibited within all shoreline environment designations.

7.5 Commercial

A. Policies

1. Acknowledge an economic development priority for commercial businesses that relate to the creek and provide access, view, education and preservation opportunities.

2. Consider all commercial development projects on the basis of their compatibility with the environment.

3. Plan commercial developments with ecotourism opportunities such as connections to public trails, fishing access, and view opportunities.

4. Design commercial developments to preserve, enhance, or create scenic views and vistas.

5. Locate parking areas away from the immediate edge of the water and recreational beaches. Link the parking to the shoreline by walkways.

Commented [CS(42]: Inland is an undefined term in the SMP. The standard for parking facilities from WAC 173-26-241(3)(k) requires parking facilities to avoid and minimize impacts to views and ecological function. This seems to allow parking anywhere landward of the ordinary high water mark, which is not appropriate.

6. Only allow development that meets the Shoreline Commercial Zone as amended in Tenino Municipal Code.

B. Regulations

Commercial uses and activities may be allowed by shoreline environment designation as listed in Table 7.0 and shall be subject to the regulations of Table 7.1 and the regulations listed below.

1. Assure that water-oriented commercial development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state.
2. Any commercial development shall be designed and operated in a manner consistent with the purpose of the shoreline environment designation and minimizes the impact on shoreline ecological functions.
3. Events and temporary uses in the public interest may be approved in accordance with TMC Section 100.40.070 and RCW 90.58.030(3)(e).
4. Commercial development shall be designed to avoid adverse impacts to existing public access and public viewing corridors.
5. Commercial developments shall provide facilities for nonmotorized access, such as pedestrian, bicycle and/or equestrian path links to the shoreline.
6. All public access shall be marked with signs approved by the Administrator.
7. Pedestrian trails shall be design consideration of any proposed development in accordance with the City's trail plan in order to provide public access and reduce impacts to the shoreline.
8. Refer to Section 6.4 for the water quality development standards which include on-site stormwater control measures.
9. Non water dependent commercial uses and development are prohibited below the ordinary high water mark.
10. Any commercial development will not result in a net loss of shoreline ecological functions 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.
11. Nonwater-oriented commercial uses on the shoreline shall be prohibited unless the development meets 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 Shoreline Management Act's objectives such as providing public access and ecological restoration; or
    b. Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

Commented [CS(43]: For consistency with WAC 173-26-241(3)(d), not all commercial development is a priority in shoreline jurisdiction, water-dependent commercial development is prioritized, but, since the city is unlikely to site water dependent commercial development, I recommend using water-oriented.

Commented [CS(44]: Temporary development is subject to permits and not exempt from the SDP requirements. See definition of substantial development in RCW 90.58.030(3)(e). Is this trying to say that this can be done through an administrative permit? Please explain what this regulation is trying to do.

Commented [RG45R44]: This regulation is to allow for events oriented to shoreline use, an example could include road races along the future trail

Commented [CS(46]: What does this mean?
Is it trying to say this:
Commercial development shall be designed to avoid adverse impacts to existing public access and public viewing corridors.

OR this:

Commercial development shall provide public access and/or public viewing corridors.

Or both, or something else? This language is ambiguous and should be made more specific.

Commented [CS(47]: This almost gets to the requirement found in WAC 173-26-241(3)(d), but needs the word public access, instead of access: Here is the language from the WAC The design, layout and operation of certain commercial uses directly affects their classification with regard to whether or not they qualify as water-related or water-enjoyment uses. Master programs shall assure that commercial uses that may be authorized as water-related or water-enjoyment uses are required to incorporate appropriate design and operational elements so that they meet the definition of water-related or water-enjoyment uses.

Commented [CS(48]: From reading 6.3, it appears that pedestrian access trails are allowed outside of the critical areas buffers, making this "water's edge" language in this provision inconsistent with 6.3.
We should discuss this. What is the city envisioning with this trail? Does the city have a trail plan?
If there is a trail plan within shoreline jurisdiction, it is subject to demonstrating how it utilizes the mitigation sequence to avoid and reduce impacts to critical areas an...

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Commented [CS(49]: This requirement is found in WAC 173-26-241(3)(d) along with others that appear to be missing. Please review this section and further augment.

Commented [RG50R49]: Referenced the WAC section, as amended I believe this covers all sections that are applicable to Tenino

7.6 Forest Practices

Forest practices are incompatible with goals for shoreline areas along Scatter Creek. Resource areas for forest practices are designated in appropriate areas outside the boundaries of the City.

A. Policy

1. Prohibit forest practices within all shoreline environment designations.

B. Regulation

1. Forest Practices are prohibited in all shoreline environment designations.
2. For the purpose of this Program, 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 this Program, including vegetation conservation, and shall be limited to the minimum necessary.

7.7 Industrial

Industrial uses and facilities are incompatible with goals for shoreline areas along Scatter Creek.

A. Policy

1. Prohibit industrial uses within all shoreline environment designations.

B. Regulation

1. Industrial uses are prohibited within all shoreline environment designations.

7.8 Mining

The history of Tenino is linked to its mining of "Tenino sandstone".

A. Policies

1. Mining and its facilities are generally inconsistent with other shoreline uses along Scatter Creek.
2. Limit mining to historic quarries where sandstone blocks were extracted. Prohibit other types of mining and mining at new sites.

B. Regulations

Mining may be allowed by shoreline environment designation as listed in Table 6.9 and shall be subject to the regulations of Table 6.10 and the regulations listed below.

1. Mining shall be limited to existing quarries along Scatter Creek which extract sandstone blocks. Mining at new sites is prohibited.
2. Existing quarries must document past sandstone quarry activities with records from the Washington Department of Archaeology and Historic Preservation; and/or Washington Department of Natural Resources.
3. Apply those General Policies and Regulations from Section 6.0, and other General Policies from Section 7.1.

4. Refer to Section 6.4 for the water quality development standards which include on-site stormwater control measures.

7.9 Recreation

A. Policies

1. Acknowledge a priority for recreational development along shorelines.
2. Consider all recreational development projects on the basis of their compatibility with the environment.
3. Plan public access to recreational locations such as fishing streams to prevent concentration of use pressures.
4. Link shoreline parks and public access points through linear open spaces. Such open space may include trails located in accordance with applicable policies and the regulations of TMC 18D.40 Critical Fish and Wildlife Habitat Areas.
5. Design recreational developments to preserve, enhance, or create scenic views and vistas.
6. Locate parking areas inland, away from the immediate edge of the water and recreational beaches. Link the parking to the shoreline by walkways.
7. Allow facilities for intensive recreational activities only where sewage disposal and pest control can be accomplished to meet public health standards without altering the environment adversely.
8. Encourage the development of public fishing piers and access to public waters as part of a City recreation plan, or private development.
9. Encourage low intensity recreational uses on floodplains with largely intact ecological processes and functions and allow high intensity recreational uses on floodplains that have been modified and are upland of the ordinary high water mark.

B. Regulations

Recreational uses and activities may be allowed by shoreline environment designation as listed in Table 7.0 and shall be subject to the regulations of Table 7.1 and the regulations listed below.

1. Assure that recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state.
2. Public recreational development and public access associated with those facilities shall be located, designed and operated in a manner consistent with the purpose of the shoreline environment designation and minimizes the impact on shoreline ecological functions.
3. Non-water oriented recreation facilities or structures shall be setback one hundred (100) feet from the ordinary high water mark as described in Table 6.10.
4. Events and temporary uses in the public interest may be approved by the Administrator when those uses will not damage the shoreline area.

5. Public or private recreation areas which cater to the use of all-terrain or off-road vehicles as the primary recreational activity are prohibited within the shoreline.
6. Recreational developments shall be designed with consideration of public access and public view corridors.
7. Public access points must provide parking space appropriate for the intended use or document the rationale in a shoreline permit.
8. Recreational developments shall provide facilities for nonmotorized access, such as pedestrian, bicycle and/or equestrian path links to the shoreline.
9. All public access shall be marked with signs approved by the Administrator.
10. Pedestrian trails to and along the water's edge are allowed per Section 6.3 B, public access development standards.
11. Refer to Section 6.4 for the water quality development standards which include on-site stormwater control measures.

7.10 Residential

A. Policies

1. Plan and construct residential development to minimize adverse environmental and visual impacts and to assure no net loss of ecological functions.
2. Encourage the clustering of residential development to minimize the loss of shoreline ecological functions and to increase open spaces.
3. Provide access to the shoreline for residents of new development and the general public.
4. Provide open space in accordance with Title 18E (land division) of the Tenino Municipal Code.
5. Promote incentive dedication agreements pursuant to Section 6.3C to accomplish the intent of Policies 1 to 4 above.
6. Measures to conserve native vegetation along shorelines should be required for all residential development. Vegetation conservation must include avoidance or minimization of clearing or grading, restoration of areas of native vegetation or control of invasive or non-native vegetation.
7. Require the restoration of degraded shoreline ecological functions as mitigation for adding square footage to a residential structure. The degree and type of restoration is to be commensurate with the loss of ecological functions at that site.
8. All residential structures and accessory uses should be designed and located so as to preserve views and vistas to and from the water.
9. Prevent the segmentation of critical areas among many owners by requiring subdivisions to place critical areas within separate tracts.
10. Limit residential density to assure no net loss of ecological functions. To further this intent, allow increased density credit under an incentive program where density is transferred to upland areas or off site and the shoreline area is dedicated

to the public.

11. Allow residential development only when there are adequate provisions for utilities, circulation and access.
12. Prohibit new over water residential development.
13. Allow transfer of shoreline density to an upland portion of a shoreline parcel or to a non-shoreline parcel when this provides superior protection, preservation, or public use.
14. Allow transfer of shoreline density to an upland portion of a shoreline parcel or to a non-shoreline parcel if it will provide a better opportunity to achieve goals for no net loss of function and value.

B. Regulations

Residential uses and activities may be allowed by shoreline environment designation as listed in Table 7.0 and shall be subject to the regulations of Table 7.1 and the regulations listed below.

1. The creation of new lots shall be approved if all of the following can be demonstrated:
    a. A primary residence can be built on each new lot without any of the following being necessary:
        i. New structural shoreline stabilization;
        ii. New improvements in the required shoreline buffer or required critical area buffer;
        iii. Causing significant vegetation removal that adversely impacts ecological functions;
        iv. Causing significant erosion or reduction in slope stability; and
        v. Causing increased flood hazard or erosion in the new development or to other properties.
    b. Adequate sewer, water, access and utilities can be provided.
    c. The intensity and type of development is consistent with the City Comprehensive Plan and development regulations.
    d. Potential significant adverse environmental impacts (including significant ecological impacts) can be avoided or mitigated to achieve no net loss of ecological functions, taking into consideration temporal loss due to development and potential adverse impacts to the environment.
2. Residential development over water is prohibited.
3. Residential development shall be arranged and designed to protect views, vistas and aesthetic values to minimize impacts to the character of the shoreline environment and the views of neighboring property owners.
4. New residential developments shall provide public access pursuant to the regulations of Section 6.3 of this Program.
5. New residential developments and uses shall provide for vegetation conservation in accordance with Section 6.2 of this Program. Vegetation conservation shall

occur within the required shoreline buffer as set forth in Table 6.10.

6. New residential developments and uses shall comply with applicable critical areas regulations listed in Section 1.8 of this Program.
7. Wetlands and lands below the ordinary high water mark shall not be used to compute required lot area, lot dimensions, densities and/or required yards.
8. The transfer of residential density to outside the shoreline jurisdiction is encouraged. The transfer of shoreline density is allowed to an upland portion of a shoreline parcel or to a non-shoreline parcel. The number of clustered lots or residential units shall not exceed the density allowed in the specific shoreline environment designation. (See Table 6.10).
9. The City may authorize transferring shoreline density to another area of the City when shoreline area is dedicated to the City. In this case, the receiving area shall be any residential designation, except for Single Family Residential - Environmental Sensitive (SF-ES), provided the receiving site is capable of accommodating the increased density considering necessary infrastructure and utilities.
10. Refer to Section 6.4 for the water quality development standards which include on-site stormwater control measures.
11. Subdivisions shall protect streams, wetlands, their buffers, floodways and channel migration zones, and geologic hazards by locating these features within a separate tract or parcels. Such areas shall be held in common by the subdivision landowners, or one landowner.

7.11 Solid Waste

A. Policy

1. Prohibit facilities that handle solid waste within all shoreline environment designations.

B. Regulation

1. Uses for which the primary purpose is the handling, storage and transfer of solid waste are prohibited within all shoreline environment designations.

7.12 Transportation

A. Policies

1. Locate arterials, freeways, and railways away outside of shoreline jurisdiction unless there are no feasible alternatives.
2. Design roads, trails/shared use paths, and railroads to be located as far landward as possible, to fit the topography and utilize existing corridors so that minimum alterations of natural conditions will be necessary.
3. Design, construct and maintain roads, shared use paths, and railroads to minimize erosion and to permit natural movement of ground water and flood waters.
4. Piers and bridges are preferred to the placement of fill within the shoreline for the road, shared use path, and railroad crossings.
5. Dispose of construction debris, overburden, and other waste materials in such a

way as to prevent their entry by erosion from drainage, high water, or other means into any surface water body.

6. Use mitigation sequencing per Section 6.1B to locate new transportation corridors within shoreline areas.

7. Rely upon the City of Tenino Transportation Plan Element of the Comprehensive Plan to identify new transportation crossings or corridors within shoreline areas.

B. Regulations

Transportation uses and activities may be allowed by shoreline environment designation as listed in Table 7.0 and shall be subject to the regulations of Table 7.1 and the regulations listed below.

1. Roads, shared use paths, and railroads shall be designed to cross shoreline areas by the shortest, most direct route feasible.

2. Future community transportation corridors within shoreline areas shall be prohibited unless shown/included in the City's Transportation Plan Element of the Comprehensive Plan.

3. The placement of fill for roads, shared use paths, or railroads within shoreline jurisdiction shall be restricted to the smallest possible footprint for the intended purpose.

4. Bridges for roads, shared use paths, and railroads may be located within salmon and steelhead habitat provided that the following conditions are met:

   a. An alternative alignment is not feasible,

   b. The project is located and designed to minimize its impacts on the environment,

   c. Any adverse impacts are mitigated, and

   d. Open-piling and piers required to construct the bridge may be placed waterward of the ordinary high water mark, if no alternative method is feasible.

5. The placement of fill for roads, shared use paths, and railroads may be allowed in water bodies, wetlands, side channels and on accretion beaches if:

   a. All structural and upland alternatives have been proven to be infeasible,

   b. The transportation facilities are necessary to support uses consistent with this master program, and

   c. Such review is undertaken as a shoreline conditional use.

6. Appropriate design and erosion control techniques shall be used to construct or repair roads, shared use paths, and railroads so they assure no net loss of shoreline ecological functions and processes.

7. Where permitted to parallel shorelines, roads or railroads shall be setback a sufficient distance from the ordinary high-water line to leave a usable shoreline area.

8. A public trail/shared use path may be allowed within the required critical area buffer in accordance with the provisions of Section 6.2B.11 when on an abandoned railroad corridor. Riparian habitat restoration shall be provided if the path is located within these areas.

9. Refer to Section 6.4 for the water quality development standards which include on-site stormwater control measures.

7.13 Utilities

A. Policies

1. Choose locations that do not obstruct or destroy scenic views whenever utilities must be placed in a shoreline area.
2. Place utilities underground or design them to do minimal damage to the aesthetic qualities of the shoreline area. Where compelling reasons exist to place utilities above ground, such as impacts to ecological functions or values, this may be permitted with full mitigation of aesthetic impacts.
3. Locate utilities outside of shoreline jurisdiction, unless there are no feasible alternatives. When necessary, locate them as far landward as possible and preserve the natural landscape, shoreline ecology, and minimize conflicts with present and planned land uses.
4. Restore banks to their pre-project configuration, replanted with native species, and maintain the site until the new vegetation is established when utility placement occurs within shorelines.
5. Design and locate sewage treatment, water reclamation, desalinization and power plants so as not to interfere with, and to be compatible with recreational, residential or other public uses of the water and shorelands.
6. Recycling or land disposal of sewage wastes is preferred to new sewage outfalls to shoreline waterbodies. Where no alternative to outfalls into water exist, the location is to be part of an approved regional sewage management plan.
7. Use utility rights-of-way for public access to and along shoreline waterbodies, where feasible.
8. Design and construct bridge-like structures for above water crossing of utilities rather than fill.
9. Use best available science and mitigation sequencing per Section 6.1B to locate new utility corridors within shoreline areas. Co-locate new major transmission facilities along existing utility corridors, where possible.

B. Regulations

Utility uses and activities may be allowed by shoreline environment designation as listed in Table 7.0 and shall be subject to the regulations of Table 7.1 and the regulations listed below.

1. Utility facilities and lines shall be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.
2. Utility lines shall be located outside of the shoreline area where feasible. When the utility needs to be located within shoreline jurisdiction, mitigation sequencing pursuant to Section 6.1B shall be used to justify the location, and existing rights of

way and utility corridors shall be used, to the extent feasible.

3. In-water utility corridors may be located within salmon and steelhead habitat provided that the following conditions are met:
   a. An alternative alignment is not feasible,
   b. The project is located and designed to minimize its impacts on the environment,
   c. Any adverse impacts are mitigated,
   d. Any fill is located landward of the ordinary high water mark, and
   e. Open-piling and piers required to construct a bridge necessary for a utility crossing may be placed waterward of the ordinary high water mark, if no alternative method is feasible.
4. Utility facilities and lines shall document how the size of the facility or line has been minimized within the shoreline area. Utility facilities and lines shall identify the methods of revegetation of the affected area to pre-development elevation, replanted with native or pre-existing species, and provisions for the maintenance and care for the newly planted vegetation.
5. Installation of utility service to a development within shoreline jurisdiction shall not require separate shoreline substantial development permit but shall be regulated by the specific use regulations for the activity and the standards of this section.
6. Utilities shall be placed underground unless such undergrounding would be economically or technically prohibitive or would be significantly detrimental to the environment.
7. Utility facilities shall be designed for minimal environmental and aesthetic impact.
8. Underwater utilities shall be located at a depth sufficient to prevent interference between the utility and other shoreline use activities.
9. Utility facilities and lines shall identify safeguards to ensure that no long-term damage will be caused to the adjacent or downstream environment should an accident occur involving that facility or line.
10. Refer to Section 6.4 for the water quality development standards which include on-site stormwater control measures.

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8.0 Shoreline Modifications Policies and Regulations

The policies and development standards in this section apply to all types of shoreline modifications. Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but modifications can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal.

Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use.

Table 8.0 - Shoreline Modifications by Shoreline Environment Designation

SHORELINE MODIFICATIONS	Urban Conservancy	Aquatic
Dredging	NA	C
Fill		
• Ecological Restoration Project	P	P
• All Other Activities	C	C
Shoreline Stabilization		
• Restoration and Enhancement	P	P
• Bioengineering	P	C
• Revetment and Gabion	C	C
• Bulkhead	C*	C*
• Dike, Levee, and Instream Structure	C	C

P = Modification may require Substantial Development Permit or statement of exception approval.
C = Requires a Shoreline Conditional Use Permit
NA = Not applicable, refer to the appropriate master program section for additional standards

* = Required for new single-family residence bulkheads (See 8.6 A.3)

8.1 General Policies

A. Design and locate residential development to make shoreline modifications unnecessary, such as; protective measures as filling, bulkheading, shoreline berms, or substantial grading of the site.

B. Insure that permits for shoreline modifications use mitigation sequencing in Section 6.1 B.

C. Prioritize shoreline stabilization projects based upon the following order of preference:

   1. No action (allow the shoreline to retreat naturally), increased building setbacks, and structure relocation.

   2. Upland vegetation enhancement and drainage controls.

   3. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, protective berms or vegetative stabilization.

   4. Rigid works constructed such as bulkheads and walls of artificial materials such as riprap or concrete. Materials used for construction of shoreline stabilization is to be selected for long-term durability, ease of maintenance, compatibility with local shore features, including aesthetic values and flexibility for future uses.

   5. Applications that propose less preferred methods must demonstrate why preferred methods will not work.

D. Located and design structures along the shoreline to avoid the need for future shoreline stabilization.

E. Locate and design stabilization to:

   1. Protect and maintain shoreline ecological functions, and the integrity of riparian features; and

   2. Not unnecessarily interfere with public access to public shorelines or with other appropriate shoreline uses including, but not limited to, navigation, or private recreation.

F. Locate and design shoreline stabilization on streams to fit the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.

G. Locate and design public or quasi-public development shoreline stabilization projects for multiple use, restoration, and/or public access, where feasible.

H. Design land subdivisions to assure that future development on the created lots will not require structural shore stabilization.

I. Limit new or expanded structural shore stabilization to when:

   1. It is conclusively demonstrated by a geotechnical analysis to be necessary to protect an existing primary structure that is in danger of loss or substantial damage caused by river erosion.

2. The erosion is not being caused by upland conditions such as vegetation loss and drainage problems;
3. Non-structural solutions will not be feasible or sufficient; and
4. Impacts can be mitigated so that they will not result in a net loss of ecosystem- wide processes and shoreline ecological functions.

J. Restrict larger shoreline stabilization projects to when:
1. Water-dependent uses benefits to the region outweigh resource losses from such works, and
2. Mitigation is provided so as to result in a no net loss of shoreline ecological functions and processes.

K. Prohibit shore stabilization projects on publicly owned shorelines which result in a long-term decrease in public use of the shoreline.

L. Prohibit shore stabilization for the purpose of filling shorelines.

M. Prohibit structural shoreline stabilization to be located on or at the base of eroding bluffs, except where existing structures are threatened, or non-structural methods have been determined to be infeasible.

N. Give preference in permitting to shore stabilization efforts which coordinate affected property owners and public agencies for a whole stream reach to address ecological and geo-hydraulic processes.

O. Remove failing, harmful, unnecessary, or ineffective structures and restore shoreline processes and ecological functions by using less harmful long-term stabilization measures.

8.2 Dredging

A. Policies
1. Allow dredging in locations where a comprehensive management plan has been evaluated and authorized by local and state governmental entities, and only when significant ecological impacts are minimized and when mitigation is provided.
2. Design and locate new development to minimize the need for new dredging.
3. Conduct dredging in such a manner as to minimize damage to natural systems in both the area to be dredged and the area for deposit of dredged materials.
4. Dispose of the dredged material at an alternative disposal site when chemicals are present in concentrations high enough to cause significant harm to resident biota.
5. Plan and conduct dredging to minimize interference with navigation and adverse impacts to other shoreline uses, properties and values.
6. Allow dredging of less than five hundred (500) cubic yards as part of ecological restoration or enhancement, beach nourishment, public access or public recreation provided it is otherwise consistent with the policies and provisions of this master program.

7. Allow dredging for the following activities:

    a. In conjunction with a water-dependent use of water bodies or adjacent shorelands;

    b. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist;

    c. Maintenance of irrigation reservoirs, drains, canals or ditches for agricultural and stormwater purposes;

    d. Removal of gravel for flood management purposes consistent with an adopted flood hazard reduction plan and only after a biological and geomorphological study demonstrates that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of shoreline ecological processes and functions and is part of a comprehensive flood management solution;

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

    f. Minor trenching to allow the installation of necessary underground pipes or cables if no alternative, including boring, is feasible, and:

        i. Impacts to fish and wildlife habitat are avoided to the maximum extent possible;

        ii. The utility installation does not increase or decrease the natural rate, extent or opportunity of channel migration;

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

B. Regulations

Dredging may be allowed as listed in Table 8.0 and shall be subject to the regulations below.

1. All permits which include dredging shall supply a dredging plan which includes the following information:

    a. A description of the applicable purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this Program.

    b. A detailed description of the existing physical character, shoreline geomorphology and biological resources (including migratory, seasonal and spawning use) provided by the area proposed to be dredged, including:

        i. A site plan map outlining the perimeter of the proposed dredge area, include the existing bathymetry depths and have data points at a minimum of two (2) foot increments in depth.

        ii. A habitat survey must be conducted and Washington State Department of Fish and Wildlife (WDFW) must be contacted to ensure the survey is conducted according to the most recent survey guidelines.

iii. Information on stability of bedlands adjacent to proposed dredging and spoils disposal areas.

c. A detailed description of the physical, chemical and biological characteristics of the dredge spoils to be removed.

i. Physical analysis of material to be dredged: material composition and amount, grain size, organic materials present, source of material, etc.

ii. Chemical analysis of material to be dredged: volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.

iii. Biological analysis of material to be dredged.

d. A description of the method of materials removal, including facilities for settlement and movement.

i. Dredging procedure: length of time it will take to complete dredging, method of dredging and amount of materials removed.

ii. Frequency and quantity of project maintenance dredging.

e. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including but not limited to:

i. Spoils disposal area, including:

(1) Physical characteristics including location, topography, existing drainage patterns, surface and ground water;

(2) Size and capacity of disposal site;

(3) Means of transportation to the disposal site;

(4) Proposed dewatering and stabilization of spoils;

(5) Methods of controlling erosion and sedimentation; and

(6) Future use of the site and conformance with land use policies and regulations.

ii. Total initial spoils volume.

iii. Plan for disposal of maintenance spoils for at least a fifty (50) year period.

f. Hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.

