Town of Beaux Arts Village
Shoreline Master Program

Draft from the Beaux Arts Town Council, incorporating comments from the Department of Ecology and Planning Commission.

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CHAPTER 1: INTRODUCTION

1.1 How the Beaux Arts Shoreline Master Program is Used

The Beaux Arts Shoreline Master Program is a planning document that outlines goals and policies for the shorelines of the town and establishes regulations for development occurring in the shoreline area. The Shoreline Management Act's provisions are intended to provide for the management of all development and uses within its jurisdiction, whether or not a shoreline permit is required. As noted in Appendix B, Definitions, "development" is "A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any state of water level." Developments that are considered "substantial" (meaning "any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state") are required to obtain a Shoreline Substantial Development Permit.

Many activities that may not require a Shoreline Substantial Development Permit, such as clearing vegetation or repair of a pier, can, individually or cumulatively, adversely impact adjacent properties and natural resources, including those held in public trust. In order to preserve and enhance the shoreline of Beaux Arts, the Town has the authority and responsibility to enforce Shoreline Master Program regulations on all uses and development in shoreline jurisdiction. Therefore, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this Shoreline Master Program. Some developments may be exempt from a Shoreline Substantial Development Permit, while others may require a Shoreline Conditional Use Permit or Shoreline Variance.

Shoreline environment designations have been assigned to all areas within the Town's shoreline jurisdiction. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment. Beaux Arts has designated its Lake Washington shoreline under three shoreline environments: Shoreline Residential, Aquatic, and Urban Conservancy. These environments are described in *Chapter 4: Shoreline Environment Description and Designations.*

Persons proposing any use or development, as defined in Appendix B of this SMP, within shoreline jurisdiction are required to consult with the Town's Shoreline Master Program Administrator (the Town Clerk or his/her designee) to determine how the proposal is addressed in the Master Program. The Town's Shoreline Administrator provides assistance in identifying whether a proposal is exempt from the permit process (Shoreline Exemption) or whether the permit application process is applicable (Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and/or Shoreline Variance). Requests for Shoreline Substantial

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Development Permits, Shoreline Variances, and Shoreline Conditional Use Permits are decided by the Town Council through an open record Public Hearing. Ecology provides technical assistance to local governments with implementation of SMPs. Ecology receives Shoreline Substantial Development Permits and has a review, approval/denial role with Shoreline Conditional Use Permits and Shoreline Variances.

A description of exempt projects, shoreline application procedures and criteria are discussed in *Chapter 2: Administration*.

Appendices A, B, C, D, E and F supplement the information and regulations provided in the body of this SMP.

1.2 Organization of this Shoreline Master Program

The Beaux Arts Shoreline Master Program is divided into six Chapters:

Chapter 1: Introduction provides information regarding the development of the Shoreline Master Program in Beaux Arts and a general discussion of when and how the Shoreline Master Program is used.

Chapter 2: *Administration* provides the system by which the Beaux Arts Shoreline Master Program will be administered, and provides specific information on the application process and criteria used in evaluating requests for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, and Shoreline Exemptions.

Chapter 3: Shoreline Management Goals and Policies lists the general goals and policies which guide the more detailed policies and regulations found in the individual section of the Beaux Arts Shoreline Master Program.

Chapter 4: Shoreline Environment Description and Designations defines and maps the shoreline jurisdiction and the environment designations of all the shorelines of the state in the Town of Beaux Arts. Policies and regulations specific to the three designated shoreline environments (Shoreline Residential, Urban Conservancy, and Aquatic) are detailed in this chapter.

Chapter 5: General Regulations sets forth the policies and regulations that apply to all uses, developments, and activities in the shoreline area of Beaux Arts.

Chapter 6: Specific Use and Modification Policies and Regulations sets forth policies and regulations governing specific categories of uses and modifications typically found in shoreline areas.

1.3 Relationship of this Shoreline Master Program to Other Plans

The permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, state, regional or federal statutes or regulations which may also be applicable to such development or use. Where conflicts exist between regulations, those that provide more substantive protection to the shoreline area shall apply. In Beaux Arts, other plans

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and policy documents that must be considered include, but are not limited to, the Beaux Arts Comprehensive Plan, the Beaux Arts Zoning Code, and the Department of Ecology Stormwater Management Manual.