2. Toxic dredge spoil deposits on land shall not be placed on sites from which toxic leachates could reach shorelines and/or associated wetlands.

3. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the Washington State Register of Historic Places until such time that they have been released by the State Archaeologist.

4. No permit shall be issued for dredging unless it has been shown that the material to be dredged will not exceed the U.S. Environmental Protection Agency and/or Washington State Department of Ecology criteria for toxic sediments.

5. Dredging for the sole purpose of obtaining fill material is prohibited.
6. Permits for dredging shall be granted only if the project proposed is consistent with the zoning and/or the land use designation of the jurisdiction in which the operation would be located.
7. Dredging to construct canals or small basins for water ski landings or swimming holes is prohibited.
8. Limit dredging to support water dependent uses, navigation, public access, and restoration. Prohibit dredging which will damage shallow water habitat used by salmon and steelhead for migration corridors, rearing, feeding and refuge, unless the proponent demonstrates all of the following conditions are met:
    a. An alternative alignment or location is not feasible.
    b. The project is designed to minimize its impacts on the environment.
    c. The facility is in the public interest.
    d. If the project will create significant unavoidable adverse impacts, the impacts are mitigated by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required as a substitute.
    e. Dredging for flood control when performed as a temporary action needed in the course of implementing a long-term solution for a sediment transport problem identified in a comprehensive flood hazard management plan.
9. The removal of river gravel bars may be allowed when all of the following conditions can be met:
    a. The gravel removed from the river or stream does not exceed the average annual recruitment of bedload material as shown by an approved geomorphic and sediment transport analysis. Additional gravel may be removed where the applicant can demonstrate the channel capacity has been significantly reduced.
    b. The gravel is removed from the area between the existing water level and the permanently vegetated portions of the bank.
    c. The project will not cause any adverse impacts on salmon and steelhead habitat, especially through increased sedimentation.
10. Material dredged from the adjacent wetland or stream area shall not be used to construct dikes and levees unless part of a Comprehensive Flood and Habitat Management Plan.
11. Proposals for dredging shall include all feasible mitigating measures to minimize adverse impacts such as: turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of food chains, loss of benthic productivity and disturbance of fish runs and important localized biological communities.

8.3 Fill

A. Policies

1. Design and locate shoreline developments to minimize the need for fill.
2. Use mitigation sequencing to limit the size and location of fills.
3. Design and locate shoreline fill to avoid causing significant damage to existing ecological values or natural resources, or create a risk of significant injury to life, or adjacent property.
4. Design the perimeter of a fill to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural appearing and self-sustaining control methods are preferred over structural methods.
5. Prioritize fills for water-dependent uses.
6. Limit the size of fills and when allowed minimize its potential adverse impacts.
7. Allow fills in limited instances:
    a. To restore uplands where recent erosion has rapidly reduced upland area,
    b. To build beaches and protective berms for shore stabilization or recreation,
    c. To restore or enhance degraded shoreline ecological functions and processes, or
    d. To moderately elevate low uplands to make such uplands more suitable for purposes consistent with this SMP.
8. Allow the deposition of dredge material in water areas:
    a. For habitat improvement, or
    b. For a beneficial use in riverbed enhancement.
9. Require a shoreline conditional use permit for any fill placed waterward of the ordinary high-water mark for any use except ecological restoration.
10. Require fill projects to provide mitigation to prevent a net loss of shoreline ecological functions.
11. Prohibit the placement of fill in floodways or wetlands, unless part of an approved ecological restoration activity.

B. Regulations

Fill may be allowed as listed in Table 8.0 and shall be subject to the regulations below.

1. The use of solid wastes and organic debris, such as wood and other vegetative materials, in a fill are prohibited.
2. Fills shall consist of clean materials including such earth materials as clay, sand, and gravel, and also may include oyster or clam shells. In addition, concrete may be included in fill material if it is not liable to pollute ground water and is approved by the Administrator.

3. Fills, for riverbed enhancement, shall be designed, constructed, and maintained to prevent, minimize and control all material movement, erosion, and sedimentation from the affected area.
4. Fill areas shall be covered with sufficient earth material to support indigenous vegetative ground cover and replanted with vegetation to blend with the surrounding environment.
5. Fills may be allowed only when it can be demonstrated that the proposed action will not:
    a. Result in significant damage to water quality, fish, and/or wildlife habitat; and
    b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.
6. Fill which will interfere with public rights of navigation and rights corollary thereto shall not be permitted unless there is an overriding public interest.
7. Fill for the purpose of providing land to ensure the required distance for an on-site septic system is prohibited.
8. Fill for the sole purpose of creating new dry land is prohibited.
9. Fill within a 100-year floodplain is prohibited except when it can be clearly demonstrated that the geohydraulic characteristics and floodplain storage capacity will not be altered to increase flood hazard or other damage to life or property.
10. Fill of parcel within a 100-year floodplain for the purpose of raising the first floor elevation of a residential single family structure is prohibited, however a limited amount of fill will be allowed adjacent to an elevated foundation.
11. Fill within a floodway is prohibited, except as provided in TMC 18D.70 Flood Hazard Areas, and if processed as a shoreline conditional use permit.
12. Fill located waterward of the ordinary high water mark for the purpose of ecological restoration may be allowed subject to a shoreline substantial development permit, rather than a shoreline conditional use permit.
13. Fill disposal sites shall adhere to the following conditions:
    a. Containment dikes and adequate settling basins shall be built and maintained so that the site's discharge water carries a minimum of suspended sediment. Required basins shall be designed to maintain at least one (1) foot of standing water at all times to encourage proper settling.
    b. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands and drainages.
    c. Shoreline ecological functions and processes will be preserved, including protection of surface and ground water; erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

d. Runoff water shall be controlled so as to enter a waterway through grassy swales or other treatment features that assures protection of water quality and other environmental resources.

e. Underground springs and aquifers shall be identified and protected.

f. The outside face of dikes shall be sloped at 1-1/2 to 1 (horizontal to vertical) or flatter and seeded with grass and/or native vegetation. Landscaping and buffer areas may be required.

g. Sites shall be adequately screened from view. Dredge disposal in shoreline areas shall not impair scenic views.

h. Dredge materials deposited upland and not part of a permitted dike or levee shall constitute fill, and when deposited within the jurisdiction of this master program, shall comply with the fill regulations of this master program.

8.3 Restoration and Enhancement

A. Policies

1. Ensure that permits for restoration and enhancement projects address the policies and regulations in Section 6.1.
2. Encourage and facilitate cooperative restoration and enhancement programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.
3. Ensure restoration and enhancement are consistent with and, where practicable, prioritized based on the biological recovery goals for listed fish species and other species for which a recovery plan is available.
4. Integrate restoration and enhancement with other parallel natural resource management efforts such as *The Chehalis Basin Salmon Habitat Restoration Work Plan for WRIAs 22 and 23* (2008), as amended.
5. Prioritize restoration actions and stand-alone projects in the following order:
   a. Create dynamic and sustainable ecosystems.
   b. Restore connectivity between stream/river channels, floodplains and hyporheic zones.
   c. Restore natural channel-forming geomorphologic processes.
   d. Mitigate peak flows and associated impacts caused by high stormwater runoff volume.
   e. Reduce sediment input to streams and rivers and associated impacts.
   f. Improve water quality.
   g. Restore native vegetation and natural hydrologic functions of degraded and former wetlands.
   h. Replant native vegetation in riparian areas to restore functions.

i. Remove obsolete and no longer needed shoreline modifications.

6. Recognize that restoration and enhancement may result from:
   a. Mitigation of impacts from new development, and
   b. Adoption of shoreline setbacks which are based upon shoreline ecological functions and processes.

B. Regulations

Restoration and enhancement may be allowed as listed in Table 8.0 and shall be subject to the regulations below.

1. Restoration shall be carried out in accordance with an approved restoration plan and the policies and regulations of this Program.

8.4 Bioengineering

A. Policies

1. Insure that permits for bioengineering projects address the policies and regulations in Section 6.1.
2. Give preference in permitting to bioengineering projects which incorporate self-maintaining vegetation and materials over those which requiring routine maintenance.
3. Design and construct bioengineering projects to:
   a. Ensure that water quality, fish and wildlife habitats and flood holding capacity are not degraded, and timed so that the survival of new plantings is optimized;
   b. Maximize the use of native vegetation;
   c. Minimize the structural soil stabilization components, including riprap, to last only until vegetation is well established; and.
   d. Include vegetative buffers, fencing and/or other measures to avoid disturbance of the project site by livestock and vehicles.
4. Limit the waterward extent of bioengineering projects to that which is necessary to achieve the intended results.

B. Regulations

Bioengineering may be allowed as listed in Table 8.0 and shall be subject to the regulations below.

1. Bioengineering is a preferred way to protect an existing single-family residence or to maintain access to an authorized shoreline use, rather than hard shoreline stabilization structures such as bulkheads, fills, levees, or dikes.
2. Bioengineering projects shall incorporate the following:
   a. All bioengineering projects shall use a diverse variety of native plant materials, including trees, shrubs and grasses, unless demonstrated infeasible for the particular site.

b. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that all vegetation is fully re-established within three (3) years. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable.

c. An undisturbed buffer shall be incorporated into the site design disturbed to allow bank protection plantings to become established for a minimum of three (3) years. The buffer shall exclude livestock, vehicles and activities that could disturb the site.

d. All bioengineering projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired.

e. All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat and to optimize survival of new vegetation.

8.5 Revetments and Gabions

A. Policies

1. Insure that permits for revetment and gabion projects address the policies and regulations in Section 6.1.
2. Apply the bulkhead policies listed in Section 8.7 to revetments and gabions.

B. Regulations

Revetments and gabions may be allowed as listed in Table 8.0 and shall be subject to the regulations below.

1. Revetments or gabions shall be subject to mitigation sequencing outlined in Section 6.1B. When allowed, mitigation shall be required for all adverse impacts to assure no net loss of shoreline ecological functions.
2. Revetments or gabions may be allowed to protect an existing single-family residence or to maintain access to an authorized shoreline use, after the Administrator has determined that other techniques, such as bioengineering, are not feasible.
3. Replacement revetments or gabions shall not be located waterward of the ordinary high-water mark.
4. New and repairs to exiting revetments and gabions for a nonconforming use are prohibited, unless it can be demonstrated that it is necessary for the maintenance of shoreline ecological functions and is in the public interest.
5. Revetments or gabions are prohibited in wetlands, and in salmon and trout spawning areas, except for the purpose of fish or wildlife habitat enhancement or restoration.
6. Installation of a revetment or gabion to protect a platted lot where no structure presently exists is prohibited.
7. The design of a revetments or gabions shall incorporate proper consideration of:

a. Data on local geophysical conditions,

b. Data on stream flow, velocity and flood capacity, and

c. Effects on adjacent properties.

8. Revetments or gabions shall incorporate downed logs, snags or existing large rocks into the design, as appropriate. The use of tires, automobile bodies, scrap metal, paper products and solid waste materials is prohibited.

9. The design of revetments shall be in accordance with Washington Department of Fish and Wildlife most current edition of *Stream Habitat Restoration Guidelines* for freshwater shorelines.

10. Riprap used for revetments or gabions shall consist of clean quarried rock, free of loose dirt and any pollutants, and shall be of sufficient size and weight to prevent movement by wave or current action.

11. When located on the convex (inside) bend of a stream or river a proposed revetment shall be setback to allow stream to maintain point bars and associated aquatic habitat through normal accretion. Where revetments or similar structures have already cut off point bars from the stream, consideration shall be given to their relocation.

8.6 Bulkheads

A. Policies

1. Insure that permits for bulkhead projects address the policies and regulations in Section 6.1.

2. Locate and design residential development along shorelines to make unnecessary shoreline stabilization projects such as filling, bulkheading, or substantial grading of the site.

3. Require applications for new single-family residence bulkheads to be processed as a shoreline conditional use permit.

B. Regulations

Bulkheads may be allowed as listed in Table 8.0 and shall be subject to the regulations below.

1. Bulkheads shall be subject to mitigation sequencing outlined in Section 6.1B. When allowed, mitigation shall be required for all adverse impacts to assure no net loss of shoreline ecological functions.

2. A bulkhead may be allowed to protect an existing single-family residence or to maintain access to an authorized shoreline use, after the Administrator has determined that other techniques such as beach restoration and enhancement, or bioengineering are not feasible.

3. A bulkhead is prohibited in wetlands, and in salmon and trout spawning areas, except for the purpose of fish or wildlife habitat enhancement or restoration.

4. A bulkhead shall not be located waterward of the ordinary high-water mark.

5. New and repairs to an existing bulkhead for a nonconforming use are prohibited, unless it can be demonstrated that it is necessary for the maintenance of shoreline ecological functions and is in the public interest.
6. Installation of a bulkhead to protect a platted lot where no structure presently exists is prohibited.
7. The construction of a bulkhead for the primary purpose of retaining or creating dry land is prohibited, except as allowed by the fill regulations in Section8.3B.
8. Bulkheads are prohibited along sensitive shorelines, such as marshes and other wetlands.
9. Bulkheads are prohibited for any purpose if they will cause significant erosion.
10. The design of a bulkhead shall incorporate proper consideration of:
    a. Data on local geophysical conditions;
    b. Data on stream flow, velocity, and flood capacity; and
    c. Effects on adjacent properties.
11. The design and construction of bulkheads shall conform to all other applicable state agency policies and regulations including the Washington Department of Fish & Wildlife criteria governing the design of bulkheads.
12. Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of its face.

8.7 Dikes, Levees and Instream Structures

A. Policies

1. Insure that permits for dike, levee and instream structure projects address the policies and regulations in Section 6.1.
2. Give preference in permitting non-structural solutions over structural flood control devices, such as:
    a. Limiting development in historically flood-prone areas or historic channel migration areas;
    b. Regulating and limiting increases in peak stormwater runoff from new upland development; and
    c. Land acquisition for additional flood storage.
3. Limit structural solutions to reduce shoreline damage to only when it can be demonstrated that non-structural solutions would not be able to reduce the damage.
4. Limit flood control works to when it is necessary to protect existing development and where non-structural flood hazard reduction measures have been determined to be infeasible.
5. Locate, design, and construct flood hazard management works to provide:

a. Protection of the physical integrity of the stream corridor and other properties that may be damaged by interruptions of the geohydraulic system;

b. Protection of water quality and natural ground water movement;

c. Protection of fish, vegetation and other life forms and their habitat vital to the aquatic food chain;

d. Protection of recreation resources and aesthetic values such as point and channel bars, islands and other shore features and scenery;

e. Dedicated public access where appropriate; and

f. Protection of natural hydrologic and geomorphic channel and floodplain processes.

6. Restrict flood control works to protect existing development to when the primary use being protected is consistent with this master program, and the works can be developed in a manner that is compatible with multiple use of streams and associated resources for the long-term, including shoreline ecological functions, fish and wildlife management and recreation.

7. Prohibit new or expanding development or uses in the shoreline, including subdivision of land that would likely require structural flood control works within a stream, channel migration zone or floodway over the life of the development.

8. Prohibit structural flood control works where they will result in any of the following:

   a. Increased residential, commercial or industrial development in undeveloped 100-year floodplains or channel migration areas;

   b. Loss of significant flood storage capacity in undeveloped 100-year floodplains; and

   c. Deflecting or constricting flood flows to a degree that will result in significantly increased flood heights on unprotected properties.

9. Locate, design and construct flood control works and instream structures so that their effects on geo-hydraulic shoreline processes:

   a. Will not cause significant damage to other properties or valuable shoreline resources, and

   b. The physical integrity of the shoreline process corridor is maintained.

10. Design and construct instream structures to be:

    a. Consistent with and incorporate elements from applicable watershed management plans, restoration plans and/or surface water management plans; and

    b. Compatible with continued long-term multiple use of shoreline resources by all appropriate user groups.

11. Remove existing dikes, levees and instream structures when possible.

12. Require that instream structures and associated facilities provide for the protection and preservation of natural and cultural resources including, but not limited to, fish, wildlife and water resources, sensitive areas such as wetlands, sensitive geologic and geohydraulic areas and waterfalls, erosion and accretion shoreforms and natural scenic vistas.
13. Require that applications for instream structures and associated facilities minimize adverse impacts to the shoreline and the surrounding area through the design, location, security and construction of access roads, impoundment structures and reservoirs, penstocks and power houses.
14. For shoreline development by public entities, such as local governments, port districts, state agencies, and public utility districts, refer to the public access provision in Section 6.3 A.7.

B. Regulations

Dikes, levees and instream structures may be allowed as listed in Table 8.0 and shall be subject to the regulations below.

General Regulations

1. Dikes, levees and instream structures shall be subject to mitigation sequencing outlined in Section 6.1B. When allowed, mitigation shall be required for all adverse impacts to assure no net loss of shoreline ecological functions.
2. When dikes, levees and instream structures are allowed, mitigation shall be required if there will be a loss of fish and wildlife resources, natural systems including wetlands, or other critical areas. In this case, dikes, levees and instream structures shall be subject to the following:
    a. The mitigation required shall be commensurate to the value and type of resource or system lost. No net loss in ecological function, value or acreage shall occur from such development.
    b. Where mitigation for loss of ecological functions is required, a mitigation plan shall be prepared by the applicant/proponent that details the objectives of the mitigation activities.
    c. Mitigation activities shall be monitored to determine the effectiveness of the mitigation plan. Monitoring shall be accomplished by a third party subject to the approval of the City and the Washington State Department of Ecology. Results of monitoring shall be publicly available.
    d. If mitigation is found to be ineffective, corrective action that satisfies the mitigation objectives shall be required of the proponent.
    e. If the mitigation is found to be inadequate or if adequate mitigation is determined to be impossible, the application shall be denied.

Dike and Levee Regulations

3. New dikes and levees may be constructed as part of a shoreline environmental restoration project, a state-approved comprehensive flood control management plan, an approved watershed plan, or an approved stormwater drainage basin plan.
4. Dikes and levees shall not be constructed with material dredged from the adjacent wetland or stream area unless part of a comprehensive flood and habitat plan.
5. Dikes and levees shall not be placed in the floodway except for current deflectors necessary for protection of bridges and roads.
6. Dikes and levees shall be subject to following:
    a. Such works shall be located and designed to protect shoreline ecological processes and functions,
    b. Such works shall be limited in size to the minimum height required to protect adjacent lands from the protected flood stage,
    c. Such works shall be set back to the greatest extent feasible landward of the floodway and ordinary high water mark,
    d. Such works are to be located near the tangent to outside meander bends so that the stream can maintain normal meander progression and utilize most of its natural flood water storage capacity,
    e. Such works shall not interfere with channel migration except to protect existing structures,
    f. Such works shall be designed and constructed to meet Natural Resources Conservation Service technical manual standards,
    g. Such works shall be constructed in coordination with the Washington Department of Fish and Wildlife (WDFW).

Instream Structure Regulations

7. Instream structures shall be planned and constructed based on a state-approved comprehensive flood control management plan, when available, and in accordance with the local National Flood Insurance Program.
8. Instream structures shall be permitted only when it is demonstrated by engineering and scientific evaluations that:
    a. They are necessary to protect health/safety and/or existing development.
    b. Non-structural flood hazard reduction measures are infeasible.
    c. Measures are consistent with an adopted comprehensive flood hazard management plan that evaluates cumulative impacts to the watershed system.
9. Instream structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, side channels, islands and braided channels.

10. A new instream structure (such as, but not limited to, high flow bypass, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams and weirs) shall be allowed only as part of an approved mitigation or restoration project, or approved watershed basin plan.
11. Instream structures shall be designed to avoid modifying flows and water quality in ways that may adversely affect critical fish species.
12. Instream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters.

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9.0 Definitions

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The terms used throughout this Program shall be defined and interpreted as indicated below. When consistent with the context, words used in the present shall include the future, the singular shall include the plural, and the plural the singular.

A

1. **Act** or **SMA.** The Shoreline Management Act of 1971 (Chapter 90.58 RCW, as amended).
2. **Accessory Building, Structure or Use.** The use of the land or a subordinate building or a portion of a principle building, such use being secondary or incidental to a permitted use or structure, whether such permitted use is on the same lot as the proposed accessory building or use, or on a contiguous lot or lots under the same ownership; provided, that the accessory structure or use may be established in conjunction with or after the establishment of the permitted structure or use.
3. **Administrator.** That person as appointed by the City to administer the provisions of these regulations within the boundaries of that jurisdiction.
4. **Agricultural Activities.** Agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.
5. **Agricultural Equipment** and **Agricultural Facilities.** Include, but are not limited to:
    A. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;
    B. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
    C. Farm residences and associated equipment, lands, and facilities; and
    D. Roadside stands and on-farm markets for marketing fruit or vegetables.
6. **Agricultural Commodities.** Any plants, or parts thereof, and animals produced by a farmer with their primary use being for sale, consumption, or propagation by man or animals.

7 Agricultural Land. Those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these

guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

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

9. **Agriculture.** All methods of livestock, crop, vegetation and soil management. These include but are not necessarily limited to the related activities of tilling, fertilizer application, soil preparation and maintenance, harvesting and the control of weeds, plant diseases and insect pests. Also included are animal husbandry practices associated with the feeding, housing, maintenance and marketing of animals such as beef cattle, milk cows, breeding stock, horses and poultry and their by-products. Facilities contained within this category include, but are not limited to, storage, feed lots, fences and ditches. Excluded are agricultural processing industries.

10. **Amendment.** A revision, update, addition, deletion, and/or reenactment to an existing Shoreline Master Program.

11. **Applicable Master Program**. The master program approved or adopted by the Department pursuant to RCW 90.58.090 or 90.58.190.

12. **Aquacultural Practices.** Include the hatching, cultivating, planting, feeding, raising, harvesting and processing of aquatic plants and animals, and the maintenance and construction of necessary equipment, buildings and growing areas.

13. **Archaeological Resource/Site.** Includes a geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

14. **Archaeologist, Professional.** A person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist.

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

B

16. **Berm.** One or several linear deposits of sand and gravel generally paralleling the shore at or landward of OHWM; berms are naturally stable because of material size or vegetation

17. **Billboard.** See Sign.

18. **Bioengineering.** The practice of using natural vegetative materials (and often structural components) to stabilize shorelines and prevent erosion.

19. **Boating Facilities.** Includes marinas located both landward and waterward of the OHWM (dry storage and wet-moorage types); and launch ramps.

20. **Bog.** A depression or other undrained or poorly drained area containing, or covered with, peat (usually more than one layer) on which characteristic kinds of sedges, reeds, rushes, mosses, and other similar plants grow. In the early stages of development, the vegetation is herbaceous and the peat is very wet. In middle stages the dominant vegetation is brush. In mature stages trees are usually the dominant vegetation, and the peat, at least near the surface, may be comparatively dry.

21. **Buffer.** An area measured landward perpendicularly from the ordinary high water mark that is intended to reduce the adverse impacts of adjacent land uses on shoreline ecological functions and provide important habitat for wildlife.

22. **Building.** Any structure designed for or used for the support, shelter or enclosure of persons, animals or personal property, and which is used in a fixed location on land, shorelands or tidelands.

23. **Bulkhead.** Either public or private wall usually constructed parallel to the shore. Their primary purpose is to contain and prevent the loss of soil caused by erosion or wave action.

C

24. **Channel Migration Zone (CMZ).** The area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

25. **Channelization.** The straightening, deepening or lining of stream channels, and/or prevention of natural meander progression of stream ways, through artificial means such as relocation of channels, dredging, and/or placement of continuous levees or bank revetments along significant portions of the stream. Dredging of sediment or debris alone is excluded.

26. **Clearing.** The destruction or removal of vegetative ground cover and/or trees including, but not limited to, root material removal and/or topsoil removal. This includes such activities as clear cutting or selective harvest of trees, pulling out of stumps, hauling off of shrubs, slash piles, etc.

27. **Cluster Development.** A residential development which reserves substantial portions of land as open space or recreational areas for the joint use of the occupants of the development. This land may be provided by allowing dwelling units to be placed on lots smaller than the legal minimum size for regular subdivisions, as long as the density does not exceed prescribed standards.

28. **Commercial Development.** Those uses involved in wholesale, retail, service and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices and private or public indoor recreation facilities.

29. **Conditional Use.** A use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program.

30. **Critical Areas.** Those areas with especially fragile biophysical characteristics and/or with significant environmental resources as designated in Chapter 18D of the Tenino Municipal Code. RCW 36.70A.030 defines "critical areas" as: wetlands; areas with a critical recharging effect on aquifers used for potable waters; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas.

31. **Critical Freshwater Habitats.** Designated areas of streams, rivers, wetlands and lakes, their associated channel migration zones and flood plains.

D

32. **Density.** The permissible number of dwelling units that may be developed on a specific amount of land area measured in number of dwelling units per acre.

33. **Department.** Washington State Department of Ecology.

34. **Development.** A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; pile driving; 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 at any water level and/or on lands subject to the Act. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

35. **Development Regulations.** The controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

36. **Dike.** An embankment to prevent flooding by a stream or other water body, often referred to as a levee.

37. **Director.** The Director of the Washington State Department of Ecology.

38. **Dredging.** The removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, river, lake or marine water body and associated shorelines and wetlands.

39. **Dwelling.** A building or portion thereof, designed or used for residential occupancy. The term dwelling shall not be construed to mean a motel, rooming house, hospital or other accommodation used for more or less transient occupancy.

E

40. **Ecological Functions or Shoreline Functions.** The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

41. **Ecosystem-Wide Processes.** The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

42. **Education.** Any development undertaken for the support of public or private research or education.

43. **Emergency.** An unanticipated and imminent threat to public health, safety or the environment which requires immediate action with a time too short to allow full compliance with this master program. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed and any permits which would have been required by this SMP or the SMA, absent an emergency, must be obtained. Generally, flooding or other seasonal events that can be anticipated and may occur but are not imminent is not an emergency.

44. **Environment.** See "Shoreline Environment Designations".

45. **Exempt.** Developments set forth in WAC 173-27-040 and RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147,90.58.355, and 90.58.515 which are not required to obtain a substantial development permit but which must otherwise comply with applicable provisions of the act and the local master program.

F

46. **Fair market value.** The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

47. **Feasible.** An action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

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

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

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

    d. In cases where this master program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant; and

e. In determining an action's infeasibility, the administrator may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

48. **Fill.** The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, or on shorelands in a manner that raises the elevation or creates dry land.

49. **Floodplain.** Synonymous with one hundred (100) year flood plain and means that land area susceptible to inundation with a one (1) percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

50. **Floodplain Management.** A long-term local government program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works and monitoring and warning systems

51. **Floodway.** The area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

52. **Forest Practices**. The raising and harvesting of trees as a crop as defined by WAC 222-16, as amended. Within the city or its urban growth area all class 1, 2 or 3 forest practices shall be administered as class 4 conversions and shall be subject to local land use regulations.

G

53. **Geologically Hazardous Areas.** Areas susceptible to severe erosion or slide activity, such as unstable bluffs, and include areas with high potential for earthquake activity. They may be identified in critical areas inventories. In general, they are not suitable for placing structures or locating intense activities or uses due to the inherent threat to public health and safety.

54. **Geotechnical Report or Geotechnical Analysis.** A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and

Deleted: The area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions 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 flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

55. **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.

56. **Guidelines or SMA Guidelines.** Standards adopted to implement the policy of the SMA (RCW 90.58) and provide criteria to local governments and the department in developing master programs, codified as Chapter 173-26 WAC.

57. **Guidelines** or **SMP Guidelines.** Those standards adopted to implement the SMA policy for regulation of use of the shorelines of the state prior to adoption of master programs, and to provide criteria to local governments and Ecology for developing Shoreline Master Programs (SMP). Chapter 173-26 WAC or as amended.

H

58. **Hazard Tree.** Any tree that is susceptible to immediate fall due to its condition (damage, disease, or dead) or other factors, which because of its location is at risk of damaging permanent physical improvement to property causing personal injury.

59. **Hazardous Waste.** Includes all dangerous and extremely hazardous waste as defined by RCW 70.105.010.

60. **Hearings Board.** The State Shorelines Hearings Board established by the act in RCW 90.58.170.

61. **Height.** 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 it obstructs the view of a substantial number of residences on areas adjoining such shorelines, or the applicable master program provides otherwise. Provided further, that temporary construction equipment is excluded in this calculation.

62. **Historic Place.** A building, structure, object or site on the local, State or National Register of Historic Places.

63. **Historic Preservation Professional.** An individual who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

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

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

I

64. **Impervious Surface.** Hard surface areas that either prevent or retard the entry of water into the soil mantle. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and other surfaces. Natural surface water and open, uncovered retention/detention facilities shall not be considered impervious surfaces for purposes of this program.

65. **Industrial Developments.** Facilities for processing, manufacturing and storage of finished or semi-finished goods.

L

66. **Legislative Body.** The City Council of the City of Tenino.

67. **Levee.** A natural or man-made embankment on the bank of a stream for the purpose of keeping flood waters from inundating adjacent land. Some levees have revetments on their sides.

68. **Local Government**. Any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.

69. **Lot.** A fractional portion of subdivided land having fixed boundaries.

70. **Lot Area.** The area contained within the boundaries of a lot excluding any area below the ordinary high-water mark.

71. **Lot, Front.** The portion of a lot adjacent to either the public street affording principal access to the property or the waterfront, if the property abuts a water body.

72. **Lot Length.** The maximum lineal dimension of a lot, not including an access roads less than twenty five (25) feet in width.

73. **Lot Width.** For lots of a generally rectangular character, the average lineal dimension taken at right angles to the lot length. For other lots, the diameter of the largest circle which can be placed wholly within the boundaries of the lot.

M

74. **Marsh.** A low, flat area on which the vegetation consists mainly of herbaceous plants such as cattails, bulrushes, tules, sedges, skunk cabbage, and other aquatic or semi- aquatic plant. Shallow water usually stands on a marsh, at least during a considerable part of the year. The surface is commonly soft mud or muck.

75. **Master Program.** The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

76. **Maximum Density**. The largest number of dwelling uses per acre allowed by the SMP or local development regulations.

77. **Maximum Impervious Surface**. The largest amount of hard surfaces allowed with a parcel, which could include roofs, pavement, patios, walkways, and gravel parking areas.

78. **Mining.** Removal of naturally occurring metallic and nonmetallic minerals and other related materials, including sand, gravel and quarry rock from on, and beneath, the earth's surface normally for commercial and construction purposes. This can include deep pit, open pit, surface mining, quarrying, placer and hydraulic mining.

79. **Must.** Denotes a mandate; the action is required.

N

80. **Native Vegetation.** Refer to "Vegetation, native".

81. **Natural or existing topography.** The topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

82. **Nonconforming Building or Structure.** A building or structure or portion thereof which was lawfully erected, altered or maintained, but because of the application of this master program no longer conforms to the requirements of the master program.

83. **Nonconforming Lot.** A parcel of land legally established prior to the effective date of the Shoreline Master Program which does not conform with the lot size or area requirements of this master program.

84. **Nonconforming Use.** A use or activity that was lawfully established prior to the effective date of the Shoreline Master Program but no longer conforms to the requirements of the master program.

85. **Nonwater-Oriented Uses.** Those uses that are not water-dependent, water-related, or water-enjoyment.

86. **Normal Maintenance.** This includes those usual acts to prevent a decline, lapse or cessation from a lawfully established condition.

87. **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.

O

88. **Open Space.** Land and natural wetlands which retain their natural or semi-natural character because they have not been developed with structures, paving or other development and, for the purposes of this program, are normally required of residential and/or recreation developments.

89. **Ordinary High Water Mark (OHWM).** The mark on all lakes, streams and tidal water which 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 a local government or the department: PROVIDED, that in any area where the ordinary high- water mark cannot be found and the ordinary high-water mark adjoining fresh water shall be the line of mean high water.

90. **Over Water.** Location of a structure or development above the surface of the water, including placement of buildings on piling or floats.

P

91. **Parcel.** A tract or plot of land of any size which may or may not be subdivided or improved.

92. **Parking.** Any space or area specifically allotted for the purpose of temporary, daily or overnight off-street storage of motor vehicles to support a shoreline use authorized by the Shoreline Master Program.

93. **Party of record.** Includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

94. **Permit.** Any substantial development, variance, conditional use permit, or revision authorized under chapter 90.58 RCW.

95. **Person.** An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

96. **Planned Unit Development.** A development which permits departures from the conventional siting and setback requirements of other sections of this master program in the interest of achieving superior site development, creating open space, and encouraging imaginative design by permitting design flexibility.

97. **Priority Habitat.** "Priority habitat, local" or "local priority habitat" means a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. 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.

    Priority habitat, state" or "state priority habitat" means a seasonal range or habitat element, so identified by the Washington State Department of Wildlife, 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 diversity 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.

98. **Priority Species.** Priority species, local" or "local priority species" means those species that may not be endangered or threatened from a statewide perspective, but are of local concern due to their population status or their sensitivity to habitat manipulation and have been designated as such.

    Priority species, state" or "state priority species" means those species that are so identified by the Washington State Department of Wildlife due to their population status

and their sensitivity to habitat manipulation. Priority species include those which are state-listed endangered, threatened and sensitive species.

99. **Property Lines.** The exterior boundaries of a lot or parcel.

100. **Provisions.** Policies, regulations, standards, guideline criteria or environment designations.

101. **Public Access.** A trail, path, road or launching ramp by which the general public can reach the public waters from a public road.

102. **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 including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

103. **Public Street.** Any street, way, road, alley or highway in public ownership.

Q

104. **Quarry**. The pit or location where rock, ore, stone and similar materials are excavated and/or processed for sale or for off-site use.

R

105. **Recreation.** Facilities for refreshment of body and mind through play, amusement or relaxation. This includes passive uses such as hiking, canoeing, photography and fishing. It also includes intensive uses such as boat ramps, motor vehicles, playgrounds and parks whether they are for public or private usage.

106. **Recreational Development.** Provides opportunities for the refreshment of body and mind through forms of play, sports, relaxation, amusement or contemplation. It includes facilities for passive recreational activities such as hiking, photography, viewing and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, golf courses and their support buildings including clubhouses, and other outdoor recreation areas.

107. **Residence, Single-Family.** A detached building designed for occupancy by one (1) family and containing one (1) dwelling unit.

108. **Residential Development.** One or more buildings, structures, lots, parcels or portions thereof that are designed for and used or intended to be used to provide a place of abode for human beings. Residential development includes single-family dwellings; duplexes; other detached dwellings; floating homes; multi-family development (apartments), condominiums, townhouses and rowhouses; manufactured home parks; subdivisions; and short subdivisions, together with accessory uses and structures normally applicable to residential uses including but not limited to garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas and guest cottages.

109. **Restore, Restoration or Ecological Restoration.** The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a

requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

110. **Revetment.** A sloped shoreline structure (constructed of riprap or other substantial material) built to protect an existing eroding shoreline or newly placed fill against waves, wakes, currents, or weather.

111. **Riprap.** Broken stone placed on shoulders, slopes or other such places to protect them from erosion.

112. **Roads and Railroads.** Those passageways, and associated facilities and activities used by or associated with pedestrians, vehicles and trains, including but not limited to: all public and private roads; major highways; freeways; railways; the corridors in which they are placed; bridges; culverts; riprapping; fills; cuts; turnouts; driveways; rest stations; viewpoints; picnic areas; landscaping; and soil erosion safeguards.

S

113. **Scientific Research and Education.** Any development undertaken for the support of public or private science research or education.

114. **Setback.** An area in which development of structures is restricted. Setbacks apply to structures and in general are intended to: assure that development is located a safe distance from bluffs and other natural features, including required vegetative buffers; improve shoreline aesthetics; protect shoreline views; and keep enough space between developments and natural shoreline processes (e.g. wave action and erosion) to avoid the need for bulkheading or other shoreline stabilization measures.

115. **Shall.** Denotes a mandate; the action must be done.

116. **Shared Use Path.** A facility physically separated from motorized vehicular traffic within the highway right-of-way or on an exclusive right-of-way with minimal crossflow by motor vehicles. It is designed and built primarily for use by bicycles, but is also used by pedestrians, joggers, skaters, wheelchair users (both non-motorized and motorized), equestrians, and other non-motorized users.

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

118. **Shoreline Areas and Shoreline Jurisdiction.** All shorelines of the state and shorelands as defined in RCW 90.58.030.

119. **Shoreline Environment Designation.** The categories of shorelines of the state established by the master program to differentiate between areas whose features imply differing objectives regarding their use and future development.

120. **Shoreline Jurisdiction.** All "shorelands" as defined in RCW 90.58.030. Refer to “Shorelands or Shoreland Areas”.

121. **Shoreline Management Act.** The Shoreline Management Act of 1971(Chapter 90.58 RCW, as amended).

122. **Shoreline Master Program or Master Program**. The comprehensive use plan element for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a Shoreline Master Program shall be considered an element of the city's comprehensive land use plan. All other portions of the Shoreline Master Program including use regulations, shall be considered development regulations.

123. **Shoreline Modifications.** Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

124. **Shoreline Permit.** Refer to "Permit".

125. **Shorelines**. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except

A. shorelines of statewide significance;

B. shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and

C. shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

126. **Shorelines of Statewide Significance.** The specific rivers, lakes and marine designated in RCW 90.58.030. There are no shorelines of statewide significance in Tenino:

127. **Shorelines of the State.** The total of all shorelines and shorelines of statewide significance within the state.

128. **Should.** Denotes that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

129. **Sign.** A device of any material or medium, including structural component parts, used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes.

130. **Significant Vegetation Removal.** The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

131. **Single Family Residence.** See Residence, Single Family.

132. **Solid Waste.** All solid, semi-solid, and liquid wastes including garbage, rubbish, ashes, plastics, industrial wastes, wood wastes and sort yard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances and other discarded commodities.

133. **Solid Waste Disposal.** The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or hazardous waste on any land area on or in the water.

134. **State Master Program.** The cumulative total of all master programs approved or adopted by the Department of Ecology.

135. **Street.** See Road.

136. **Street, Public.** A street in public ownership.

137. **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.

138. **Submerged Lands.** Those areas below the ordinary high-water mark of marine waters, lakes and rivers.

139. **Substantial Development.** Any development of which the total cost or fair market value exceeds seven thousand forty-seven dollars ($7,047), 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 subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, 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 State Register at least one month before the new dollar threshold is to take effect.

The following shall not be considered substantial developments for the purpose of this master program:

A. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

B. Construction of the normal protective bulkhead common to single family residences;

C. Emergency construction necessary to protect property from damage by the elements;

D. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock

hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

E. Construction or modification of navigational aids such as channel markers and anchor buoys;

F. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

G. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either:

1. in salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars ($2,500); or

2. in fresh waters, the fair market value of the dock does not exceed:

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

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

however, if subsequent construction having a fair market value exceeding two thousand five hundred dollars ($2,500) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

H. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands;

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

J. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

K. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

1. The activity does not interfere with the normal public use of the surface waters;

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

3. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

4. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

5. The activity is not subject to the permit requirements of RCW 90.58.550;

L. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under RCW 43.21C.

140. Surface Water Body. Any water area which is within the shorelines of the state.

141. Swamp. Is similar to a marsh except that reeds and shrubs comprise the characteristic vegetation. Marshes and swamps merge into each other, and both tend to merge into bogs.

T

142. Trail. See "Shared Use Path".

143. Transportation Facilities. Those structures and developments that aid in land and water surface movement of people, goods and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, ferry terminals, float plane terminals, heliports and other related facilities.

U

144. Utilities. Services and facilities that produce, convey, store, process or dispose of electric power, gas, water, sewage, stormwater, communications (including cellular towers), oil, waste and the like.

145. Utilities, Accessory. Those small-scale distribution services connected directly to the uses along the shoreline.

V

146. Variance. Is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

147. Vegetation, Native. Native plants commonly found Thurston County. Generally comprised of three vegetative levels including an overstory of trees, an understory of shrubs, and a floor of herbs.

W

148. Water-Dependent Use. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

149. Water-Enjoyment Use. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public

and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

150. **Water-Oriented Use.** A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

151. **Water Quality.** The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this master program, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this master program, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

152. **Water-Related Use.** A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

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

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Appendices

Appendix A: Tenino Shoreline Environment Designations

Appendix B: Tenino Municipal Code Section 108.30.160 Natural resource lands.

Appendix C: Tenino Municipal Code Title 112 Critical Areas

Appendix D: Tenino Municipal Code Chapter 100.40 Procedures for Land Use Permits and Decisions

Commented [RG52]: Suggestion from discussions with the City: Rather than including extracts of publications that could change, consider a list of hyperlinks that will take folks to the appropriate TMC provisions.
Can we do this, or do you want to memorialize the sections?

Appendix A: Tenino Shoreline Environment Designations

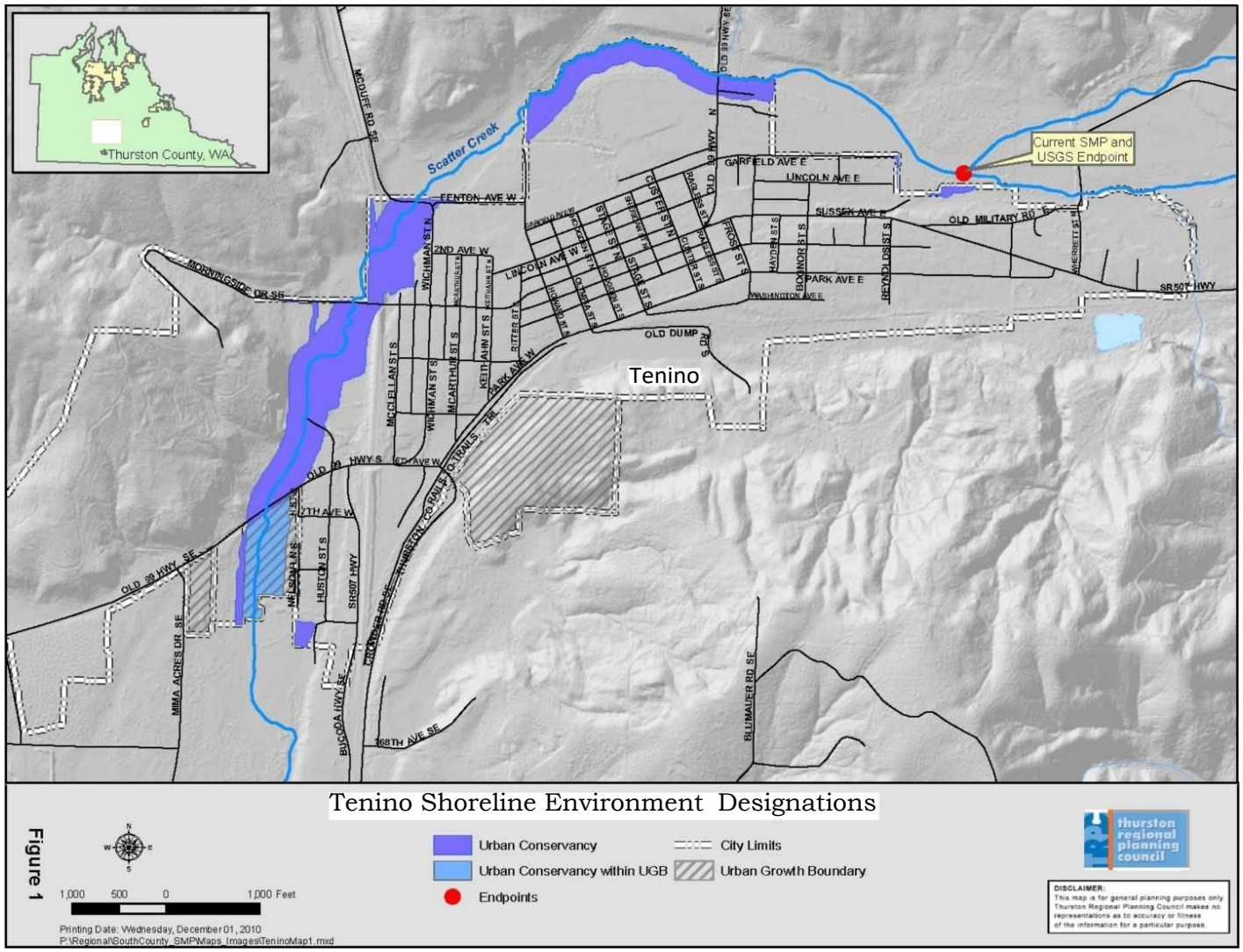


Figure 1

Appendix B: Tenino Municipal Code Section 108.30.160 Natural resource lands.

108.30.160. - Natural resource lands.

A. *Purpose.* Resource lands are of special concern to the public. In order to protect and promote public health, safety, and welfare, this section establishes noticing requirements for sites that contain or are adjacent to natural resource lands.

B. *Establishment of natural resource lands.*

1. Natural resource lands regulated by this section include:
    a. Agricultural resource lands (WAC 365-190-050; RCW 36.70A.170).
    b. Mineral resource lands (WAC 365-190-070; RCW 36.70A.170).
    c. Forest resource lands (WAC 365-190-060; RCW 36.70A.170).
2. Properties adjacent to natural resource lands are also subject to the standards of this section. An adjacent property is one that is on a site bordering or within 500 feet of a designated natural resource.

C. *Notice required.*

1. Pursuant to RCW 36.70A.060, all final plats and short plats, and permits issued for development activities on or within 500 feet of any land designated under this Section must contain a note that the subject property is near agriculture, forest, or mineral resource lands of long-term commercial significance, whichever applies. The note must inform the public that a variety of commercial activities may occur that may not be compatible with residential development for certain periods of limited duration.
2. The note must also contain a statement that the ability of owners or occupants to recover damages for nuisances arising from activities on the designated mineral, agricultural or forestry land, whichever applies, may be limited.
3. The note for properties within or near designated mineral lands must also inform the public that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals.
4. The resource use notice must be provided in a form and content prescribed by the city.

D. *Agricultural resource lands.* Agricultural lands are lands that are not already characterized by urban growth and have long-term significance for the commercial production of food or other agricultural products.

1. *Location.* The following sites have been designated as agricultural lands:
    a. *Tenino.* There are no sites within the city designated as agricultural lands.
    b. *Unincorporated Thurston County.* There are no sites within 500 feet of the city or its urban growth area that have been designated by Thurston County as long-term agriculture.

E. *Mineral resource lands.* Mineral resource lands are lands that are not already characterized by urban growth and have long-term significance for the extraction of minerals.

1. *Location.* The following sites have been designated as mineral resource lands:

    a. *Tenino.* There are no sites within the city designated as mineral resource lands.

    b. *Unincorporated Thurston County.* Miles Sand and Gravel quarry, Department of Natural Resources Permit Number 11902.

F. *Forest resource lands.* Forest resource lands are forestlands that are not already characterized by urban growth and have long-term significance for the commercial production of timber, including Christmas trees.

1. *Location.* The following sites have been designated as forest resource lands:

    a. *Tenino.* There are no sites within the city designated as Forest Resource Land.

    b. *Unincorporated Thurston County.* There are no sites within 500 feet of the city or its urban growth area that have been designated by Thurston County as long-term forestry lands.

Appendix C: Title 112 Critical Areas

Title 112 - CRITICAL AREAS

CHAPTER 112.10 - ENVIRONMENTAL REVIEW

112.10.010. - Purpose.

The purpose of an environmental review is to coordinate the application of critical area protection standards and other environmental standards on a site. Environmental review of a project does not result in an application approval; it results in recommended critical area and environmental protections for an application.

112.10.020. - Authority.

The city may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with the provisions of this title and Title 110, State Environmental Policy Act (SEPA).

112.10.030. - Critical area reports.

A. *Applicability.*

1. If the proposed project is within, adjacent to, or is likely to impact a critical area, an applicant must provide a critical area report unless the community development director grants a waiver.
2. A required critical area report must be submitted and reviewed as part of an application for a permit or approval.

B. *Waivers.* The community development director may waive the requirement for a critical area report when the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area. A waiver may be granted only if there is substantial evidence that all of the following requirements are met:

1. The critical area and buffer will not be altered;
2. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this Chapter; and
3. The proposal is consistent with other applicable regulations and standards.

C. *Professional preparation required.*

1. Critical area reports must be prepared by a qualified professional with expertise in the relevant scientific discipline based on education, professional certifications, and experience in the field. A qualified professional must have:
    a. A B.S., B.A., or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field; and
    b. Two years of related work experience.
2. The following table identifies who is considered a qualified professional for each critical area:

Critical Area	Qualified Professional

Wetland	Certified professional wetland scientist or a non-certified professional wetland scientist with at least 5 years of experience in the field of wetland science.
Critical Aquifer Recharge Area	Hydrogeologist, geologist, or engineer that is licensed in the state of Washington and has experience in preparing hydrogeologic assessments.
Fish and Wildlife Habitat Conservation Area	Biologist with experience preparing reports for the relevant type of habitat.
Geologically Hazardous Area	Engineer or geologist that is licensed in the state of Washington and has experience analyzing geologic, hydrologic, and ground water flood systems.
Frequently Flooded Area	Hydrologist or engineer that is licensed in the state of Washington and has experience in preparing flood hazard assessments.

D. *Incorporate best available science.* The critical area report must use scientifically valid methods and studies in analyzing critical area data, field reconnaissance, and reference the source of science used. The critical area report must evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.