The Shoreline Master Program policies are considered part of the Town's Growth Management Act (GMA) Comprehensive Plan and Shoreline Master Program regulations are considered part of the Town's GMA development regulations. The development regulations in this Shoreline Master Program generally act as an overlay on top of the Town's GMA development regulations. One key area of shoreline regulation addresses critical areas. This Shoreline Master Program contains in Appendix E critical area regulations applicable only in shoreline jurisdiction that provide a level of protection to critical areas assuring *no net loss of shoreline ecological functions* necessary to sustain shoreline natural resources.[1] (RCW 36.70A.480)

FOR MORE INFORMATION ABOUT THE UPDATE OF THIS SHORELINE MASTER PROGRAM, SEE APPENDIX A.

CHAPTER 2: ADMINISTRATION

2.1 Introduction

There is hereby established an administrative system designed to assign responsibilities for implementation of the Master Program and Shoreline Permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this Master Program are treated in a fair and equitable manner.

2.2 Shoreline Administrator

The Beaux Arts Clerk/Treasurer, or his/her designee, (the "Shoreline Administrator") is vested with the overall responsibility for administering the Shoreline Management Act and this Shoreline Master Program. The Shoreline Administrator has the authority to approve, approve with conditions, or deny Shoreline Permit revisions in accordance with the policies and provisions of this Master Program and the authority to grant Exemptions from Shoreline Substantial Development Permits in accordance with the policies and provisions of this Master Program as outlined in Table 2.1.

The duties and responsibilities of the Shoreline Administrator shall include:

- Preparing and using application forms deemed essential for the administration of this Master Program.
- Advising interested citizens and applicants of the goals, policies, regulations, and

[1] Shoreline Master Programs are required by the Shoreline Management Act to regulate critical areas. These regulations are included in this SMP, rather than referenced, as the Department of Ecology has approval authority over any referenced regulations that are essential to compliance with SMP requirements, even if those referenced regulations also apply to areas outside of shoreline jurisdiction. As such, the content of the critical areas regulations applicable in shoreline jurisdiction may be different than critical areas regulations applicable outside of shoreline jurisdiction.

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procedures of this Master Program.

- Making administrative decisions and interpretations of the policies and regulations of this Master Program and the Shoreline Management Act.
- Collecting applicable fees, as established by the Town.
- Determining that all applications and necessary information and materials are provided.
- Conducting field inspections, as necessary.
- Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate applications needs.
- Determining if a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit or Shoreline Variance Permit is required.
- Providing copies of permit applications to relevant staff and agencies for review and comment.
- Conducting a thorough review and analysis of Shoreline Exemption applications;
- Submitting Shoreline Variance, Shoreline Conditional Use and Shoreline Substantial Development Permit applications and written recommendations and findings on such permits to the Town Council for consideration and action.
- Assuring that proper notice is given to appropriate persons and the public for all hearings.
- Providing technical and administrative assistance to the Town Council as required for effective and equitable implementation of this program and the Act.
- Investigating, developing, and proposing amendments to this Master Program as deemed necessary to more effectively and equitably achieve its goals and policies.
- Seeking remedies for alleged violations of this program, the provisions of the Act and this Master Program, or of conditions of any approved shoreline permit issued by the Town of Beaux Arts Village.
- Acting as the primary liaison between local and state agencies in the administration of the Shoreline Management Act and this Master Program.
- Forwarding shoreline permits to the Department of Ecology for filing or action.

2.3 Administration – General Standards

Unless otherwise stated, this Master Program shall be administered according to the standards and criteria in RCW 90.58, WAC 173-26 and WAC 173-27.

2.4 Shoreline Permit or Exemption General Process

2.4.1 Shoreline Permit Process

Any person(s) who wishes to conduct substantial development within the geographical jurisdiction of this Master Program shall apply to the Town of Beaux Arts Village through the Administrator for a Shoreline Permit. A Shoreline Permit or Shoreline Exemption is considered the last local governmental approval prior to application for and issuance of a building permit by the Town of Beaux Arts. If a proposal involves state or federal governmental approvals, these approvals shall be in place prior to the Town's issuance of a building and/or a clearing and grading permit.