E. *Minimum report contents.* At a minimum, the report must contain the following:

1. The name and contact information of the applicant, a description of the proposal, and permit type requested;
2. The name, qualifications, and contact information for the primary author(s) of the report;
3. Documentation of any fieldwork performed on the site, including the dates of any site visits.
4. A site plan of the development proposal that includes:
    a. A map to scale depicting critical areas and buffers within 300 feet of the project area, the development proposal, and any areas to be cleared. For critical areas and buffers that are not on the property subject to the request, estimate conditions within 300 feet of the project boundaries using the best available information; and
    b. A description of the proposed stormwater management plan for the development and how impacts to drainage alterations will be accounted for;
5. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
6. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
7. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
8. An analysis of site development alternatives including a no development alternative;

9. A description of reasonable efforts made to apply mitigation sequencing pursuant to TMC Section 112.10.040, Mitigation for Impacts to Critical Areas;

10. Proposed mitigation plan, if applicable;

11. A discussion of the standards applicable to the critical area and proposed activity;

12. Financial guarantees pursuant to TMC Section 112.20.050.B. to ensure compliance; and

13. Any additional information required for the critical area as specified in TMC Chapter 112.20.

F. *Additional report contents.*

1. *Supplemental information.* Unless prohibited by another part of this Code, a critical area report may be supplemented by or composed of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Community Development Director.

2. *Habitat assessment.* A critical area report for a habitat conservation area must contain a habitat assessment. A habitat assessment evaluates the potential presence or absence of designated critical fish or wildlife species or habitat in the project area. At a minimum, a habitat assessment must include the following site- and proposal-related information:

   a. *Vegetation.* Detailed description of vegetation on and adjacent to the project area and its associated buffer;

   b. *Species.* Identification of any priority species or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and an assessment of potential project impacts to the use of the site by the species;

   c. *Special management recommendations.* A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

   d. *Impacts.* A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

   e. *Mitigation sequencing.* A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with mitigation sequencing; and

   f. *Management practices.* A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

3. *Additional information.* The city may require additional information be included in the critical area report. The additional information must be necessary for reviewing the proposed activity in accordance with this chapter. Additional information may include, but is not limited to, historical data, grading and drainage plans, and information specific to the type, location, and nature of the critical area.

G. *Requirement modifications.*

1. *Geographic area.* The city may limit the required geographic area of the critical area report as appropriate if:

   a. The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or

   b. The proposed activity will affect only a limited part of the subject site.

2. *Required contents.* The required contents of the critical area report may be modified as appropriate if:

   a. The applicant consults with the city prior to or during preparation of the critical area report; and

   b. In the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

H. *Hold harmless clauses.* Hold harmless clauses, disclaimers, and limitations are prohibited in a critical area report.

I. *Requirement modifications.*

1. *Geographic area.* The city may limit the required geographic area of the critical area report as appropriate if:

   a. The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or

   b. The proposed activity will affect only a limited part of the subject site.

2. *Required contents.* The required contents of the critical area report may be modified as appropriate if:

   a. The applicant consults with the city prior to or during preparation of the critical area report; and

   b. In the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

112.10.040. - Mitigating for impacts to critical areas.

A. *Mitigation for impacts required.* Impacts that degrade the functions and values of a critical area or areas must be avoided if at all possible. If alteration to the critical area is unavoidable, all adverse impacts to critical areas and buffers must be mitigated using the best available science. The proposed mitigation must:

1. Be in accordance with an approved critical area report and SEPA documents;

2. Result in no net loss of critical area functions and values;

3. Be in kind and on site, when possible;

4. Be sufficient to maintain the functions and values of the critical area;

5. Prevent risk from a hazard posed by a critical area; and

6. Not be implemented until after city approval of a critical area report.

B. *Mitigation sequencing.* Applicants must demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, the alteration must be avoided, minimized, or compensated for in the following sequential order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts.
3. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project.
4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods.
5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action.
6. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments.
7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.
8. Mitigation for individual actions may include a combination of the above measures.

C. *Mitigation plan.* When mitigation is required, the critical area report must include a mitigation plan that addresses all of the following:

1. *Environmental goals and objectives.* A written report identifying environmental goals and objectives of the mitigation proposed, which must be related to the functions and values of the impacted critical area.
2. *Anticipated impacts and mitigation measures.* A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the purposes of the mitigation measures. The description of impacts must include:
    i. Site selection criteria;
    ii. Compensation goals;
    iii. Resource functions; and
    iv. Dates for beginning and completion of site compensation construction activities.
3. *Best available science.* A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed.
4. *Success analysis.* An analysis of the likelihood of mitigation success.

5. *Performance standards.* The mitigation plan must include specific, measurable criteria for evaluating whether or not the goals and objectives of the mitigation project and the requirements of this Chapter have been met.

6. *Detailed construction plans.* Written specifications, descriptions, drawings, and maps of the mitigation proposed. Detailed construction plans may include, but are not limited to:

   a. The proposed construction sequence, timing, and duration;

   b. Grading and excavation details;

   c. Erosion and sediment control features;

   d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

   e. Measures to protect and maintain plants until established.

   f. Detailed site diagrams and scaled cross-sectional drawings; or

   g. Topographic maps showing slope percentage and final grade elevations.

7. *Monitoring program.* A program for monitoring construction of the mitigation project and for assessing a completed project. A protocol must be provided that outlines:

   a. The schedule for site monitoring (for example, monitoring will occur in years one, three, five, and seven after site construction);

   b. How the monitoring data will be evaluated to determine if the performance standards are being met.

8. *Contingency plan.* A list of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

D. *Financial guarantee.* A financial guarantee pursuant to TMC Section 112.20.050.B. may be required to ensure that the mitigation plan is fully implemented.

E. *Monitoring reports.* Monitoring reports required by the monitoring program must be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project must be monitored for at least five years but may be monitored for a longer period if necessary to establish that performance standards have been met.

112.10.050. - Review process.

A. *Purpose.* The city must determine whether the proposed activity and mitigation, if any, is consistent with the provisions of this chapter.

B. *Findings.* A proposed activity and mitigation project may be approved upon finding:

1. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing;

2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

3. The proposal is consistent with the general purposes of this chapter and the public interest;

4. Any alterations permitted to the critical area are mitigated in accordance with mitigation requirements;

5. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and

6. The proposal is consistent with other applicable regulations and standards.

C. *Conditions of approval.* The city may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this chapter.

D. *Permit denials.* Except as provided for by this chapter, projects that cannot adequately mitigate their critical area impacts in the sequencing order of preferences must be denied.

E. *Completion of the critical area review.* The city's determination regarding critical areas pursuant to this chapter must be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

F. *Appeals.* Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved.

112.10.060. - Reasonable use exception.

A. *Purpose.* The intent of the city is that every landowner in the city enjoy reasonable use of their land. The procedures set forth in this Section are intended to permit landowners who believe they have been deprived of the reasonable use of their land to apply to the city for relief from application of this chapter. Applications for a reasonable use exception automatically constitute an application for a variance to reduce front, side, or rear yard setback requirements. Reductions in setback requirements must be given preference over granting a reasonable use exception.

B. *Applicability.* An application may be made for a reasonable use exception for new construction, expansions, additions, replacements, and redevelopment projects.

C. *Findings.*

1. *Essential public facilities.* A reasonable use exception may be approved for an essential public facility upon finding:

a. There is no other practical alternative to the proposed development with less impact on the critical areas;

b. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;

c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

d. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and

e. The proposal is consistent with other applicable regulations and standards.

2. *All other exception requests.* A reasonable use exception may be approved for all other requests upon finding:

   a. The application of this division would deny all reasonable economic use of the property;

   b. No other reasonable economic use of the property has less impact on the critical area;

   c. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

   d. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant;

   e. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and

   f. The proposal will result in no net loss of critical area functions and values consistent with the best available science, or the proposal is consistent with other applicable regulations and standards.

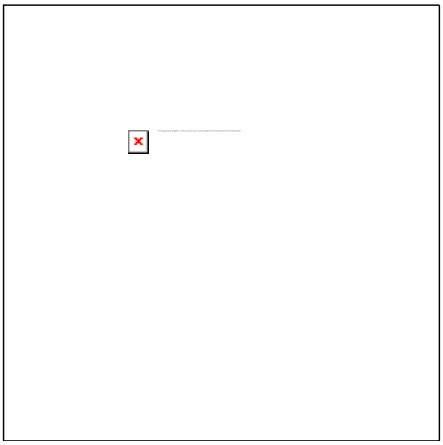
D. *Effect.* Approval of a reasonable use exception does not permit any physical development, use, development option, or subdivision that has not been approved pursuant to these LDRs and does not ensure approval of any future application.

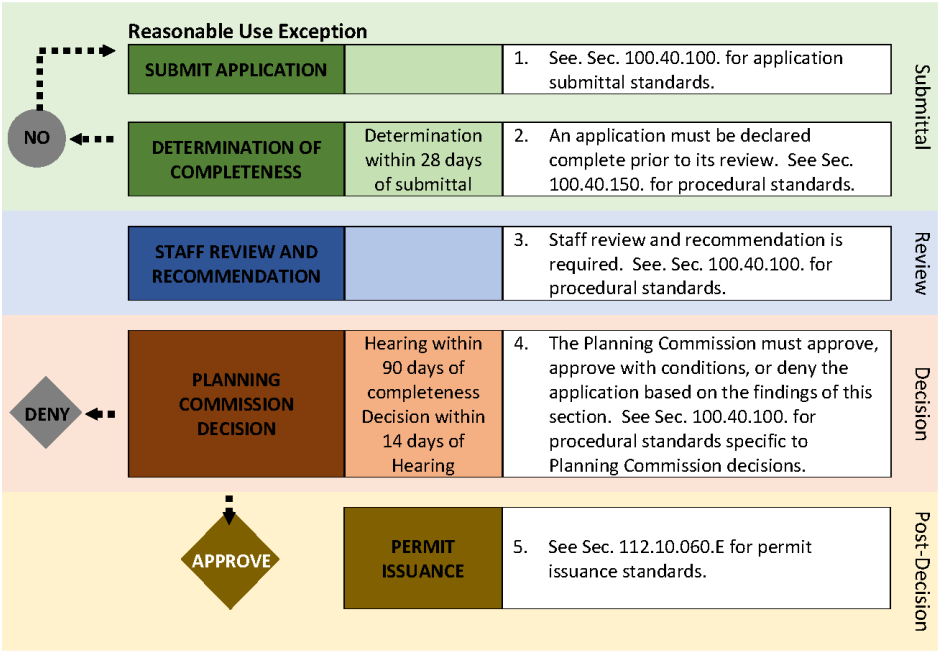
E. *Permit issuance.* An approved reasonable use exception must not commence or be acted upon until the permit is issued.

1. Within 14 days of fulfillment of all conditions of approval that must be met prior to permit issuance, the community development director must issue the permit to the applicant, and make a copy available at the city for review during normal business hours.

2. The permit must include any outstanding conditions of approval.

F. *Review process.* All steps and deadlines in the following chart are required unless noted otherwise. An applicant must complete each step before moving to the step below.





CHAPTER 112.20. - CRITICAL AREAS

112.20.010. - Purpose and general provisions.

A. *Purpose.* State law (WAC 365-190-080) requires communities to protect critical areas. In order to protect ecologically sensitive and hazardous areas, protect their functions and values, and to allow reasonable use of private property, this chapter establishes protection standards

for critical areas and regulates physical development, activity, and use within, adjacent to, or likely to affect critical areas.

B. *Findings.* Critical areas provide valuable biological and physical functions that benefit the city and its residents. Critical areas may also pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to:

1. Water quality protection and enhancement.
2. Fish and wildlife habitat.
3. Flood water storage.
4. Flood water conveyance and attenuation.
5. Ground water recharge and discharge.
6. Erosion control.
7. Protection from hazards.
8. Recreational opportunities.

C. *Establishment of critical areas.*

1. Critical areas regulated by this chapter include:
    a. Wetlands;
    b. Critical aquifer recharge areas;
    c. Frequently flooded areas;
    d. Geologically hazardous areas; and
    e. Fish and wildlife habitat conservation areas.
2. All areas within the city that meet the definition of at least one critical area, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.
3. Areas adjacent to critical areas are also subject to the standards of this chapter. Adjacent means any activity located:
    a. On a site bordering a critical area;
    b. Within the critical area's buffer or building setback;
    c. Within 300 feet upland from a stream, wetland, or water body;
    d. Within the floodplain; or
    e. Within 200 feet of a critical aquifer recharge area.

D. *Relationship to other regulations.*

1. These critical areas regulations apply as an overlay in addition to zoning and other regulations adopted by the city.

2. When a property or development is subject to more than one critical area overlay or other regulations apply to a development, the more restrictive applies.

3. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with these requirements in addition to the process established in this chapter.

E. *Interpretation.* In the interpretation and application of this chapter, the provisions of this chapter are:

1. Considered the minimum requirements necessary;

2. Are liberally construed to serve the purpose of this chapter; and

3. Do not limit or repeal any other provisions under state statute.

F. *Protection of critical areas.*

1. *Equivalent or greater functions.* Any action taken pursuant to this Chapter must result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science.

2. *Mitigation sequencing required.* All actions and developments must be designed and constructed to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoring and compensating for impacts will be allowed. Activities or uses that result in a net loss of the functions or values of critical areas are prohibited.

G. *Title notification.* Activity in critical areas may require a notice to title, recorded with the Thurston County auditor.

112.20.020. - Best available science.

A. *Definition.* Best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925.

B. *Sources.* Sources of the best available science are included in *Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas* , published by the Washington State Department of Community, Trade and Economic Development (now the Washington State Department of Commerce) and as updated, amended or replaced.

C. *Characteristics of a valid scientific process.* In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the community development director must determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:

1. *Peer Review.* The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information

have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;

2. *Methods.* The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;

3. *Logical conclusions and reasonable inferences.* The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;

4. *Quantitative analysis.* The data have been analyzed using appropriate statistical or quantitative methods;

5. *Context.* The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and

6. *References*. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

D. *Nonscientific information.* Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include anecdotal information, non-expert opinions, and hearsay.

E. *Absence of valid scientific information.* Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the Community Development Director must:

1. Take a precautionary or no-risk approach that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and

2. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program must:

   a. Address funding for the research component of the adaptive management program;

   b. Change course based on the results and interpretation of new information that resolves uncertainties; and

   c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and non-regulatory actions affecting protection of critical areas and anadromous fisheries.

112.20.030. - Applicability, exemptions, and exceptions.

A. *Applicability.*

1. A critical area or buffer must not be altered by any person, company, agency, or applicant except as consistent with the purposes and requirements of this chapter. The provisions of this chapter apply to all:

   a. Lands, uses, and development activity;

   b. Structures and facilities in the city, whether or not a permit or authorization is required; and

   c. Persons, firms, partnerships, corporations, groups, governmental agencies, or other entities that own, lease, or administer land within the City.

2. *Compliance required.* The city must ensure compliance with the requirements of this chapter prior to approving a permit or otherwise issuing authorization to:

   a. Alter the condition of land, water, or vegetation; or

   b. Construct or alter structures or improvements in, over, or on a critical area or associated buffer.

B. *Exemptions.*

1. *Impacts to critical areas.* All exempted activities must use reasonable methods to avoid potential impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity must be restored, rehabilitated, or replaced at the responsible party's expense.

2. *Exempt activities.* The following developments, activities, and associated uses are exempt from the provisions of this chapter, provided they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

   a. *Emergencies.* Activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and require corrective or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter must meet the following standards:

   i. *Minimize impacts.* Emergency actions that create an impact to a critical area or its buffer must use reasonable methods to address the emergency while minimizing possible impacts to the critical area or its buffer.

   ii. *Notification and determination.* The person or agency undertaking emergency action must notify the city within one working day following initiating such action. Within 30 days, the city will determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the city determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of TMC Section 100.30.130, enforcement, apply.

   iii. *Restoration/mitigation required.*

      a) After the emergency, the person or agency undertaking the action must fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan.

      b) The person or agency undertaking the action must apply for review of the work. The city will review the alteration, critical area report, and mitigation plan in

accordance with the review procedures contained herein.

c) Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner;

b. *Operation, maintenance, or repair.* Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, and drainage systems may be exempt provided the activity:

i. Does not require construction permits;

ii. Does not further alter or increase the impact to or encroach further within a critical area or buffer; and

iii. Does not increase risks to life or property; and

c. *Passive outdoor activities.* Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching are exempt.

C. *Exceptions.*

1. *Public agencies and utilities.* If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to TMC Section 112.10.060.

2. *Reasonable use.* If the application of this chapter would deny all reasonable economic use of the subject property, the city must determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to TMC Section 112.10.060.

112.20.040. - Allowed activities.

A. *Critical area report.* Activities allowed under this chapter must be reviewed and approved by the city, but do not require submittal of a separate critical area identification form or critical area report, unless required previously for the underlying permit. The city may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this chapter to protect critical areas.

B. *Best management practices required.*

1. All allowed activities must be conducted using the best management practices that result in the least amount of impact to the critical areas. Best management practices must be used for the following:

a. Tree and vegetation protection;

b. Construction management;

c. Erosion and sedimentation control;

d. Water quality protection; and

e. Regulation of chemical applications.

2. The city must observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area must be restored, rehabilitated, or replaced at the responsible party's expense.

C. *Allowed activities.* The following activities are allowed in critical areas:

1. *Permit requests following critical area review.* Development permits and approvals that involve both discretionary land use approvals and construction approvals if all the following conditions have been met:

   a. The provisions of this chapter have been previously addressed as part of another approval;

   b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;

   c. There is no new information available that is applicable to any critical area review of the site or particular critical area;

   d. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and

   e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.

2. *Modifications to existing structures.* Structural modification of, addition to, or replacement of an existing, legally constructed structure that does not further alter or increase the impact to the critical area or buffer, provided:

   a. There is no increased risk to life or property as a result of the proposed modification or replacement; and

   b. For structures substantially damaged by fire, flood, or act of nature, restoration must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion.

3. *Activities within the improved right-of-way.* Except for substations, replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances may be allowed provided:

   a. Such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway;

   b. The activity does not alter a wetland, watercourse, or result in the transport of sediment or increased stormwater;

   c. Critical area and/or buffer widths are increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas;

   d. Native vegetation is retained or replanted wherever possible along the right-of-way improvement and resulting disturbance; and

   e. Invasive species are removed.

4. *Minor utility projects.* Utility projects that have minor or temporary impacts to critical areas, such as the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility, may be allowed provided:

   a. The activity involves disturbance of an area less than 75 square feet;

b. There is no practical alternative to the proposed activity with less impact on critical areas;

c. The utility project does not significantly impact the function or values of critical areas, is constructed with best management practices, and additional restoration measures are provided; and

d. The activity does not result in sediment transport or increased stormwater runoff.

5. *Public and private pedestrian trails.* Public and private pedestrian trails that are not located in wetlands, fish and wildlife habitat conservation areas, or their buffers, may be allowed subject to the following:

a. The trail surface meets all other requirements including water quality standards set forth in the locally adopted stormwater management regulations;

b. Critical area and/or buffer widths are increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

c. Trails proposed to be located in landslide or erosion hazard areas are constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

6. *Select vegetation removal activities.* Upon approval from the city, the following vegetation removal activities in a critical area or its buffer may be allowed:

a. The removal of the following vegetation with hand labor and light equipment:

i. Invasive and noxious weeds;
ii. English Ivy (Hedera helix);
iii. Himalayan blackberry (Rubus discolor, R. procerus);
iv. Evergreen blackberry (Rubus laciniatus); and
v. Scotch broom (Cytisus scoparius);

b. The removal of trees from critical areas and buffers that are hazardous and pose a threat to public safety or an imminent risk of damage to private property, provided that:

i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
ii. Tree cutting is limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees may be removed or converted to wildlife snags;
iii. All vegetation cut (tree stems, branches, etc.) must be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;
iv. The landowner must replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan.
a) Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area.

b) Replacement trees must be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;

v. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist must be consulted to determine timing and how best to minimize impacts; and

vi. Hazard trees.

a) Hazard trees may be removed or pruned by the landowner prior to receiving written approval from the city only if the hazard tree poses:

1) An imminent threat or danger to public health or safety;

2) An imminent threat to public or private property; or

3) An imminent threat of serious environmental degradation.

b) Within 14 days of removing a hazard tree, the landowner must submit a restoration plan that demonstrates compliance with the provisions of this chapter;

c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act found in RCW 76.09. The removed vegetation must be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan; and

d. The necessary removal of vegetation or woody debris from a habitat conservation area or wetland as part of an approved alteration or as otherwise provided;

7. *Chemical applications.* The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city and consistent with state department of fish and wildlife management recommendations, state department of agriculture regulations, state department of ecology regulations, and the U.S. Environmental Protection Agency regulations;

8. *Minor site investigative work.* Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area must be minimized and disturbed areas must immediately be restored; and

9. *Boundary markers.* Construction or modification of boundary markers.

112.20.050. - Critical area protective measures.

A. *Critical area markers and signs.*

1. The boundary at the outer edge of critical area tracts and easements must be delineated with permanent survey stakes as established by local survey standards.

2. The boundary at the outer edge of the critical area or buffer must be identified with temporary signs prior to any site alteration. The temporary signs must be replaced with permanent signs prior to occupancy or use of the site.

3. These provisions may be modified by the community development director as necessary to ensure protection of sensitive features or wildlife needs.

B. *Financial guarantee to ensure mitigation, maintenance, and monitoring.*

1. When required mitigation is not completed prior to final permit approval, the city must require the applicant to post a financial guarantee in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant must post a financial guarantee in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.
2. The bond must be in the amount of 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.
3. Financial guarantees must remain in effect until the city determines in writing that the standards bonded for have been met. Bonds or other security must be held by the city for a minimum of five 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 do not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
5. Public development proposals may be exempt from having to provide a financial guarantee if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
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 comply with other provisions of an approved mitigation plan constitute a default. The city may demand payment of any financial guarantees or require other action authorized by city code or any other law.
7. Funds recovered pursuant to this section must be used to complete the required mitigation.

C. *Critical area inspections.* Reasonable access to the site must be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

112.20.060. - Wetlands.

A. *Definition.* Wetlands are those 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 adapted for life in saturated soil conditions.

1. *Includes:*
   a. Swamps.
   b. Marshes.
   c. Bogs.
2. *Does not include:*
   a. 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.

b. Wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.

3. *May include:*

a. Artificial wetlands intentionally created for wetland mitigation purposes.

B. *Designation.* All areas within the city meeting the wetland designation criteria in the approved federal wetland delineation manual and applicable regional supplements are hereby designated critical areas and are subject to the provisions of this chapter.

C. *Delineation.* Wetlands must be identified and delineated in accordance with the approved federal wetland delineation manual and applicable regional supplement. Wetland delineations are valid for five years.

D. *Rating.*

1. Wetlands must be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System for Western Washington (Ecology Publication #14-06-029) or as revised by Ecology. This document contains the definitions and methods for determining if the criteria below are met.

a. *Category I wetlands.*

i. *Definition.* Category I wetlands are those that:
a) Represent a unique or rare wetland type; or
b) Are more sensitive to disturbance than most wetlands; or
c) Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
d) Provide a high level of functions.

ii. *Presence.* Category I wetlands may be located within the city. Wetlands of high conservation value can be designated based on the presence of a rare plant, rare or high-quality common plant community, or both. There are no known rare plants or high-quality wetland plant communities known to occur in the city or its vicinity.

b. *Category II wetlands.*

i. *Definition.* Category II wetlands are those that are difficult, though not impossible to replace, and provide high levels of some functions.

ii. *Presence.* Category II wetlands may be located within the city.

c. *Category III wetlands.*

i. *Definition.* Category III wetlands are wetlands with a moderate level of functions that can often be adequately replaced with a well-planned mitigation project and small interdunal wetlands one acre or less in size.

ii. *Presence.* Category III wetlands are likely located within the city.

d. *Category IV wetlands.*

i. *Definition.* Category IV wetlands are wetlands that have the lowest levels of functions and are often heavily disturbed.

ii. *Presence.* Category IV wetlands are likely located within the city.

2. *Illegal modifications.* Illegal modifications made by the applicant or with the applicant's knowledge do not change the wetland's rating.

E. *Activities allowed in wetlands.* The activities listed below are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions established in Section 112.20.040, allowed activities. An activity listed below does not require a critical area report except when the activity results in a loss of functions or values of a wetland or wetland buffer. Activities allowed in wetlands include:

1. *Conservation.* Soil, water, vegetation, fish, shellfish, and other wildlife conservation or preservation that does not entail changing the structure or functions of the existing wetland.

2. *Low-impact harvesting.* Harvesting wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require soil tilling, crop planting, chemical applications, or wetland alterations as a result of changing topography, water conditions, or water sources.

3. *Utilities.* Drilling for utilities under a wetland; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

4. *Wetland enhancement by removing nonnative invasive species.* Weeding is restricted to hand removal and weeded material must be removed from the site. Bare areas that remain after weed removal must be revegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native herbs.

F. *Supplemental information for wetland reports.* In addition to the requirements of Section 112.10.030, critical area reports, a wetland report must also include the following:

1. Existing wetland acreage;

2. A list of all local, state, and/or federal wetland-related permit(s) required for the project;

3. Documentation of any fieldwork performed on the site must include field data sheets for delineations, rating system forms, baseline hydrologic data, etc.

4. A description of the methodologies used to conduct the wetland delineations, wetland ratings, or impact analyses, including references.

5. Wetland rating, including a description of and score for each function, per Section 112.20.060.D of this chapter;

6. Vegetative, faunal, and hydrologic characteristics;

7. To the extent possible, hydrologic information such as estimated water depths within the wetland and estimated hydroperiod patterns based on visual cues;

8. An evaluation of the functions of the wetland and its buffer. Include references for the method used and data sheets.

9. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.

G. *Compensatory Mitigation.* Mitigation is required according to the sequence outlined in Section 112.10.040, mitigating for impacts. Where impacts to wetlands are unavoidable,

compensatory mitigation measures may be utilized and must be consistent with this subsection.

1. *Compensating for lost or affected functions.* The proposed compensatory mitigation must achieve functional equivalency or represent an improvement over existing functions except in the following situations:

   a. *Minimal Functions.* The lost wetland provides minimal functions; and

   i. The proposed mitigation represents equivalent functions or an improvement over existing functions; or

   ii. The proposed mitigation will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol.

   b. *Out-of-kind mitigation.* Out-of-kind mitigation will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

2. *On-site mitigation wherever feasible.* On-site mitigation must be provided wherever feasible. Where it is demonstrated that on-site mitigation is not feasible, off-site mitigation may be allowed.

3. *Mitigation Plan.* In addition to the requirements outlined in Section 112.10.040.C., wetland mitigation plans must:

   a. Be consistent with the publication *Wetland Mitigation in Washington State - Part 2: Developing Mitigation Plans* (Ecology Publication #06-06-011b) or as revised by Ecology;

   b. Identify how construction of mitigation projects will be timed to reduce impacts to existing wildlife and vegetation; and

   c. Include a monitoring plan that ensures the goals of the proposed mitigation have been met. Monitoring must occur for at least five years but may be required for a longer period of time to ensure that lost or affected functions have been fully compensated for.

4. *Mitigation action preference.* Mitigation actions that require compensation by restoring, creating, enhancing, or protecting must occur in the following order of preference:

   a. *Restoration.* Restoration may involve one or more of the following:

   i. Re-establishing wetlands that used to exist. Re-establishing wetlands results in an increase in wetland area and functions.

   ii. Rehabilitating existing wetlands that are degraded. Rehabilitation increases wetland functions but does not increase the wetland area.

   b. *Creation/establishment.* Creating or establishing a new wetland area in a location where it did not previously exist. Creating or establishing a wetland area results in an increase in wetland area and functions.

   c. *Enhancement.* Enhancing a wetland to intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes. Enhancing a wetland results in a change in wetland function(s) but may lead to a decline in other wetland functions. Enhancing a wetland does not result in an increase in wetland area.

d. *Protection/maintenance.* Protecting/maintaining a wetland removes a threat to or prevents the decline of the wetland. Protection/maintenance does not result in an increase in wetland area but may, over time, result in an increase of wetland functions.

5. *Mitigation ratios.*

a. *Minimum ratios.* The following table identifies the minimum amount of mitigation required based on the type of mitigation proposed.

Mitigation Ratio Based on Action (acres proposed per acre impacted)			
Wetland Category	Re-Establishment or Creation	Rehabilitation	Enhancement
Category I	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

b. *Ratio increases.* The community development director may increase the mitigation ratio or require a different mitigation action under the following circumstances:

i. The proposed impacts are to a category I bog, natural heritage site, or mature forested wetland;
ii. Uncertainty exists as to the probable success of the proposed restoration or creation;
iii. A significant period of time will elapse between the wetland impact and the replication of wetland functions;
iv. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
v. The impact was not authorized when it occurred.

c. *Approved mitigation ratio alternatives.* As an alternative to the table above, the community development director may allow mitigation based on the credit/debit method outlined in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report* (Ecology Publication #10-06-011), or as revised by Ecology.

H. *Buffers.*

1. *Required buffers.* All physical development and use is required to be set back from wetlands a distance based on the wetland rating and habitat score as follows:

Wetland Category	Required Buffer Based on Habitat Score			
	3-4	5	6-7	8-9
I	100'	140'	220'	300'
II	100'	140'	220'	300'
III	80'	140'	220'	300'
IV	50'	50'	50'	50'

2. *Measurement.* All buffers must be measured perpendicular from the wetland boundary as surveyed in the field.

   a. Buffers for a required mitigation site shall be based on subsection H.1. above.

   b. Buffers must be fully vegetated in order to be included in buffer area calculations. Lawns, walkways, driveways, and other mowed or paved areas shall not be considered buffers or included in buffer area calculations.

3. *Buffer increases.* Buffer widths may be increased on a case-by-case basis as determined by the Community Development Director when a larger buffer is necessary to protect wetland functions and values. This determination must be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include, but is not limited to, the following information:

   a. The wetland is used by a state or federally listed plant or animal species or has essential or outstanding habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or

   b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

   c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

4. *Buffer averaging.*

   a. *Wetland protection.* Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

   i. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a category I area adjacent to a lower-rated area.

   ii. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.

   iii. The total area of the buffer after averaging is equal to the area required without averaging.

   iv. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for category I and II, 50 feet for category III, and 25 feet for category IV, whichever is greater.

   b. *Reasonable use.* Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

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

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

   iii. The total buffer area after averaging is equal to the area required without averaging.

iv. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for category I and II, 50 feet for category III and 25 feet for category IV, whichever is greater.

5. *Maintenance.* Except as otherwise specified or allowed in accordance with this chapter, wetland buffers must be retained in an undisturbed or enhanced condition. Removal of invasive non-native weeds is required for the duration of the mitigation bond.

6. *Impacts.* Impacts to buffers must be mitigated at a rate of one acre of mitigation for one acre of impact. Buffer mitigation must replace those buffer functions lost from development.

7. *Overlapping critical area buffers.* If buffers for two contiguous critical areas overlap (such as buffers for a wildlife habitat area and a wetland), the wider buffer applies.

112.20.070. - Critical aquifer recharge areas (CARAs).

A. *Definition.* Critical aquifer recharge areas are areas with a critical recharging effect on aquifers used for potable water, as defined by WAC 365-190-030(3). A critical aquifer recharge area has prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

1. *Includes:*

a. Wellhead protection areas, as identified in the City of Tenino Water Plan and mapped by Washington State Department of Health.

b. Areas having an extreme or high susceptibility to contamination, as identified by the Thurston Geodata Center.

B. *Designation.* All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. Critical aquifer recharge areas must be managed consistent with the best available science.

C. *Standards.*

1. *Activities.*

a. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.

b. Activities must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Environmental Health Division of Thurston County Public Health and Human Services Department.

2. *Storage tanks.* Storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

a. *Underground tanks.* All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes must be designed and constructed so as to:

i. Prevent releases due to corrosion or structural failure for the operational life of the tank;

ii. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and

iii. Use material in the construction or lining of the tank that is compatible with the substance to be stored.

b. *Aboveground tanks.* All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes must be designed and constructed so as to:

i. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;

ii. Have a primary containment area enclosing or underlying the tank or part thereof; and

iii. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

3. *Vehicle repair and servicing.*

a. Vehicle repair 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 occur.

b. Dry wells are prohibited in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.

4. *Residential use of pesticides and nutrients.* Application of household pesticides, herbicides, and fertilizers must not exceed times and rates specified on the packaging.

5. *Use of reclaimed water for surface percolation or direct recharge.* Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state departments of ecology and health.

a. Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The State Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).

b. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

112.20.080. - Frequently flooded areas.

A. *Definition.* Frequently flooded areas are lands in the floodplain subject to a one percent or greater chance of flooding in any given year and lands that provide important flood storage, conveyance, and attenuation functions. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designation of the Federal Emergency Management Agency and the National Flood Insurance Program.

1. *Includes:*

a. *Areas identified on the flood insurance map(s).* Areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Thurston County, Washington and Incorporated Areas" dated October 16, 2012, and any revisions thereto, with accompanying flood insurance rate maps (FIRM) dated October 16, 2012, and any revisions thereto. The flood insurance study and accompanying map(s) are hereby adopted by reference, declared part of this chapter, and are available for public review at the city.

B. *Designation.* Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Frequently flooded areas are hereby designated critical areas and are subject to the provisions of this chapter and must be managed consistent with the best available science.

C. *Maintenance of records.* Where base flood elevation data is provided through the flood insurance study or required through this chapter, the city must obtain and record the flood elevation certificates of all new or substantially improved structures, whether or not the structure contains a basement. The city must also maintain for public inspection all records of floodplain hazards, certificates of flood-proofing, and flood elevation data.

D. *Standards.*

1. *Critical facilities prohibited.* Critical facilities are prohibited within frequently flooded areas unless there is no other practical alternative.

2. *Septic systems prohibited.* On-site sewage disposal systems, including drain fields, are prohibited within the 100-year floodplain.

3. *Flood elevations.* The base flood elevation for high ground water flood hazard areas corresponds to the elevation of the outer edge of the high ground water flood hazard area.

4. *Delineation of the base flood elevation.* Applicants must submit to the approval authority hydrologic and hydrogeologic studies as necessary to delineate the high ground water flood hazard area and the base flood elevation.

5. *Buffer required.* A minimum buffer of 50 feet is required from the outer edge of the high ground water hazard area or extending to a ground elevation two feet above the base flood elevation, whichever is less.

6. *Infiltration basins.* The bottom of any infiltration facility for stormwater discharge must be located at least six feet above the base flood elevation.

7. *Subdivision proposals.* Subdivision proposals must:

a. Be consistent with the need to minimize flood damage;

b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

c. Must have adequate drainage provided to reduce exposure to flood damage.

d. Generate base flood elevation data when it is not available from another authoritative source.

8. *Building permit review.* Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits must 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 grade in these zones may result in higher insurance rates.

9. *Nonresidential construction.* All nonresidential construction must have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and 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 section based on their development and/or review of the structural design, specifications and plans.

E. *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 hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter does not create liability on the part of the city, 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 hereunder.

112.20.090. - Geologically hazardous areas.

A. *Definition.* Geologically hazardous areas are areas that may not be suitable for development because of their susceptibility to erosion, sliding, earthquakes or other geological events.

1. *Includes:*

a. *Erosion hazard areas.* Erosion hazard areas are those areas identified by the United States Department of Agriculture Soil Conservation Service as having a severe rill and inter-rill erosion hazard. Rill or inter-rill are areas subject to sheet wash, or steep-sided channels resulting from accelerated erosion. The city has limited lands that possess these characteristics, and will therefore regulate any potential erosion hazards through grade and fill regulations pursuant to Title 5, Buildings and Construction, and Title 109, Shoreline Designations.

b. *Landslide Hazard Areas.* Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of factors including, but not limited to, bedrock, soil, slope, slope aspect, structure, and hydrology. Examples of landslide hazard areas include, but are not limited to:

i. Areas of historic failures.

ii. Areas with all three of the following characteristics:
   a) Slopes in excess of 15 percent;
   b) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
   c) Springs or groundwater seepage.

iii. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of that epoch.

iv. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

v. Slopes in excess of 80 percent that are subject to rockfall during seismic shaking.

vi. Areas with a slope of 40 percent or more that have a vertical relief of ten or more feet. This does not include areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten feet of vertical relief.

vii. Areas that include alluvial or colluvial fans located at the base of steep slopes and drainages.

c. *Seismic hazard areas.* Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

i. The magnitude of an earthquake;
ii The distance from the source of an earthquake;
iii. The type of thickness of geologic materials at the surface; and
iv. The type of subsurface geologic structure.

B. *Designation.* Geologically hazardous areas pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Incompatible development may place itself at risk and increase the hazard to surrounding developments and uses. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and must be managed consistent with the best available science.

C. *Standards.*

1. *Septic systems prohibited.* On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related buffers.

2. *Critical facilities prohibited.* Critical facilities are prohibited within geologically hazardous areas unless there is no other practical alternative.

3. *Point discharges prohibited.* Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area is prohibited.

4. *Buffers.* Buffers are used to eliminate or minimize the risk of property damage, death, or injury resulting from landslides cased in whole or in part by the development. A buffer must be provided from all edges of landslide hazard areas.

a. *Minimum buffer.* The minimum buffer required is equal to the height of the slope.

b. *Buffer reduction.* The buffer may be reduced to a minimum of ten feet when a qualified professional demonstrates to the city's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area.

c. *Buffer increases.* The city may require a wider buffer when it is necessary to prevent the risk of damage to proposed and existing development.

5. *Alterations.* Alterations of geologically hazardous areas or associated buffers may be allowed only if a hazards analysis has been submitted and certifies that the alterations:

a. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

b. Will not adversely impact other critical areas;

c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

d. Are certified to be safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

e. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

f. The development will not decrease slope stability on adjacent properties; and

6. *Vegetation retention.* Removing vegetation in an erosion hazard area, landslide hazard area, or required buffer is prohibited unless otherwise provided for in this chapter or as part of an approved alteration.

7. *Seasonal restriction.* Clearing may only be allowed during the dry season, generally from May 1st to October 1st of each year.

a. The city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions.

b. Timber harvest, not including brush clearing or stump removal, may be allowed during other times of the year provided an approved forest practice permit has been issued by the Washington State Department of Natural Resources.

8. *Utility lines and pipes.* Utility lines and pipes may be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available.

a. Lines or pipes in erosion and landslide hazard areas must be located above ground, properly anchored, and designed so that it will continue to function in the event of an underlying slide.

b. Stormwater conveyance in erosion and landslide hazard areas must be through a high-density polyethylene pipe with fuse-welded joints, or a similar product that is technically equal or superior.

9. *Land divisions.*

a. Land that is located wholly within a landslide hazard area or its buffer must not be subdivided.

b. Land that is located partially within a landslide hazard area or its buffer may be divided; only if each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer.

c. Access roads and utilities serving the proposed subdivision may be permitted within the landslide hazard area and buffer only if the city determines that no other feasible alternative exists.

112.20.100. - Fish and wildlife habitat conservation areas.

A. *Definition.* Fish and wildlife habitat conservation areas are areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.

1. *Includes:*

a. *Endangered, threatened, and sensitive species.* Habitat areas associated with state or federally designated endangered, threatened, and sensitive species. Designated species known to occur in the city or its vicinity include, but are not limited to, the following:

i. *Animals:*
a) Oregon Vesper Sparrow.
b) Mazama Pocket Gopher (Olympia, Tenino, and Yelm subspecies).
c) Taylor's Checkerspot Butterfly.
d) Mardon Skipper Butterfly.

ii. *Plants:*
a) Water Howellia.
b) Golden Paintbrush.

b. *Priority habitats and species.* Priority habitats and species, as identified by the Washington State Department of Fish and Wildlife. Priority habitats and species known to occur in the city or its vicinity include, but are not limited to, the following:

i. *Habitats:*
a) Oregon White Oak Woodlands.
b) West Side Prairie.
c) Freshwater Wetlands.

ii. *Species:*
a) Western Gray Squirrel.
b) Oregon Vesper Sparrow.
c) Mazama Pocket Gopher.

c. *Rare plants and high-quality ecosystems.* Areas of rare plant species and high-quality ecosystems identified by the Washington State Department of Natural Resources through the Natural Heritage Program. Rare plant species known to occur in the city or its vicinity include, but are not limited to, the following:

i. White-Top Aster.

d. *Wildlife corridors and connections.* Land useful or essential for preserving connections between habitat areas and open spaces.

e. *Waters of the state.* Waters of the state, including but not limited to lakes, rivers, ponds, streams, inland waters, underground waters, and salt waters. Scatter Creek is classified as a water of the state. Standards for underground waters are addressed in Section 112.20.070, critical aquifer recharge areas.

f. *Ponds.* Naturally occurring ponds under 20 acres, including their submerged aquatic beds that provide fish or wildlife habitat and artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities unless intentionally created for mitigation purposes. Small ponds are known to occur in the city and its urban growth area.

B. *Designation.* All areas within the city meeting one or more of the criteria in subsection A. above, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. Fish and wildlife habitat conservation areas must be managed consistent with the best available science.

C. *Standards.*

1. *Indigenous species.* Only plant, wildlife, or fish species that are indigenous to the region may be introduced into a habitat conservation area unless otherwise authorized by a state or federal permit or approval.

2. *Activity approvals.* The city may condition approval of activities that are allowed within or adjacent to a habitat conservation area or its buffers in order to minimize or mitigate any potential adverse impacts. Conditions must be based on the best available science.

3. *Alteration approvals.* Any approval of alterations or impacts to a habitat conservation area must be supported by the best available science.

4. *Mitigation.*

a. *Contiguous corridors.* Mitigation sites must be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan.

i. The mitigation plan must be submitted and approved as part of the critical area report to minimize the isolating effects of development on habitat areas.

ii. Aquatic habitat mitigation areas must be located within the same aquatic ecosystem as the area disturbed.

b. *Equivalent or greater biological functions.* Mitigation areas must:

i. Achieve functional equivalency or represent an improvement of existing biologic and hydrologic functions;

ii. Include mitigation for adverse impacts upstream or downstream from the development proposal site; and

iii. Address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

5. *Native growth protection areas required.* Habitat conservation areas and their buffers must be preserved in perpetuity through the use of native growth protection areas and critical area tracts. Native growth protection areas include areas where native vegetation

is preserved for the purpose of preventing harm to property and the environment including, but not limited to, the following:

a. Controlling surface water runoff and erosion.

b. Maintaining slope stability.

c. Buffering.

d. Protecting plants and animal habitat.

6. *Buffers.*

a. *Buffers Required.* Buffers are used to protect the integrity, functions, and values of each affected habitat. A buffer must be provided when it is needed to protect the habitat conservation area. Buffers must consist of an undisturbed area of native vegetation or areas identified for restoration.

b. *Buffer width.* Required buffer widths must reflect the sensitivity of the habitat as well as the type and intensity of human activity proposed. Buffer widths must be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife.

c. *Seasonal restrictions.* When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required, and activities may be further restricted during the specified season.

d. *Buffer averaging.* The city may allow the recommended buffer width to be reduced in accordance with a critical area report, the best available science, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

i. Buffer averaging does not reduce stream or habitat functions;
ii. Buffer averaging provides additional natural resource protection, such as buffer enhancement;
iii. The total area contained in the buffer after averaging is no less than that which would be contained within the standard buffer; and
iv. The buffer width is not reduced by more than 25 percent in any location, as recommended by the Washington Department of Fish and Wildlife.

7. *Land divisions.*

a. Land that is located wholly within a habitat conservation area or its buffer must not be subdivided.

b. Land that is located partially within a habitat conservation area or its buffer may be divided only if the developable portion of each new lot and its access is be located outside of the habitat conservation area and buffer.

c. Access roads and utilities serving the proposed subdivision may be permitted within the habitat conservation area and buffer only if the City determines that no other feasible alternative exists.

8. *Endangered, threatened, and sensitive species.*

a. *Development.* Only development consistent with a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency may be allowed in a habitat conservation area or buffer associated with endangered, threatened, or sensitive species.

b. *Protection Measures.* Protection measures identified in a critical area report that has been approved by the city, must be utilized for habitat conservation areas associated with endangered, threatened, or sensitive species.

c. *Alterations to habitat conservation areas.* Approval to alter habitat conservation areas or buffers associated with endangered, threatened, or sensitive species will not occur prior to consulting with:

i. For animal species, the Washington Department of Fish and Wildlife;
ii. For plant species, the Washington State Department of Natural Resources; and
iii. Other appropriate federal or state agencies.

9. *Wetland habitats.* Activities within or adjacent to habitat conservation areas containing wetlands must conform to the wetland standards set forth in Section 112.20.060, wetlands. If non-wetland habitat and wetlands are present at the same location, the provisions of this section or the wetlands section, whichever provides greater protection to the habitat, apply.

Appendix D: Tenino Municipal Code Chapter 100.40 Procedures for Land Use Permits and Decisions

100.40.010. - Purpose.

The purpose of this chapter is to establish permits and approvals, requirements, process types, determine application completeness, application notifications and public hearings. This chapter provides for and promotes the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the provisions of this chapter.

100.40.020. - Permit required.

A permit, discretionary or zoning decision shall be issued by the city according to the provisions of this title for all development activities and uses located within the city, except as excluded by LDR 100.40.030, exclusions from permit requirement. The city shall not issue a building permit for the construction, reconstruction or alteration of a structure or a part of a structure for which a zoning decision has not been issued. The city shall not issue a project permit, discretionary or zoning decision for the improvement or use of land that has been previously divided or otherwise developed in violation of this title, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the development.

100.40.030. - Exclusions from permit requirements.

Except as indicated otherwise, an activity, development or use listed in this section is excluded from the requirement for a project permit, discretionary, or zoning decision. Exclusion from the requirements of a permit does not exempt the development or its use from applicable requirements of this title or other applicable federal, state and local regulations.

A. Landscaping of a single-family detached dwelling that does not involve a structure, grading, fill, excavation or otherwise require a permit.

B. Fences less than or equal to six feet in height and not obstructing the clear line of vision of vehicular traffic approaching the location from any street or driveway. Fences greater than six feet in height require a building permit and must meet applicable setback standards.

C. A change internal to a building or other structure that does not substantially affect the use of the structure and that does not require a building permit.

D. Structures less than 120 square feet and less than ten feet in height are not subject to a development permit but are required to meet all appropriate setbacks as listed in LDR title 108, setbacks standards, when placed on the owner's property where the owner resides. No structures may be placed on a lot so as to obstruct the clear line of vision of vehicular traffic approaching on any street or from a driveway.

E. Any emergency measures necessary for the safety or protection of property.

F. Agricultural uses.

G. The establishment, performance, construction, or installation of residential accessory uses that do not involve or otherwise require a city permit, license or approval.

H. The establishment, construction or termination of a public utility facility that directly serves development authorized for any area, including such facilities as a private or public street, sewer, water line, electrical power or gas distribution line, or telephone or television cable system, that do not otherwise require a city permit, license or approval.

I. Installation or construction of an accessory structure that does not require a building permit.

J. The stockpiling or broadcasting of less than 50 cubic yards of landscape material, such as topsoil, peat, sawdust, mulch, bark, or chips.

100.40.040. - Coordination of development permit procedures.

A. The designee shall determine the proper procedure for all applications using LDR 100.40.070, process types. If there is a question as to the appropriate process, the designee shall resolve it in favor of the higher process type procedure. Process I requires the least amount of review and process V requires the most deliberate review.

B. An application that involves two or more procedures shall be processed collectively at the city's sole discretion, under the highest numbered procedure required for any part of the application. Public hearings with other agencies shall be processed according to LDR 100.40.190, notice of public hearing.

C. Abbreviated findings shall be restricted to process types I and II, where little or no discretion is needed to make a decision. The decision may serve as a permit if all requirements are met.

D. Except for process types IV and V, city actions on project permits shall be complete within 120-days of determination of a completed application, including resolution of all local appeals. This 120-day period may be extended for a reasonable period of time at the request of the applicant pursuant to LDR 100.40.150, determination of completeness.

100.40.050. - Certain regulatory authority not affected.

An application for a land use action may be denied or approved conditionally under the authority of the city to protect and enhance the public safety, health, and general welfare, and under the State Environmental Policy Act, even though the applicant has attained a vested right against enforcement of an ordinance which changes the regulations, codes, or procedures affecting the land use action.

100.40.060. - Terminology and methods used.

The designee shall be responsible for the coordination of the project permit application and decision-making procedures and shall only issue a permit or grant an approval to an applicant whose application and proposed development is in compliance with the provisions of all development regulations. Before issuing any permits or approvals, the city shall be provided with sufficient detail to establish that an application is in full compliance with the requirements of this title.

A. For purposes of this title, certain terms or words used in this title shall be interpreted as follows:

1. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

2. The term "shall" is mandatory; and the term "may" is permissive.

3. The term "used" or "occupied" includes the term "intended, designed or arranged to be used or occupied."

B. In computing time for the purposes of this title, the following apply:

1. The term "day" means calendar day.

2. The day that a notice is issued shall not be included in the comment period.

3. The last day of the comment period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then it also is excluded and the comment must be submitted by the next business day.

4. The day that a decision is issued shall not be included in the appeal period.

5. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day.

C. Distances will be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property or parcel upon which the proposed use is to be located, to the nearest point of the parcel, buffer or wetland delineation line, ordinary high water line or the zoning district boundary line from which the proposed use is to be separated.

100.40.070. - Process types.

Permit applications for review pursuant to this section shall be classified as a process types I, II, or III, all of which are administrative in nature. Process type IV is quasi-judicial and requires a decision by the city council. Process type V are legislative in nature for action by the city council. All land use permit applications and decisions are categorized by process type as set forth in LDR 100.40.010 et seq., procedure for land use permits and decisions. The differences between the processes are generally associated with the different nature of the decisions and the decision-making body, as described in table 100.40.070 as follows:

TABLE 100.40.070
APPLICATION PROCESSING PROCEDURES

	Process I Administrative Approval	Process II Administrative Action	Process III Planning Commission Decision	Process IV Quasi-judicial	Process V Legislative Review
Permit/application types	Administrative interpretations; boundary line adjustments; building permit; business licenses; design standards review; limited home occupations; lot combinations and segregations; manufactured or mobile home permit; site development permit; sign permit; temporary sign permit; temporary use; tree removal permit, zoning decisions; code enforcement; civil infraction citations; notice and orders	administrative use permit; administrative variance; environmental review (SEPA); home occupations; master plan; shoreline permit; short plats, preliminary, amendments, alterations, finals, and extensions.	Binding site plan; conditional use permits; shoreline conditional use permits; density transfer program; public facilities permits; reasonable use permit; variances;	Rezone; plat amendment, preliminary, alteration, extension and final; master plan; priority habitat nominations; comprehensive plan text and map amendments; right-of-way vacation **no hearing or recommendation required from planning commission for final plat or right-of-way vacation	Development regulation text amendments; area-wide land use or zoning map change; annexations; adoption of new or amended ordinances
Impacts	Minimal or no effect on others, so issuance of permit is not dependent on others.	Application of the standards may require some knowledge of impacts and effect upon others	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons
Reviews and recommendations	NA	NA	Designee	Planning commission **except as noted above	Planning commission
Decision-making body	Designee	Designee	Planning commission	City council	City council

Appeal	City council	City council	City council	State agencies, county superior courts	State agencies, county superior courts
Notice/comment	Participation of applicant only	Nearby property owners invited to comment on an application	In addition to applicant, others affected invited to present initial information	In addition to applicant, others affected invited to present initial information	Anyone invited to present information

A. This section is intended to provide procedures for the processing of permits pursuant to the requirements of RCW 36.70B, including but not limited to, preapplication conferences, SEPA consistency, determination of completeness, notice of application, public notice, public hearing and appeal processes for review of project permits. If the procedural requirement of this title were in direct conflict with the state statute, then the state statute would apply.

B. All process types III and IV permits, and any process types I and II permits that require environmental review under SEPA (RCW 43.21C and LDR title 110) are subject to the provisions of LDR 100.40.090, process type II, administrative approval. An environmental checklist shall be submitted in conjunction with the submittal of a project permit application subject to LDR 100.40.140, project permit application. The responsible official shall make a threshold determination for all related project permit applications subject to environmental review. The city shall not issue a threshold determination, other than a determination of significance (DS), prior to the submittal of a complete application and the expiration of the public comment period in the notice of application pursuant to LDR 100.40.180, notice of application, but may utilize the public notice procedures as outlined in LDR 100.40.190, notice of public hearing to consolidate public notice.

C. The following permits or approvals are specifically excluded from the procedures set forth in this chapter:

1. Landmark designations.
2. Street vacations.
3. Street use permits.
4. Building permits which are categorically exempt from environmental review under SEPA or that do not require street improvements, boundary line adjustments, or other construction permits, pursuant to RCW 36.70B.140.

5. Administrative approvals which are categorically exempt from environmental review under SEPA, pursuant to RCW 43.21C and LDR title 110, SEPA, for which environmental review has been completed in connection with other project permits.

100.40.080. - Process I, administrative approval.

A. *Approval.* Various provisions of this chapter indicate that certain developments, activities, or uses are permitted only if approved by process I review. Under process type I, the city is authorized to make administrative decisions based on certain criteria as set forth in this title or chapter. Any process I application categorically exempt from the State Environmental Policy Act (WAC 197-11-800) shall be reviewed pursuant to the procedural requirements of process I. City decisions under this process may be appealed to the city council.

B. *Purpose of review.*

1. To review a proposal for compliance with the provisions of this chapter and all other applicable law.
2. To ensure that the health, safety, and welfare of the citizens of the city are preserved.
3. To provide an expedient and reasonable land use review process for administrative decisions and interpretations of this chapter.

C. *Applications.*

1. Any person may make application for a process I land use decision.
2. The applicant shall file a completed land use application.
3. The application shall be incomplete unless accompanied by the required fee.
4. The city may modify the submittal requirements as deemed appropriate.
5. An application for an administrative decision shall be routed to the community development department. The designee may route an application to other staff members or departments for comment.

D. *Appeals.*

1. Any person withstanding that objects to a city decision has the option to appeal the administrative approval decision.
2. The appeal, in the form of a letter of appeal, must be delivered to the city within 14 calendar days after issuance of the administrative decision. The letter of appeal must contain:
   a. A statement identifying the administrative decision being appealed;
   b. A copy of the administrative decision;
   c. A statement of the alleged errors in the administrative decision, including identification of specific factual findings and conclusions of the city designee disputed by the person filing the appeal; and
   d. The appellant's name, address, telephone number and fax number or information to communicate with the appellant.

3. The appeal will be considered incomplete unless the required fee is paid.

4. Appeals of process I decisions are heard by the city council.

100.40.090. - Process II, administrative action.

A. *Approval.* Various provisions of this chapter indicate that certain developments, activities or uses are permitted only if approved using process type II. Under process type II, the city will make the initial land use decision based on written comments and information. Appeal of the decisions will be decided by the city council after an open record appeal.

B. *Purpose.* Process II has the following purposes:

1. Review the proposal for compliance with the provisions of this chapter and all other applicable law.

2. Help ensure that the proposal is coordinated, as is reasonable and appropriate, with other known or anticipated development on private properties in the area and with known or anticipated right-of-way and other public improvement projects within the area.

C. *Applications.*

1. Any person may make application for a decision of process II actions.

2. The applicant shall file a completed application on the form provided by the department. The applicant shall also provide all information or material specified in the provision of this chapter that describes the decision applied for, all information specified in LDR 100.40.150, determination of completeness, and any additional information or material that the city determines is reasonably necessary for a decision on the matter.

3. With the application, the applicant shall submit the fee established by the city. The application will not be accepted unless the required fee accompanies it.

4. The city will apply LDR 100.40.150, determination of completeness to determine if an application is complete.

5. A determination of completeness shall not preclude the city from requesting additional information or studies, either at the time of the letter of completeness or subsequently, if new information is required or substantial changes in the proposed action occur.

D. *Decisions.* The SEPA applies to some of the decision made using this process. The city shall evaluate each application and, where applicable, comply with the provisions of LDR title 110, SEPA.

E. *Official file.*

1. The designee shall compile an official file on the application containing the following:

a. All application material submitted by the applicant.

b. All written comments received on the matter.

c. The written decision of the designee.

d. If a city decision is appealed, the following will be included in the file:

1) The letter of appeal.

2) All written comments received regarding the appeal.
3) The staff report regarding the appeal.
4) The electronic audio recording of the hearing on the appeal.
5) Any other information relevant to the matter.

2. The official file is a public record. It is available for inspection and copying in the city during regular business hours.

F. *Notice of application* . Within 14 days of issuing a letter of completeness on the proposal, the designee shall prepare a notice of application containing all specified information in LDR 100.40.180, notice of application.

G. *Applicant responsibility on entitlement.* The applicant has the responsibility of convincing the city that under the provisions of this process the applicant is entitled to the requested decision.

H. *City consideration.* The city shall consider all written comments and information regarding the requested decision received by the community development department before the deadline contained within the notice of application.

I. *City decision.*

1. Coordination with decisions under the State Environmental Policy Act. If a SEPA threshold determination is required, the threshold determination must follow the end of the public comment period, but precede the city's decision on the land use and design components of the process II project approval. If the SEPA threshold determination is appealed, the city's land use and design components decision shall be issued sufficiently in advance of the open record hearing on the threshold determination appeal, to allow any appeal of the land use and/or design review decision to be consolidated and heard with the appeal of the threshold determination. If the city is unable to issue the final decision on the land use of a process II project application as provided in this subsection, the city shall provide written notice pursuant to LDR 100.40.150(4), determination of completeness.

2. In making a decision on the application, the city shall use the criteria listed in the provisions of this chapter. In addition, the city may approve the application only if it is consistent with:

   a. The comprehensive plan;

   b. All applicable provisions of this chapter;

   c. The public health, safety, and welfare; and

   d. The streets and utilities in the area of the subject property are adequate to serve the anticipated demand from the proposal.

3. The city shall include in the written decision any conditions and restrictions that are reasonably necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions become part of the decision. The city shall include the following in the written decision:

   a. A statement granting, modifying and granting, or denying the application.

   b. Any conditions and restrictions that are imposed.

c. A statement of facts presented to the city that support the decision, including any conditions and restrictions that are imposed.

d. A statement of the conclusions based on those facts.

e. A statement of the criteria used in making the decision.

f. The date of the decision.

g. A summary of the rights, as established in this process, of the applicant and others to appeal the decision.

h. A statement of any threshold determination made under the LDR title 110, SEPA, threshold determination process.

J. *Copy of written decision.* A copy of the city's written decision shall be mailed within five working days after it is issued, to:

1. The applicant.

2. Each person who submitted written comments or information to the city.

3. Any person who has specifically requested it.

K. *Final decisions; appeal.* Decisions under this section shall become final subject to the following:

1. Any person aggrieved by a city decision may appeal the decision within 14 days of the issuance of the decision as specified by LDR 100.40.090C, process II, administrative actions. If a written notice of appeal is received within the appeal period, the decision shall be referred to the city council and shall not become final until the appeal process is complete and a final decision is issued. Upon issuance of the final decision, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

2. If no appeal is submitted within the 14-calendar-day appeal period, the preliminary approval shall become final on the first calendar day following the expiration of the appeal period. Upon the decision becoming final, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

L. *Appeals.*

1. The decision of the city related to the processes pursuant to table 100.40.070 may be appealed by any person who is to receive a copy of that decision under LDR 100.40.090(I)(3)(a), process II, administrative actions.

2. The appeal, in the form of a letter of appeal, must be delivered to the city within 14 calendar days after issuance of the decision of the city designee. The letter of appeal must contain:

a. A statement identifying the decision being appealed;

b. A copy of the decision;

c. A statement of the alleged errors in the decision, including identification of specific factual findings and conclusions of the designee disputed by the person filing the appeal; and

d. The appellant's name, address, telephone number and fax number or information to communicate with the appellant.

3. The appeal will be considered incomplete unless the required fee is paid.

4. Appeals of process II decisions are heard by the city council.

M. *Notice of public hearing* . Notice of public hearing is required for all types of applications for which a public hearing is held. Notice of public hearing shall be reasonably calculated to give actual notice and shall contain the information as specified in LDR 100.40.190, notice of public hearing.

N. *Appeal entitlement* . Only those persons entitled to appeal the decision under LDR 100.40.090I.3.a), process II, administrative action, may participate in the appeal. These persons may participate in either or both of the following ways by:

1. Submitting written comments or information to the community development department prior to the hearing or to the city council during the hearing.

2. Appearing in person, or through a representative, at the hearing and submitting oral comments directly to the city council. The city council may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the hearing.

O. *Scope of appeal.* The scope of the appeal is limited to the errors raised or the specific factual findings and conclusions disputed in the letter of appeal. The city council may only consider evidence, testimony or comments relating to errors raised or the disputed findings and conclusions. The city council also may not consider any request for modification or waiver of applicable requirements of this chapter or any other law.

P. *Appeal staff report.*

1. The designee shall prepare a staff report on the appeal containing:

a. The written decision of the designee.

b. All written comments submitted to the designee.

c. The letter of appeal.

d. All written comments on the appeal received by the community development department from persons entitled to participate in the appeal.

e. An analysis of the alleged errors in the decision and any specific factual findings and conclusions disputed in the letter of appeal.

2. At least seven calendar days before the hearing, the designee shall distribute copies of the staff report on the appeal to:

a. The city council.

b. The applicant.

c. The appellant.

d. Each person who received a copy of the city decision.

Q. *Open record appeal.*

1. The city council shall hold an open record hearing on the appeal.

2. The hearings of the city council are open to the public.

3. The city council shall make an audio recording of each hearing.

4. The person filing the appeal has the responsibility of convincing the city council by a preponderance of the evidence that the designees' decision contains an error of law or that its findings of fact or conclusions are incorrect pursuant to LDR 100.30.090, burden of proof.

5. The city council may continue the hearing if, for any reason, all of the public comments on the appeal are not heard, or if the city council determines that they need more information within the scope of the appeal. If, during the hearing, the city council announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.

R. *Decision on appeal.*

1. The city council shall consider all information and comments within the scope of the appeal submitted by persons entitled to participate in the appeal. The city council shall either affirm or change the findings and conclusions of the designee that were appealed. Based on the city council's findings and conclusions, the council shall either, affirm, reverse or modify the decision being appealed.

2. Within ten working days after the public hearing, the city council shall issue a written decision on the appeal and within five working days after issuance, distribute the decision to:

   a. The applicant.

   b. The person who filed the appeal.

   c. Each person who participated in the appeal.

   d. Each person who specifically requested it.

3. The decision by the city council is the final decision of the city.

S. *City council's decision* . The city council's decision affirming, modifying or reversing the designee's decision denying an application under this process is the final decision of the city. The city council's decision may be reviewed pursuant to RCW 36.70C.040 in the county superior court. The land use petition must be filed within 21 calendar days after issuance of the final land use decision of the city.

1. The applicant under this process must begin construction or submit to the city a complete building permit application for the development activity, use of land or other actions approved under this process within one year after the final decision on the matter, or the decision becomes void.

2. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this process and complete the applicable conditions listed in the decision within five years after the final decision of the city on the matter, or the decision becomes void. If litigation is initiated pursuant to LDR 18.40.090S, process II, administrative actions, the time limits of this section are

automatically extended by the length of time between the commencement and final termination of that litigation.

3. If the development activity, use of land, or other actions approved under this section includes phased construction, the time limits of this section may be extended in the decision on the application, to allow for completion of subsequent phases.

T. *Request for extension on time limits.* Prior to the lapse of approval under LDR 100.40.090S, process II, administrative actions, the applicants may submit a written application in the form of a letter with supporting documentation to the community development department requesting a one-time extension of those time limits (time extension) of up to one year.

1. The request must demonstrate that the applicant is making substantial progress on the development activity, use of land or other actions approved under this article and that circumstances beyond the applicant's control prevent compliance with the time limits of LDR 100.40.150A.1, determination of completeness.

2. The applicant shall include, with the letter of request, the established city fee or the application will not be considered complete.

3. An application for a time extension will be reviewed and decided upon by the designee.

U. *Time extension appeal.* Any aggrieved person who by granting or denying a request for a time extension under this section may appeal that decision to the city council. The appellant must file a letter of appeal indicating how the decision on the time extension effects the appellant's property and presenting any relevant material or information supporting the appellant's contention. Pursuant to LDR 100.40.150A, determination of completeness, any time limit upon the city's processing and decision upon applications under this chapter may, except as otherwise specifically stated in this chapter, be modified by a written agreement between the applicant and the designee.

V. *Security bond.* The city may require a bond under LDR 100.30.120B, security mechanisms, to ensure compliance with any aspect of a permit or approval.

W. *Complete compliance required.*

1. Except as specified in subsection W.2 of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this article in order to do everything authorized by that approval.

2. If a specific use or site configuration for the subject property was approved under this process or any administrative process under a previous zoning regulation, the applicant is not required to apply for and obtain approval through this process for a subsequent change in use or site configuration unless:

a. There is a change in use and this chapter establishes different or more rigorous standards for the new use than for the existing use; or

b. The designee determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

100.40.100. - Process III, planning commission decisions.

A. This chapter establishes criteria to review, approve, deny, notice, and appeal certain developments, activities or uses permitted by using process type III. Under process III, the planning commission will make a decision following a public hearing.

B. All lower permit and approval process types must receive approval prior to scheduling a public hearing under process III.

C. Process III has the following purposes:

1. Review the proposal for compliance with the provisions of this chapter and all other applicable law.

2. Ensure that the proposal is coordinated, reasonable and appropriate with other known or anticipated development on properties in the area and with known or anticipated right-of-way and other public improvement projects in the general vicinity.

3. Encourage proposals that embody good design standard principles that will result in high quality development on the subject property.

D. The applicant shall file the following information with the community development department when filing an application:

1. A completed application on forms provided by the community development department, with supporting affidavits.

2. Any information or material specified in the provision of this chapter that describes the requested decision in the application.

3. Any additional information or material that the designee determines reasonably necessary for a decision in the matter.

4. The city will apply LDR 100.40.150, determination of completeness to determine if an application is complete.

5. A determination of completeness shall not preclude the city from requesting additional information or studies, either at the time of the letter of completeness or subsequently, if new information is required or substantial changes in the proposed action occur.

6. An application will not be considered complete unless the required fee is paid.

E. The designee shall compile an official file on the application containing the following:

1. All application materials submitted by the applicant.

2. The staff report.

3. Any process I or II approvals required for the project.

4. All written comments received on the matter.

5. The electronic recording of the public hearing on the matter.

F. If a planning commission decision is appealed, the following will be included in the file:

1. The letter of appeal.

2. All written comments submitted regarding the appeal.

3. The staff report on the appeal.

4. The planning commission decision.

5. Any other information relevant to the matter.

G. The official file is a public record. It is available for inspection in the city during regular business hours. Copies of documents may be requested by filing a request for information form, specifying which documents are requested and paying copy fees.

H. The designee shall, within 14 days of issuing a letter of completeness on the proposal, prepare a notice of application containing all information specified in TMC 18.40.180, notice of application.

I. In addition to the information specified LDR 100.40.190, notice of public hearing, the notice of public hearing shall include the following:

1. Date, time, and place of the public hearing.

2. A statement of the right of any person to submit written comments to the planning commission and to appear at the public hearing of the planning commission to give comments orally and the right to request a copy of the decision once made.

3. A statement that only persons who submit written or oral comments regarding the proposal may appeal the decision.

J. Provisions of SEPA (LDR title 110) apply to some of the decisions made using this process.

1. The designee shall evaluate each application and, if applicable, comply with SEPA.

2. Where a threshold determination under the SEPA is required, the responsible official shall issue a determination at least 29 days prior to the hearing before the planning commission to allow any appeal of the threshold determination to be consolidated with the hearing on the application for process III approval.

K. The designee shall prepare a staff report concerning the application being processed.

1. The staff report shall contain:

a. All pertinent application materials.

b. All comments regarding the matter received by the city prior to distribution of the staff report.

c. An analysis of the application under the relevant provisions of this Code, the comprehensive plan and other applicable city policies and regulations.

d. A statement of the facts found by the city designee and the conclusions drawn from those facts.

e. A recommendation on the matter.

2. The designee shall distribute the staff report at least seven calendar days before the hearing to:

a. The planning commission.

b. The applicant.

c. Any person who has specifically requested a copy.

L. Public hearing.

1. The planning commission shall hold a public hearing on each application.

2. The hearings are open to the public.

3. Several separate proposals may be scheduled for the same date and time for expediency.

M. The planning commission shall make a complete electronic audio recording of each public hearing.

N. The applicant has the responsibility of convincing the planning commission that, under the provision of this process, the applicant is entitled to the requested decision.

O. Any person may participate in the public hearing by:

1. Submitting written comments to the city prior to the hearing; or

2. Providing written or oral comments directly to the planning commission at the hearing either in person or through a representative. However, the planning commission may limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.

P. The planning commission may continue the hearing if for any reason they are unable to hear all of the public comments on the matter or if more information on the matter is needed. If, during the hearing, the planning commission announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of the subsequent hearing need be given.

Q. After considering all of the information and comments submitted on the matter, the planning commission shall issue a written decision. Unless the applicant agrees to a longer period, the planning commission must issue the decision within 14 working days after the close of the public hearing using the criteria listed in the provisions of this chapter. In addition, the planning commission may approve the application only if it is consistent with:

1. The comprehensive plan;

2. All applicable provisions of this chapter and all other applicable laws;

3. The public health, safety and welfare;

4. The streets and utilities in the area of the subject property are adequate to serve the anticipated demand from the proposal; and

5. The proposed access to the subject property is at the optimal location and configuration for access.

R. The planning commission shall include in the written decision any conditions and restrictions that the commission determines are reasonably necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision. The planning commission shall include the following in the commission's written decision:

1. A statement granting, modifying and granting or denying the application.

2. Any conditions and restrictions that are imposed.

3. A statement of facts that supports the decision, including any conditions and restrictions that are imposed.

4. A statement of the conclusions based on those facts.

5. A statement of the criteria used by the commission in making the decision.

6. The date of issuance of the decision and a summary of the rights established in this title to appeal any decision of the commission.

7. A statement of any threshold determination made under the LDR title 110, SEPA.

8. The designee shall mail a copy of the decision within five working days after the commission's written decision, to:

   a. The applicant.

   b. Each person who submitted written or oral testimony regarding the proposal.

   c. Any person who has specifically requested it.

S. Decisions under this section shall become final subject to the following:

1. An applicant or other party of record who may be aggrieved by the decision may appeal the decision within 14 days of the issuance of the decision by the city consistent with the provisions of LDR 100.40.90I.4.a) through c), process II, administrative actions. If a written notice of appeal is received within the appeal period, the decision shall be referred to the planning commission and shall not become final until the appeal process is complete and the city issues a final decision. Upon issuance of a final decision, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

2. If no appeal is submitted within the 14-calendar day appeal period, the preliminary approval shall become final on the first calendar day following the expiration of the appeal period. Upon the decision becoming final, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

T. Appeals.

1. The decisions of the planning commission may be appealed by any person who is to receive a copy of that decision under LDR 100.40.090I.3.a), process II, administrative actions.

2. The appeal in the form of a letter must be delivered to the city within 14 calendar days after the issuance of the planning commission's decision. The letter of appeal must contain:

   a. A statement identifying the decision being appealed;

   b. A statement of the alleged errors in the planning commission's decision, including specific factual findings and conclusions of the planning commission disputed by the person filing the appeal; and

   c. The appellant's name, address, telephone number and fax number (if any), and any other information to facilitate communication with the appellant.

3. The appeal fee must be filed with the letter of appeal.

4. Appeals of process III planning commission decisions are heard by the city council as a closed record appeal.

U. Notice of public meeting is required for all types of applications for which a public meeting is held. Notice of public meetings shall be reasonably calculated to give actual notice and shall contain the information as specified in LDR 100.40.190, notice of public hearing.

V. Only those persons entitled to appeal the decision may participate in either or both of the following ways:

1. By submitting written comments to the city prior to or at the hearing.

2. By appearing in person, or through a representative, at the hearing and providing written or oral comments directly to the city council. The council may limit the extent of the oral comments to facilitate orderly and timely conduct of the hearing.

W. Appeal staff report.

1. The designee shall prepare an appeal packet containing the following:

a. The staff report prepared for the public hearing before the planning commission.

b. The written decision of the planning commission.

c. All written comments submitted to the city and planning commission.

d. A summary of the comments and information presented to the planning commission, a statement of the availability of the electronic sound recording of the hearing, or a written transcript of the commission's proceedings.

e. The letter of appeal.

f. All written comments received by the city from persons entitled to participate in the appeal and within the scope of the appeal.

g. An analysis of the alleged errors and the specific factual findings and conclusions disputed in the letter of appeal.

2. At least seven calendar days before the hearing, the designee shall distribute the packet as follows:

a. A copy to each city council member;

b. The applicant;

c. The person who filed the appeal; and

d. Each person who received a copy of the commission's decision.

X. Closed record appeal.

1. The city council shall hold a closed record appeal hearing, as defined in RCW 36.70B.020(1).

2. The hearings of the city council are open to the public.

3. The scope of the appeal is limited to the specific errors raised or factual findings disputed in the letter of appeal. The city council shall consider only the following:

a. The information received from the designee pursuant to LDR 100.40.100T, process III, planning commission actions;

b. The record before the council, including exhibits and evidence admitted by the council;

c. Appeal arguments by the appellant and the property owner, provided that appeal argument shall address only the issues raised by the letter of appeal and evidence, if any, allowed under LDR 100.40.100X.3.d), process III, planning commission recommendations; or

d. New evidence that was not presented to, or considered by, the planning commission, but only if the city determines that the evidence relates to the validity of the planning commission's decision at the time it was made and the party offering the new evidence did not know and was under no duty to discover or could not reasonably have discovered the evidence until after the planning commission's decision.

Y. The city council shall make a complete electronic audio recording of each closed record appeal.

Z. The person filing the appeal has the responsibility of convincing the city council by a preponderance of the evidence that the planning commission's decision contains an error of law or that its findings of fact or conclusions are incorrect.

AA. After considering the matter as provided in LDR 100.40.100X.3, process III, planning commission recommendations, the city council shall, by motion approved by a majority vote of members present, take one of the following actions:

1. If city council determines that the disputed findings of fact and conclusions are the correct findings of fact and conclusions, the council shall affirm the decision.

2. If city council determines that the disputed findings of fact and conclusions are not correct and that correct findings of fact and conclusions do not support the decision of the planning commission, the council shall modify or reverse the decision.

3. Notice of decision. Following the final decision of the city council, the designee shall prepare a notice of the city's final decision on the application. To the extent the decision does not do so, the notice shall include a statement of any threshold determination made under LDR title 110, SEPA.

4. The decision of city council is the final decision of the city.

BB. The action of the city in granting or denying an application under this process may be reviewed pursuant to RCW 36.70C.040 in the county superior court. The land use petition must be filed within 21 calendar days after the final decision of the city. The applicant must begin construction or submit to the city a complete building permit application for the development activity, use of land or other actions approved under this process within one year after the final decision on the matter or the decision becomes void. The applicant must substantially complete construction for the development activity approved under this section and complete the applicable conditions listed in the decision within five years after the final decision of the city on the matter or the decision becomes void. If litigation is initiated pursuant to LDR 100.40.100Z, process III, planning commission action, the time limit of this section are automatically extended by the length of time between the commencement and final

termination of that litigation. If the development activity approved under this article includes phased construction, the time limits of this section may be extended in the decision on the application.

CC. Time extension.

1. Prior to the lapse of approval under LDR 100.40.100AA, process III, planning commission actions, the applicant may submit a written application in the form of a letter with supporting documentation to the city requesting a one-time extension of those time limits of up to one year.

2. The request must demonstrate that the applicant is making substantial progress on the development activity, use of land or other actions approved under this process and that circumstances beyond the applicant's control prevent compliance with the time limits of LDR 100.40.100AA, process III, planning commission actions.

3. The applicant shall pay any established city fees with the letter of request, or the application will not be accepted as complete.

4. An application for a time extension will be reviewed and decided upon by the designee.

5. Any person who is aggrieved by the granting or denying of a request for a time extension under this section may appeal that decision. The appellant must file a letter of appeal indicating how the decision on the time extension effects the appellant's property and present any relevant material or information to support the appellant's contention. The appeal will be heard and decided upon using process III. Any time limit, pursuant to RCW 36.70B, upon the city's processing and decision upon applications under this chapter may, except as otherwise specifically stated in this chapter, be modified by a written agreement between the applicant and the designee.

DD. The planning commission and city council may require a bond under LDR 100.30.120, security mechanisms, to ensure compliance with any aspect of a permit or approval.

EE. Complete compliance required.

1. Except as specified in subsection EE.2 of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this process in order to do everything authorized by that approval.

2. If a specific use or site configuration for the subject property was approved under this process or any quasi-judicial process under a previous zoning ordinance, the applicant is not required to apply for and obtain approval through this article for a subsequent change in use or site configuration unless:

   a. There is a change in use and this chapter establishes different or more rigorous standards for the new use than for the existing use; or

   b. The designee determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

100.40.110. - Process IV, quasi-judicial.

A. Process IV is quasi-judicial in nature that requires a public hearing before the planning commission. Based on the record of that hearing, the planning commission shall provide a recommendation to the city council for consideration in the application decision.

B. Proposal types (see definition action in LDR 100.20.040):

1. *Nonproject actions* . Nonproject actions involve decisions on policies, plans, or programs, for:

   a. A rezone is initiated by the city and the subject property is not owned by the city; or

   b. A proposed zoning change that only changes the intensity of use within the same general land use areas as specified by the future land use map and is not related to a specific project. The future land use map designates the general land use areas (e.g., residential and commercial) within the city and the official zoning map designates intensities of use (e.g., SF-1, SF-2, C-1, and C-2) within each of those general land use areas;

   c. A comprehensive plan text or map change not related to a specific proposal.

2. *Project actions.* A project action is a decision on a specific project, such as a construction or management activity located in a defined geographic area:

   a. The proposal does not meet the requirements of subsection B.1 of this section.

   b. The proposal is based on a specific project (i.e., preliminary plat or, an amendment, alteration or extension thereof, or project related comprehensive plan map or text amendment, or rezone).

C. Applications.

1. Any person may apply for a decision regarding property they own, either personally or through an agent.

2. The applicant shall file the following information with the city:

   a. A completed city application form with supporting affidavits;

   b. Two sets of stamped envelopes, and a list of the same, labeled with the name and addresses of all current owners of real property as shown in the records of the county assessor for the subject property within 300 feet of each boundary of the subject property;

   c. A copy of the county assessor's map identifying the properties specified in subsection C.2.b. of this section;

   d. A vicinity map showing the subject property with enough information to locate the property within the larger area;

   e. Any information or material that is specified in the provision of this chapter that describes the decision requested in the application;

   f. Any additional information or material that the designee determines is reasonably necessary for a decision on the matter;

   g. The established fee;

h. Meet the requirements of LDR 100.40.150, determination of completeness, and this section for a complete application.

D. The State Environmental Policy Act applies to decisions using this process. The designee shall evaluate each application and, where applicable, comply with LDR title 110, SEPA.

E. Official file.

1. The designee shall compile an official file on the application containing:

a. All application materials submitted by the applicant.

b. The staff report.

c. All written comments received on the matter.

d. The electronic recording of the public hearing on the matter.

e. The planning agency recommendation.

f. An electronic sound recording or minutes of the commission proceedings on the matter.

g. Any other information relevant to the matter.

2. The official file is a public record. It is available for inspection and copying in the city during regular business hours.

F. The designee shall prepare a notice of each application containing all the information specified in LDR 100.40.180, notice of application.

G. Staff report.

1. The designee shall prepare a staff report containing the following information:

a. All pertinent application materials.

b. All comments regarding the matter received by the community development department prior to distribution of the staff report.

c. An analysis of the application under the relevant provisions of this chapter and the comprehensive plan.

d. A statement of the facts and the conclusions drawn from those facts.

e. A recommendation on the matter.

2. The staff report shall be distribute at least seven calendar days before the hearing to:

a. The city council.

b. The applicant.

c. Each person who has specifically requested it.

H. The planning commission shall hold an open record hearing on each application.

1. The commission hearing is open to the public.

2. The commission serves as the hearing body for the city on process IV applications except as noted in table 100.40.070; application processing procedures process IV.

I. The planning commission shall make a complete audio recording of each public hearing.

J. The applicant has the responsibility of convincing the city that under the provision of this section, the applicant is entitled to the requested decision.

K. Any person may participate in the public hearing in either or both of the following ways:

1. By submitting written comments to the city or by providing written or oral comments, either personally or through a representative, directly to the planning commission (or city council as appropriate) at the hearing.

2. The planning commission may reasonably limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.

L. The planning commission may continue the hearing if, for any reason, they are unable to hear all of the public comments on the matter or if the planning commission determines that they need more information on the matter. If, during the hearing, the planning commission announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.

M. Recommendation by the planning commission.

1. After considering all of the information and comments submitted on the matter, the planning commission shall issue a written recommendation.

2. Unless a longer period is agreed to by the applicant, the planning commission must issue the recommendation within ten working days after the close of the public hearing.

3. The planning commission shall use the following criteria for quasi-judicial matters:

a. The city may approve an application for a quasi-judicial nonproject action only if it finds that:

1) The proposed nonproject action is in the best interest of the residents;
2) The proposed nonproject action is appropriate because either:
   i. Conditions in the immediate vicinity of the subject property have so significantly changed since the property initially zoned that under those changed conditions, a rezone is within the public interest; or
   ii. The nonproject action will correct a comprehensive plan item, a zone classification, or land use or zone boundary that was inappropriate when established;
3) It is consistent with the comprehensive plan;
4) It is consistent with all applicable provisions of the chapter, including those adopted by reference from the comprehensive plan; and
5) It is consistent with the public health, safety, and welfare;
6) Note. Unless an emergency is declared, a comprehensive plan amendment is only once per year.

b. The city may approve an application for a quasi-judicial project action related proposal only if:

1) The criteria in subsection 3.a of this section are met;
2) The proposed project complies with this chapter in all respects;
3) The site plan of the proposed project is designed to minimize all adverse impacts on

the developed properties in the immediate vicinity of the subject property; and

4) The site plan is designed to minimize impacts upon the public services and utilities.

c. The planning commission shall include in the written recommendation any conditions and restrictions determined reasonable and necessary to eliminate or minimize any adverse effects of granting the requested rezone.

4. The planning commission shall include the following statements in the written recommendation to the city council:

a. Facts presented to the planning commission that supports their recommendation, including any recommended conditions and restrictions.

b. The commission's conclusions based on those facts.

c. The criteria used by the commission in making the recommendation.

d. The date of issuance of the recommendation.

5. The designee shall distribute the commission's recommendation to:

a. The applicant;

b. Each person who submitted written or oral testimony to the commission;

c. Each person who specifically requested it; and

d. Each member of the city council.

The city designee shall also prepare and provide a copy of a draft resolution or ordinance that embodies the planning commission's recommendation to each council member.

N. The city council shall consider the application at a scheduled meeting within 90 calendar days of the date of issuance of the planning commission's recommendation. This time period may be extended upon written agreement of the designee and the applicant. Calculation of this time period shall not include any time necessary for a reopening of the hearing before the planning commission under subsection N.2 of this section.

1. The city council review of a nonproject or project action application shall be limited to the record of the hearing before the planning commission and the planning commission's written report. These materials shall be reviewed for compliance with review criteria set forth in LDR 100.60.010, Code amendments. The city council may also receive and review new evidence or information not contained in the record of hearing before the planning commission only if the designee determines that the evidence or information:

a. Relates to the validity of the planning commission's decision at the time it was made; or

b. The party offering the new evidence did not know and was under no duty to discover or could not reasonably have discovered the evidence until after the planning commission's decision.

2. After consideration of the entire matter, the city council shall, by action approved by a majority of the total membership, take one of the following actions:

a. Project-related action. The city council has the option to:

1) Grant the application as proposed, or modify and grant the application. In either case, it shall give effect to this decision by adopting an ordinance.
2) The city council shall give effect to a denial by adopting an ordinance pursuant to subsection N.6 of this section.

b. Nonproject action. The city council has the option to:

1) Approve the application, or modify and approve the application. In either case, it shall give effect to this decision by adopting an ordinance amending the zoning map of the city.
2) The city council shall give effect to a denial by adopting a resolution pursuant to subsection N.3 of this section.

3. The city council shall use the criteria listed in subsection M.3 of this section.

4. The city council shall include in the ordinance or resolution granting the project or nonproject action, any conditions and restrictions it determines are necessary to eliminate or minimize any undesirable effects of granting the action. Any conditions and restrictions that are imposed become part of the decision.

5. The city council shall include in the ordinance or resolution:

a. A statement of the facts that support the decision, including any conditions and restrictions that are imposed; and

b. The city council's conclusions based on those facts.

6. The city council decision on an application for either a nonproject/project-related action is the final decision of the city.

O. Following the final decision by the city council, the designee shall prepare a notice of the city's final decision on the application. After the city council's final decision, the designee shall distribute a copy to:

1. The applicant.

2. Any person who submitted written or oral comments to the planning commission.

3. Each person who has specifically requested it.

P. Effect of city council approval of project-related actions.

1. Subject to all applicable codes and ordinances, the applicant may develop the subject property in conformity with the resolution of intent to action and the site plan approved as part of that resolution.

2. If the applicant completes development of the subject property in conformity with the resolution of intent to rezone and the site plan approved as part of that resolution, the city shall give effect to the action by adopting an ordinance that makes the zone boundary or classification change to the zoning map approved in the resolution of intent to rezone.

3. The applicant may not engage in any activity based on the decision until the third working day after the notice of the final decision is distributed under subsection O of this section.

4. If the city council approves a quasi-judicial nonproject rezone it will give effect to this decision by adopting an ordinance amending the zoning map of the city.

Q. The action of the city in granting or denying an application under this process may be reviewed pursuant to RCW 36.70C.040 in county superior court. A land use petition shall be filed within 21 calendar days of the issuance of the final land use decision of the city.

R. Time extension.

1. Prior to the lapse of approval for a project-related rezone under subsection T of this section, the applicant may submit a written application in the form of a letter with supporting documentation to the city requesting a one-time extension of those time limits of up to one year.

2. The request must demonstrate that the applicant is making substantial progress on the development activity, use of land, or other actions approved under this process and that circumstances beyond the applicant's control prevent compliance with the time limits of subsection U.1 of this section.

3. The applicant shall include the required fee with the letter of request to be complete.

4. An application for a time extension will be reviewed and decided upon by the designee.

5. Any person who is aggrieved by the granting or denying of a request for a time extension under this section may appeal that decision. The appellant must file a letter of appeal indicating how the decision on the time extension effects the appellant's property and presenting any relevant material or information supporting the appellant's contention. The appeal will be heard and decided upon using process III, described in LDR 100.40.100R, process III, hearing planning commission decision. Any time limit, pursuant to RCW 36.70B, upon the city's processing and decision upon applications under this process may, except as otherwise specifically stated in this chapter, be modified by a written agreement between the applicant and the designee.

S. Reserved.

T. The city may require a bond under LDR 100.30.120, security mechanism, to ensure compliance with any aspect of the permit or approval.

U. Complete compliance required.

1. Except as specified in subsection U.2 of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this process in order to do everything authorized by that approval.

2. If a specific use or site plan for the subject property was approved under this process, or any quasi-judicial process under a previous Zoning Code, the applicant is not required to apply for and obtain approval through this process for a subsequent change in a use or site plan unless:

a. There is a change in use and this chapter establishes different or more rigorous standards for the new use than for the existing use; or

b. The designee determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

100.40.120. - Process V, legislative review.

A. This section describes the processes to review and amend the text of development regulations, amend area-wide land use or zoning map changes, or annexations through this legislative review process.

B. A proposal that will be reviewed using this process may be initiated by the city council or council committee, requested by the planning commission, city staff, or any interested person, including applicants, citizens, or agencies.

C. The city shall maintain a docket of all requested changes under this section.

D. The State Environmental Policy Act applies to some of the decisions using this process. The designee shall evaluate each proposal and, where applicable, comply with the provisions of LDR title 110, SEPA.

E. City council review.

1. The city council shall review all requests docketed with the community development department concurrently at least on an annual basis and consistent with RCW 36.70A.130(2). As part of such annual review, the council shall review all requests received prior to December 31 of the calendar year. Requests submitted after December 31 shall be considered during the following annual review.

2. The city council shall review city-initiated changes to the text of the comprehensive plan concurrently with docketed amendment requests. The city council may also review or amend the comprehensive plan whenever an emergency exists, to resolve an appeal of the comprehensive plan or amendments thereto, or in other circumstances as provided for by RCW 36.70A.130(2)(a). The city council may also review city-initiated changes to the text of the municipal code or the zoning map from time to time at the council's discretion.

3. The city council may request that the community development department, or any other city department, provide any information or material on the proposal(s), consistent with subsection Q of this section.

F. Sixty days prior to December 31 in each calendar year, the city shall notify all persons who submitted application forms after December 31 of the previous calendar year. Notice shall also be given as follows:

1. Public notice notifying the public that the amendment process has begun shall be published in the city's official newspaper.

2. Notice shall be posted on the official city public notice boards.

3. A copy of the notice shall be mailed to other local newspapers.

4. All agencies, organizations, and adjacent jurisdictions with an interest, and all persons, who in the judgment of the designee may be directly affected by changes to the comprehensive plan shall be sent a copy of the notice. In determining who may be affected by comprehensive plan changes, the director may rely on written correspondence indicating an interest and received after December 31 of the previous year.

G. Any person may apply for a site-specific comprehensive plan designation change with respect to property owned or request changes to the text of the comprehensive plan or any codified regulation.

1. An applicant must complete a docket form prepared by the city. An applicant seeking a site-specific plan or zoning designation change shall also file the information specified in LDR 100.40.110C.2, quasi-judicial, with the community development department.

2. The designee shall have the authority to waive any of the requirements of this section, if in the city's discretion such information is not relevant or would not be useful to consideration of the proposed amendment.

3. There is no fee for this initial application. After the prioritization process, applications considered during the amendment process shall submit the required fee.

H. Criteria for prioritizing plan amendment requests.

1. After December 31, but prior to adopting any amendment requests, the planning commission shall hold a public hearing in consideration of all requests for docketed changes to the comprehensive plan.

2. The planning commission shall consider the following criteria following a public hearing in selecting the comprehensive plan amendments to be considered during the upcoming cycle:

a. Whether the same area or issue was studied during the last amendment process and conditions in the immediate vicinity have significantly changed so as to make the requested change within the public interest.

b. Whether the proposed amendment is consistent with the overall vision of the comprehensive plan.

c. Whether the proposed amendment meets existing state and local laws, including the Growth Management Act.

d. In the case of text amendments or other amendments to goals and policies, whether the request benefits the city as a whole versus a selected group.

3. If the request meets the criteria set forth in subsections H.2.a through d of this section, it shall be further evaluated according to the following criteria:

a. Whether the proposed amendment can be incorporated into planned or active projects.

b. Amount of analysis necessary to reach a recommendation on the request. If a large-scale study is required, a request may have to be delayed until the following year due to workloads, staffing levels, etc.

c. A large volume of requests may necessitate that some requests be reviewed in a subsequent year.

d. Order of requests received.

4. Based on its review of requests according to the criteria in subsections H.2 and 3 of this section, the commission shall determine which requests shall be further considered for review and consideration by the city council.

5. The city council will make a final decision on all planning agency recommendations.

6. The council's decision to consider a proposed amendment shall not constitute a decision or recommendation that the proposed amendment should be adopted nor does it preclude later council action to add or delete an amendment for consideration.

I. All applicants seeking an amendment to comprehensive land use designations of the official comprehensive plan (site-specific requests) must apply for a preapplication conference with the city's staff.

J. Legislative rezones.

1. Legislative rezone is a rezone that meets the following criteria:

a. It is initiated by the city; and

b. It includes a large number of properties that would be similarly affected by the proposed rezone.

2. All other rezones not meeting the criteria described in subsection J of this section are treated as quasi-judicial rezones and are reviewed and decided upon using LDR 100.040.110, process IV.

K. The city may decide to approve a legislative rezone only if it finds that:

1. The proposal is consistent with the comprehensive plan;

2. The proposal bears a substantial relation to public health, safety, or welfare; and

3. The proposal is in the best interest of the residents of the city.

L. If the city approves a legislative rezone it will give effect to this decision by making the necessary amendment to the zoning map of the city.

M. The city may amend the text of this chapter or other development regulation only if it finds that:

1. The proposed amendment is consistent with the applicable provisions of the comprehensive plan;

2. The proposed amendment bears a substantial relation to public health, safety, or welfare; and

3. The proposed amendment is in the best interest of the residents of the city.

N. The city may consider, but is not limited to, the following factors when considering a proposed amendment to the comprehensive plan:

1. The effect upon the physical environment.

2. The effect on open space, streams, and lakes.

3. The compatibility with and impact on adjacent land uses and surrounding neighborhoods.

4. The adequacy of and impact on community facilities including utilities, roads, public transportation, parks, recreation, and schools.

5. The benefit to the neighborhood, city, and region.

6. The quantity and location of land planned for the proposed land use type and density and the demand for such land.

7. The current and projected population density in the area.

8. The effect upon other aspects of the comprehensive plan.

9. For site-specific comprehensive plan amendments, the provisions of LDR 100.40.110M, process IV, quasi-judicial shall also apply.

O. The city may amend the comprehensive plan only if it finds that:

1. The proposed amendment bears a substantial relationship to public health, safety, or welfare;

2. The proposed amendment is in the best interest of the residents of the city; and

3. The proposed amendment is consistent with the requirements of RCW 36.70A.130 and with the portion of the city's adopted plan not affected by the amendment.

P. Official file.

1. The designee shall compile an official file containing all information and materials relevant to the proposal and to the city's consideration of the proposal.

2. The official file is a public record, which is available for inspection and copying in the department of community development during regular business hours.

Q. Notice provisions under this section shall be followed for both the public hearing during which all requests for changes to the zoning map, zoning text, and the comprehensive plan are prioritized, as well as the public hearing held on individual requests.

1. The designee shall prepare a notice of each proposal, for which a public hearing will be held, containing the following information:

a. The citation, if any, of the provision that would be changed by the proposal along with a brief description of that provision.

b. A statement of how the proposal would change the affected provision.

c. A statement of what areas, zones, or locations will be directly affected or changed by the proposal.

d. The date, time, and place of the public hearing.

e. A statement of the availability of the official file.

f. A statement of the right of any person to submit written comments to the planning agency and to appear at the public hearing of the planning agency to give comments orally.

2. The designee shall distribute this notice at least 14 calendar days before the public hearing following the procedures of LDR 100.40.190, notice of public hearing. In addition, the procedures of LDR 100.40.150, determination of completeness, shall be followed for site-specific requests regarding notification of adjacent property owners posting of the site.

R. Staff report.

1. The designee shall prepare a staff report containing:

a. An analysis of the proposal and a recommendation on the proposal; and

b. Any other information the designee determines is necessary for consideration of the proposal, consistent with subsection E of this section.

2. Prior to the hearing, the designee shall distribute the staff report to:

a. Each member of the planning commission.

b. Any person requesting it.

S. The planning commission shall hold public hearings on each proposal, consistent with LDR 100.40.110, process IV, quasi-judicial, unless the city council elects to hold its own hearings on the proposal, in which case planning commission review pursuant to this process shall not be required.

1. The planning commission hearings are open to the public.

2. Except as provided in subsection S.1 of this section, the planning commission hearing is the hearing for the city council. The city council need not hold another hearing on the proposal.

T. Material to be considered.

1. Except as specified in subsections T.2 and 3 of this section, the planning commission and city council may consider any pertinent information or materials in reviewing and deciding upon a proposal under this process.

2. Except as specified in subsection T.3 of this section, the city may not consider a specific site plan or project in reviewing and deciding upon a proposal under this process.

3. If a proposal that will be decided upon using this process is part of a specific project, the city may consider all information pertaining to SEPA environmental review and submitted under subsection D of this section, process V, legislative review, in deciding upon that proposal.

U. The planning commission shall make a complete electronic audio recording of each public hearing.

V. Any interested person may participate in the public hearing in either or both of the following ways:

1. By submitting written comments to the planning commission either by delivering these comments to the city prior to the hearing or by giving them directly to the planning commission at the hearing.

2. By appearing in person, or through a representative, at the hearing and making oral comments. The planning commission may limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.

W. The planning commission may for any reason continue the hearing on the proposal. If, during the hearing, the planning commission announces the time and place of the next public hearing on the proposal and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.

X. Recommendation.

1. Following the public hearing, the planning commission shall consider the proposal in light of the decisional criteria in subsections F, H, and J, process V, legislative review, and take one of the following actions:

a. May by a majority vote of the entire membership recommend that the city council adopt the proposal;

b. May by a majority vote of the members present recommend that city council not adopt the proposal; or

c. That the planning commission makes no recommendation based on the proposal and submitted to the city council with that notation.

2. The planning commission may modify the proposal in any way and to any degree prior to recommending the proposal to city council for consideration.

Y. Report to city council. The designee shall:

1. Prepare a planning commission report on the proposal containing a copy of the proposal along with any explanatory information, and the planning commission recommendation, if any, on the proposal.

2. Transmit the planning commission report to the city council for consideration.

3. Promptly send a copy of the planning commission report to any person requesting it.

Z. City council action.

1. Within 60 days of receipt of the planning commission report by the designee, the city council shall consider the proposal along with a draft ordinance appropriate to enact or adopt the proposal.
2. In deciding upon the proposal, the city council shall use the decisional criteria listed in the provisions of this chapter describing the proposal.
3. After consideration of the planning commission report and, at its discretion, holding its own public hearing on the proposal, the city council shall by majority vote of its total membership:
    a. Approve the proposal by adopting an appropriate ordinance;
    b. Modify and approve the proposal by adopting an appropriate ordinance;
    c. Disapprove the proposal by resolution; or
    d. Refer the proposal back to the planning commission for further proceedings. If this occurs, the city council shall specify the time within which the planning commission shall report back to the city council on the proposal.

AA. At least 60 days prior to final action being taken by the city council, but not prior to the close of the planning commission public hearing and transmittal of planning commission recommendation to the state department of community trade and economic development (CTED) and other interested affected local and state agencies, the county and surrounding jurisdictions shall be provided with a copy of the amendments in order to initiate the 60-day comment period. All other parties previously noticed shall be again notified that the draft amendments of the comprehensive plan are available on request on a cost recovery basis. No later than ten days after adoption of comprehensive plan or development regulation amendments, a copy shall be forwarded to CTED and others who submitted written or oral comments.

BB. The actions of the city in granting, modifying or denying an amendment to this chapter, the comprehensive plan or any other development regulation may be reviewed by the Western Washington Growth Management Hearings Board pursuant to RCW 36.70A.280.

100.40.130. - Preapplication conference.

The purpose of the preapplication conference is to acquaint the applicant with the substantive and procedural requirements of the Tenino Municipal Code and applicable elements of the comprehensive plan, arrange such technical and design assistance to aid the applicant, and otherwise identify policies and regulations associated with the proposed development. Preapplication conferences are encouraged for all process II applications that require environmental review and for all process III and process IV applications.

100.40.140. - Project permit applications.

A. Applications for all project permits shall be submitted upon forms provided by the city and shall, at a minimum, consist of the materials specified in this section, plus any other materials required on the application form or by any required municipal code. Minimum required materials are as follows:
    1. A completed development permit application form.
    2. An explanation of intent, stating the nature of the proposed development, reasons for the permit request, pertinent background information, information required on the application form, technical reports, studies and data required to address conditions on the site or criteria

of the permit or approval requested, and other information that may have a bearing in determining the action to be taken.

3. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.

4. Legal description of the property affected by the application.

5. Additional information required by other sections of this title because of the type of development proposal or the area involved.

6. Payment of the established fee for such application.

B. Application materials shall be submitted to the designee who shall have the date of submission indicated on each copy of the materials submitted.

C. Following a determination that an application is complete, the city shall begin project review.

100.40.150. - Determination of completeness. (RCW 36.70B.070)

A. For the purposes of this title, a complete application is one that contains all required information, supporting documentation, and signatures, and which is accompanied by payment of any and all fees as required by the city.

1. Time limitations.

a. Calculation of time periods for issuance of notice of final decision. In determining the number of calendar days that have elapsed after the city has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of decision, the following periods shall be excluded:

1) Any period, during which the applicant has been requested by the city to correct plans, perform required studies, provide additional required information, or otherwise requires the applicant to act. The period shall be calculated from the date the city notifies the applicant of the need for additional information until the earlier of the date the city determines whether the additional information satisfies the request for information or 14 calendar days after the date the information has been provided to the city;

2) If the city determines that the information submitted by the applicant under this section is insufficient or incorrect;

3) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to RCW 43.21C, if the city by ordinance has established time periods for completion of environmental impact statements, or if the city and the applicant in writing agree to a time period for completion of an environmental impact statement;

4) Any period for administrative appeals of project permit applications, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:

a) 90 calendar days for an open record appeal hearing; or

b) 60 calendar days for a closed record appeal; unless the parties agree to extend these time periods; and

2. Any extension of time mutually agreed upon by the applicant and the local government.

3. The time limits established in this section do not apply if the project permit application:

a. Requires an amendment to the comprehensive plan or a development regulation;

b. Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200; or

c. Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete pursuant to this section.

4. If the city is unable to issue a final decision within the time limits provided in this chapter, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of a final decision. The city is not liable for damages due to the city's failure to make a final decision within the time limits established in this chapter.

B. Within 28 calendar days after receiving a project permit application for review for completeness, the city shall mail or personally provide a written determination of completeness to the applicant which to the extent known by the city identifies other agencies with jurisdiction over the project permit application and states either that the application is complete; or that the application is incomplete and what is necessary to make the application complete. If the city does not provide a written determination to the applicant that the application is incomplete, the application shall be deemed complete. The time period guidelines for review of project permit applications begin following the determination of a complete application. The city's determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new or additional information is required or where there are substantial changes in the proposal.

C. Prior to a determination of a complete application, if the applicant receives a written determination from the city that an application is not complete, the applicant shall have up to 90 calendar days to submit the necessary information to the city. Within 14 calendar days after an applicant has submitted the requested additional information, the city shall make the determination as described in subsection B of this section and notify the applicant in the same manner. If the applicant either refuses, in writing, to submit additional information, or does not submit the required information within the 90-calendar-day period, the application shall lapse because of a lack of information necessary to complete the review.

D. An application shall be considered complete when it contains the following:

1. The correct number of completed application forms signed by the applicant which contain a detailed description of the proposed land use, proposed impervious surface, and description of all existing and proposed improvements and easements;

2. The correct number of documents, plans, or maps identified in the applicable application, as appropriate for the proposed project;

3. A completed environmental checklist, if required;

4. For preliminary plats, see LDR chapters 114.20 and 114.30;

5. All studies and materials demonstrating compliance with the applicable municipal code;

6. Water availability letter (this requirement is for preliminary plats and short plats only);

7. Payment of all applicable fees pursuant to the established fee schedule. In the event of insufficient funds on a draft, the application shall be deemed null and void;

8. Proposed applications shall be consistent with the comprehensive plan and applicable development regulations.

100.40.160. - Incorrect applications.

A. Following a determination of a complete application and the commencement of project review, the city may make a determination in writing that some information is incorrect and require that corrected information be submitted. The applicant shall have up to 90 calendar days to submit corrected information. The city shall have 14 calendar days to review the submittal of corrected information.

B. If the corrected information is still not found to be sufficient, the city shall notify the applicant in writing that the submitted information is incorrect, and the time period set forth in subsection A of this section shall be repeated. This process may continue until complete or corrected information is obtained.

C. If the requested corrected information is sufficient, the city shall continue with project review, in accordance with the time calculations exclusions set forth in LDR 100.40.150, determination of completeness. If the applicant either refuses in writing to submit corrected information or does not submit the corrected information within the 90-calendar-day period, the application shall lapse.

D. Appeal of an administrative determination of an incomplete or incorrect application shall be made pursuant to LDR 100.40.090L, process II, administrative action.

100.40.170. - Referral of applications.

Within ten calendar days of determining a complete application, the designee shall transmit a copy of the application, or appropriate parts of the application, to each appropriate agency and city department for review and comment, including those responsible for determining compliance with state, federal and county requirements. The noticed agencies and city departments shall have 15 calendar days to comment. The noticed agency or city department is presumed to have no comments if comments are not received within the specified time period. The designee may grant an extension of time if the application involves unusual circumstances.

100.40.180. - Notice of application. (RCW 36.70B.060)

A. A notice of application shall be issued within 14 calendar days after the city has made a determination of completeness pursuant to LDR 100.40.150, determination of completeness for all applications that require SEPA review, and all short plats, and all process III and process IV applications; provided, that the notice of application shall be provided at least 15 calendar days prior to any required open record hearing. One notice of application shall be completed for all applications related to the same project at the time of the earliest complete permit application.

B. SEPA notice of application. A notice of application shall not be required for project permits that are categorically exempt under SEPA, WAC 197-11-800 categorical exemptions unless a public comment period or an open record hearing is required prior to the decision on the project.

C. The notice of application shall include:

1. The case file number, the date of application, the date of the determination of completeness for the application and the date of the notice of application;

2. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested by the review authority pursuant to RCW 36.70B.070;

3. The identification of other required permits which are not included in the application, to the extent known by the city;

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

5. A statement regarding critical areas communicating whether or not critical areas have been determined to be present and if so, how they will be protected;

6. A statement of the limits of the public comment period, which shall be not less than 14 nor more than 30 calendar days following the date of notice of application, and statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;

7. The tentative date, time, place and type of hearing. A tentative hearing date may be set at the time of application;

8. A statement of those development regulations that will be used for project mitigation and of consistency as provided in LDR 100.30.050, consistency with comprehensive plan, development regulations, and SEPA;

9. The name of the applicant or applicant's representative and the name, address and telephone number of a contact person for the applicant, if any;

10. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location; and

11. Any other information determined appropriate by the city, such as the environmental determination, if complete at the time of issuance of the notice of application or the city's statement of intent to issue a determination of nonsignificance pursuant to the optional determination of nonsignificance process set forth in WAC 197-11-355.

D. The city shall mail a copy of the notice of application to:

1. The applicant.

2. Agencies with jurisdiction.

3. Property owners within 300 feet of the proposal, or at least two parcels deep.

4. Any person who requests such notice in writing.

5. Parties of record.

E. All public comments on the notice of application must be received by the city or postmarked by 5:00 p.m. on the last day of the comment period. Comments should be as specific as possible may be mailed, personally delivered, sent by facsimile, or emailed to the city.

F. In addition to the mailed notice of application, the city will provide notice of application at city hall and posted on the subject property. The available records of the county assessor's office shall be used for determining the property taxpayer of record and used for mailing notices. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first. Failure to provide public notice as described in this chapter or irregularity in said notice shall not be grounds for invalidation of any permit decision. In addition to persons to receive notice as required by the matter under consideration, the city shall provide notice to others that may be affected or otherwise represent an interest in, or affected by, the proposed development.

G. The applicant shall be responsible for posting a notice board on the property. Public notice shall be accomplished through the use of an approved city poster boards as follows:

1. Posting. Posting of the property for site-specific proposals shall consist of one or more notice boards as follows:

   a. A single notice board shall be placed by the applicant in a conspicuous location on a street frontage bordering the subject property.

   b. Boards measure three feet by four feet and are affected to a solid post mounted in the ground.

   c. Each notice board shall be visible and accessible for inspection by members of the public.

   d. Additional notice boards may be required when:

   1) The site does not abut a public road;
   2) Additional notice boards are required under other Code provisions; or
   3) The city determines that additional notice boards are necessary to provide adequate public notice.

   e. Notice boards should be:

   1) Installed in accordance with specifications determined by the city and placed securely in the ground;
   2) Maintained in good condition by the applicant during the notice period;
   3) In place at least 15 calendar days prior to the end of any required comment period; and
   4) Removed by the applicant within ten calendar days after the end of the notice period or final hearing date;
   5) When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major roadway entrance to the development.

   f. Notice boards that are removed, stolen, or destroyed prior to the end of the notice period may be cause for discontinuance of the departmental review until the notice board is replaced and remains in place for the specified time period. The city shall notify the applicant when it comes to their attention that notice boards have been removed prematurely, stolen, or destroyed.

   g. The applicant shall submit an affidavit of posting after installation of the notice board and at least seven calendar days prior to the hearing. If the affidavits are not filed as required, any scheduled hearing or date by which the public may comment on the application may be postponed in order to allow compliance with this notice requirement.

   h. SEPA information shall be supplied by the city and added by the applicant to the posted sign within applicable deadlines.

H. Publication of the notice of application in city's adopted official newspaper is required for applications that require SEPA review, all short plats, and all process III and process IV and process V applications, except subdivision finals, extensions and appeals. Published notice shall include at least the following information:

   1. Project number, location and description;

   2. Type of permits required;

   3. Comment period dates; and

   4. The location where the complete application may be reviewed.

I. The applicant is responsible for payment of any required notifications published in the official newspaper.

100.40.190. - Notice of public hearing.

A. Notice of public hearing is required for all types of applications for which a public hearing is held. Notice of public hearing shall be reasonably calculated to give actual notice and shall contain the following information:

1. The name of the applicant or agent;
2. Description of the affected property, which may be in the form of either a vicinity location sketch or written description, other than a legal description;
3. The date, time, and place of the hearing;
4. The nature of the proposed use or development;
5. A statement that all interested persons may appear and provide testimony;
6. When and where information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;
7. The name of a city representative to contact and the telephone number where additional information may be obtained;
8. That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the cost of reproduction; and
9. That a copy of the staff report will be available for inspection at no cost at least five calendar days prior to the hearing and copies will be provided at the cost of reproduction.

B. Mailed notice of the public hearing shall be provided by the city as follows:

1. All owners of real property as shown by the records of the county assessor's office within 300 feet of the subject property or at least two parcels deep (subdivision and platting exception: If a subdivision or short plat applicant owns adjacent property of the proposed subdivision, notice shall be given to property located within 300 feet, but not less than two parcels deep, around the perimeter of any portion of the boundaries of the adjacent parcels owned by the applicant of the proposed subdivision); and
2. Any person who submits written comments on an application;
3. For process V, legislative actions, the city shall publish notice as described in this section and use all other methods of notice as required by RCW 35A.12.160.

C. Procedure for posted and/or published notice of public hearing.

1. Posted notice of the public hearing is required for all process III and process IV permit actions. The posted notice of hearing shall be added to the sign already posted on the property pursuant to LDR 100.40.180, notice of application of this section.
2. Published notice of the public hearing is required for all process III and process IV procedures. The published notice shall be published at least once in a newspaper of general circulation within the city and contain the following information:
    a. Project location;
    b. Project description and nature of issues to be discussed at the hearing;
    c. Type of permits required;

d. Comment period dates and how written comments addressing findings required for a decision by the hearing body may be submitted; and

e. The location where the complete application may be reviewed.

D. Notice shall be mailed, posted and first published not less than 15 days, but not more than 30-days prior to the hearing that requires the notice. The applicant shall remove any posted notice within ten days following the conclusion of public hearing.

E. Open record hearings shall be conducted in accordance with this section. The designee shall be responsible for the hearing and shall:

1. Schedule an application for review and public hearing;

2. Give notice; however, applicant is responsible for some of the notice requirements;

3. Prepare a staff report stating all decisions made as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record pre-decision hearing. The report shall also include a final environmental impact statement, if necessary or the SEPA determination by the responsible official and state any mitigation required or proposed under the regulatory authority of the city. In the case of a process I or process II project permit application, this report may be considered the permit approval; and

4. Prepare the notice of decision, if required by the hearing body, and/or mail a copy of the notice of decision to those required by this title to receive such decision;

5. The hearing body shall be subject to the code of ethics and prohibitions on conflict of interest as set forth in RCW 35A.42.020 and RCW 42.23, as the same now exists or may hereafter be amended.

6. Ex parte communications.

a. No member of the hearing body may communicate, directly or indirectly, regarding any issue in a quasi-judicial proceeding before them, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless they provide notice and opportunity for all parties to participate; except as provided in this section:

1) The hearing body may receive advise from legal counsel; or
2) The hearing body may communicate with staff members, except where the proceeding relates to a code enforcement investigation or prosecution.

b. If, before serving as the hearing body in a quasi-judicial proceeding, any member of the hearing body receives an ex parte communication of a type that could not properly be received while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described in subsection E.3.c of this section, notice of public hearing.

c. If the hearing body receives an ex parte communication in violation of this section, they shall place on the record:

1) All written communications received;
2) All written responses to the communications;
3) The substance of all oral communications received and all responses made; and
4) The identity of each person from whom the hearing body received any ex parte communication.

d. The hearing body shall advise all parties that these matters have been placed on the record.

e. Upon request made within ten calendar days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a rebuttal statement on the record.

7. Disqualification.

a. Any member who is disqualified may be counted only by making full disclosure to the audience, abstaining from voting on the disqualification, vacating the seat on the hearing body and physically leaving the hearing.

b. If all members of the hearing body are disqualified, all members present after stating their reasons for disqualification shall be re-qualified and shall proceed to resolve the issues.

c. Except for process IV, actions, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.

8. The burden of proof is on the proponent, pursuant to LDR 100.30.090, burden of proof. The project permit application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed.

9. The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

a. Before receiving information on the issue, the following shall be determined:

1) Any objections on jurisdictional grounds shall be noted on the record and if there is objection, the hearing body has the discretion to proceed or terminate; and

2) Any abstentions or disqualification shall be determined.

b. The presiding officer may take official notice of known information related to the issue:

1) A provision of any ordinance, resolution, rule, officially adopted development standard or state law; and

2) Other public records and facts judicially noticeable by law.

c. Matters officially noticed need not be established by evidence and may be considered by the hearing body in its determination. Parties requesting notice shall do so on the record; however, the hearing body may take notice of matters listed in subsections E.6.a and 6.b of this section if stated for the record. Any matter given official notice may be rebutted.

d. The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner, and circumstances of such view on the record.

e. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

f. When the presiding officer has closed the public hearing portion of the hearing, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.

10. The hearing body shall issue a recommendation or decision, as applicable, within 14 calendar days of the record being closed.

11. A party of record may ask for a reconsideration of a decision by the city council for a process III or process IV, action, or a recommendation of the planning commission. Reconsideration is not authorized for process I and process II, applications. A reconsideration may be requested if either:

    a. A specific error of fact or law can be identified; or

    b. New evidence is available which was not available at the time of the hearing;

    c. A request for reconsideration shall be filed by a party of record within seven working days of the date of the initial decision/recommendation. Any reconsideration request shall cite specific references to the findings and/or criteria contained in the ordinances governing the type of application being reviewed. A request for reconsideration temporarily suspends the appeal deadline. The city council shall promptly review the reconsideration request and within ten working days issue a written response, either approving or denying the request. If the reconsideration is denied, the appeal deadline of the council's decision shall recommence for the remaining number of days. If a request for reconsideration is accepted, a decision is not final until after a decision on reconsideration is issued.

F. The designee may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as:

1. The other agency consents to the hearing;

2. The other agency is not expressly prohibited by statute from doing so;

3. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;

4. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and

5. The hearing is held within the city limits.

An applicant may request that the public hearing on a permit application be combined as long as the hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

G. Following a decision of a project permit by the applicable decision-making body, the city shall provide a notice of decision that also includes a statement of any threshold determination made under LDR title 110, SEPA (RCW 43.21C) and the procedures for appeal.

1. The notice of decision shall be issued within 120 calendar days after the city notifies the applicant that the application is complete. The time frames set forth in this section shall apply to project permit applications filed on or after the effective date of this title.

2. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

3. Notice of the decision shall be provided to the public as set forth in this section. The city shall provide notice of the decision to the county assessor's office if affected property owners' request a change in valuation for property tax purposes.

4. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this chapter, it shall provide written notice of this fact to the parties of record. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision.

H. Closed record hearings and administrative appeals.

1. This section allows for administrative appeals as provided in the framework in LDR 100.40.090, process II, administrative action. Administrative appeals are heard by the city council.

2. Consolidated appeals.

   a. All appeals of project permit application decisions, other than an appeal of determination of significance (DS), shall be considered together in a consolidated appeal.

   b. Appeals of environmental determinations under LDR title 110, State Environmental Policy Act (SEPA), including administrative appeals of a threshold determination shall proceed as provided in that chapter.

3. Only parties of record may initiate an administrative appeal on a project permit application.

4. An appeal must be filed as specified in LDR 100.40.090L, process II, administrative actions.

5. Appeals shall be in writing, be accompanied by the adopted appeal fee, and contain all the information as specified in LDR 100.40.090L, process II, administrative actions.

6. The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is adjudicated by the city council, as applicable, or is withdrawn.

7. Public notice of the appeal shall be given as provided in this section.

8. The closed record decision/appeal hearing shall be on the record before the hearing body and no new evidence may be presented. The provisions of subsections E.2 through 6 and G of this section shall apply to a closed record decision/appeal hearing:

I. Judicial appeals.

1. The city's final decision or appeal decision on a process I, II, III, IV, or V application may be appealed by a party of record with standing to file a land use petition in county superior court.

2. A land use petition must be filed within 21 calendar days of issuance of the notice of decision or appeal decision.

3. A land use petition shall be filed according to the procedural standards outlined in RCW 36.70C, judicial review of land use decisions, also known as the Land Use Petition Act (LUPA).

Appendix E: Property Adjacent to Resource Lands

Commented [RG53]: Confirm that appendix E, F, and G are all still valid… if not remove

A. **TITLE NOTIFICATION**

Parcel Number:_____Site Address: _____

NOTICE: This parcel lies within 500 feet of land designated Resource Lands by the City of Tenino or Thurston County. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, or from spraying or extraction which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

Signature of Owner_____
(NOTARY ACKNOWLEDGMENT)_____

B. **PLAT NOTIFICATION.** The owner of any site within 500 feet of land designated as Resource Lands on which a large lot, short subdivision or formal subdivision is submitted, shall record a notice on the face of the plat. Such notification shall be in the form as set forth below:

C. **PROPERTY ADJACENT TO RESOURCE LANDS PLAT NOTIFICATION.** This property lies within 500 feet of land designated Resource Lands by the City of Tenino or Thurston County. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, or from spraying or extraction which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

D. **REGULATED ACTIVITIES NOTIFICATION.** The Department shall require that permits issued for regulated activities, as defined in section 18D.500, within 500 feet of lands designated as Resource Lands, contain a notice as set forth below.

REGULATED ACTIVITIES NOTIFICATION. This property lies within 500 feet of land designated Resource Lands by the City of Tenino or Thurston County. A variety of commercial and industrial activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, or from spraying or extraction which occasionally generates dust, smoke, noise, and odor. The City has established resource uses as priority uses on productive resource lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary commercial resource lands operations.

Appendix F: Agricultural Lands Noticing Title Notification

Parcel Number: _____
Site Address: _____

NOTICE: This parcel lies within an area identified as Agricultural Lands by the City of Tenino or Thurston County. A variety of commercial agricultural activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor. Tenino has established agriculture as a priority use on productive Agricultural Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

Signature of Owner_____
Signature of Owner_____

(NOTARY ACKNOWLEDGMENT)_____

A. **PLAT NOTIFICATION.** The owner of any site within this designation on which a large lot, short subdivision, or formal subdivision is submitted, shall record a notice on the face of the plat. Such notification shall be in the form as set forth below.

> **AGRICULTURAL LANDS PLAT NOTIFICATION.** This parcel lies within an area identified as Agricultural Lands by the City of Tenino or Thurston County. A variety of commercial agricultural activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor. The City has established agriculture as a priority use on productive Agricultural Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

B. **REGULATED ACTIVITIES NOTIFICATION.** The Department shall require that all permits issued for regulated activities, as defined in section 18D.500, within this zone classification contain a notice as set forth below.

> **REGULATED ACTIVITIES NOTIFICATION.** This parcel lies within an area identified as Agricultural Lands by the City of Tenino or Thurston County. A variety of commercial agricultural activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; or from spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor. The City has established agriculture as a priority use on productive Agricultural Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

Appendix G: Mineral Resource Lands Noticing

A. **TITLE NOTIFICATION**

Parcel Number: _____
Site Address: _____

NOTICE: This parcel lies within an area of land designated Mineral Resource Lands by the City of Tenino or Thurston County. A variety of commercial mineral extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. The City of Tenino has established mineral resource extraction as a priority use on productive Mineral Resource Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction operations.

Signature of Owner_____
(NOTARY ACKNOWLEDGMENT)_____

B. **PLAT NOTIFICATION.** The owner of any site within this overlay district on which a large lot, short subdivision, or formal subdivision is submitted, shall record a notice on the face of the plat. Such notification shall be in the form as set forth below:

MINERAL RESOURCE LANDS PLAT NOTIFICATION. This property lies within an area of land designated Mineral Resource Lands by the City of Tenino or Thurston County. A variety of mineral resource extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. The City of Tenino has established mineral resource extraction as a priority use on productive Mineral Resource Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction lands.

C. **REGULATED ACTIVITIES NOTIFICATION.** The Department shall require that all permits issued for regulated activities, as defined in section 18D.500, within this designation contain a notice as set forth below:

REGULATED ACTIVITIES NOTIFICATION. This property lies within an area of land designated Mineral Resource Lands by the City of Tenino or Thurston County. A variety of mineral resource extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals and extraction of minerals, which occasionally generates dust, smoke, noise, and odor. The City has established mineral resource extraction as a priority use on productive Mineral Resource Lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary mineral resource extraction lands.

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Exhibit C

Affidavit of Publication

The undersigned, being first duly sworn on oath desposes, and says that he/she is an authorized representative of the TENINO INDEPENDENT, a weekly newspaper. That said newspaper is a legal newspaper and has been approved as a legal newspaper by order of the superior court in the county in which it is published in the English language continually as a weekly newspaper in Tenino, Thurston County, Washington and it's now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a true copy of a

Notice of Public Hearing, City of Tenino Planning Commission

was published on April 21, 2021

The amount of the fee charged for the foregoing publication is the sum of $ 56.37

Renee C. Justice
Newspaper Representative

Subscribed and sworn to before me this 22nd day of April, 2021

Melissa Grace
Notary Public in and for the State of Washington

SEAL

MELISSA GRACE NOTARY PUBLIC STATE OF WASHINGTON My Comm. Expires February 06, 2024 No. 20114861

The Tenino Independent
P.O. Box 4004
297 W. Sussex Ave.
Tenino, Washington 98589

Notice of Public Hearing: City of Tenino Planning Commission

Notice is hereby given that the City of Tenino and Washington State Department of Ecology (Ecology) are conducting a virtual Public Hearing at the regular scheduled Planning Commission meeting on Wednesday, May 12, 2021 at 6:00 pm for discussion of Tenino's Shoreline Master Program (SMP) update. These amendments were developed by the City to comply with WAC 173-26-090, which requires all local governments to review their SMPs on an eight-year schedule set in the state law and revise if necessary. The review ensures the SMP keeps up with changes in state laws, changes in other local jurisdictions plans and regulations, and other changed circumstances. The City has elected to use the optional joint review process to combine the local and Ecology comment periods, as allowed under WAC 173-26-104. Comments may be submitted to: Project lead Rachel Granrath, rachel.granrath@scjalliance.com. Comments may also be mailed to City of Tenino at 149 Hodgden Street South, PO Box 4019, Tenino, WA 98589 or phone calls will be received at (360)264-2368 during office hours 8:00am-4:00pm. Comments can also be made by participating in the virtual public hearing noted below. Joint Public Hearing is to be held May 12, 2021 at 6:00pm. Due to Washington Governor Inslee's orders for the COVID-19 pandemic, the hearing will be held virtually over GoToMeeting. Hearing date is subject to change and can be confirmed on the Tenino Planning Commission Agenda website: https://cityoftenino.us/meetings. When Planning Commission meetings are conducted remotely, you can access the room here: https://global.gotomeeting.com/join/752798405 Comments are due by May 12, 2021 at 4:00pm. Documents are available for review at: https://cityoftenino.us

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