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Table 2.1 Permit Process

Type of Shoreline Permit or Shoreline Related Action	Decision Type	Decision Maker	Decision Timeframe	Appeal Authority
EXEMPTION	Administrative	Shoreline Administrator	Not to exceed 120 days, unless additional information is required.	Town Council, then Shorelines Hearings Board
SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT (SDP)	Quasi-Judicial	Town Council	Not to exceed 120 days, unless additional information is required.	Shorelines Hearings Board
SHORELINE VARIANCE PERMIT	Quasi-Judicial	Town Council	Not to exceed 120 days, unless additional information is required.	Shorelines Hearings Board
SHORELINE CONDITIONAL USE PERMIT	Quasi-Judicial	Town Council	Not to exceed 120 days, unless additional information is required.	Shorelines Hearings Board

2.4.2 Permit Application

A completed application and documents for all Shoreline Permits and Shoreline Exemptions in accordance with WAC 173-27-180 shall be submitted to the Shoreline Administrator for processing and review. Any deficiencies in the application or documents shall be corrected by the applicant prior to further processing.

The burden of proof that a proposed development is consistent with the approval criteria and Master Program policies and regulations rests with the applicant.

2.4.3 Town Council Review

The Beaux Arts Town Council shall conduct a Public Hearing in order to make the final decision at the local level for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances. Such applications may be approved, approved with conditions, or denied.

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The decision of the Town Council shall be the final decision of the Town of Beaux Arts Village on all applications heard before them, unless appealed. The Council shall render a written decision including findings, conclusions, and a final order, and transmit copies of the decision within ten (10) working days of the final decision to the following: the Applicant, the Washington State Department of Ecology, the Washington State Attorney General, parties of record, and appellants.

2.4.4 Public Hearings

A public hearing shall be scheduled for each application for a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and Shoreline Variance. The hearing shall be set for a regularly scheduled Town Council meeting following submittal of a complete application and allowing for the thirty (30) day mandatory Notice of Application. The minimum allowable time required from the date of complete application to the Public Hearing shall be sixty (60) days. Any interested person may submit his or her written views upon the application to the Town within the thirty (30) day notification period, may request to be notified of the decision, or may participate in the Public Hearing by providing testimony.

2.4.5 Washington State Department of Ecology Review

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

The Town shall provide timely notification of the Department of Ecology's final decision to those interested persons having requested notification from the Town pursuant to WAC 173-27-130.

2.4.6 Revisions to Permits

A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Master Program or the policies and provisions of chapter 90.58 RCW. Changes that are not substantive in effect do not require approval of a revision.

A. When an applicant seeks to revise a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit, the Shoreline Administrator shall request from the applicant detailed plans and text describing the proposed changes.

B. If the Shoreline Administrator determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this Master Program and the Act, the Shoreline Administrator may approve a revision.

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

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

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

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

4. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this Master Program.

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

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

D. Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW and this Shoreline Master Program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit. If the sum of the revision and any previously approved revisions under former WAC 173-14-064 or this section violate the provisions in subsection (c) of this section, the Town shall require that the applicant apply for a new permit.

E. The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section, shall be filed with Ecology. In addition, the Shoreline Administrator shall notify parties of record of their action.

F. If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to Ecology for Ecology's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Ecology shall render and transmit to the Shoreline Administrator and the applicant its final decision within fifteen (15) days of the date of Ecology's receipt of the submittal from the Shoreline Administrator. The Shoreline Administrator shall notify parties of record of Ecology's final decision.

G. The revised permit is effective immediately upon final decision by the Shoreline Administrator or, when appropriate under subsection F of this section, upon final action by Ecology.

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H. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one (21) days from the date of receipt of the Shoreline Administrator's action by Ecology or, when appropriate under subsection (e) of this section, the date Ecology's final decision is transmitted to the Shoreline Administrator and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (c) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

2.4.7 Appeals

A. Appeals of the final decision of the Town with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.

B. Appeals to the Shoreline Hearings Board of a decision on a Shoreline Substantial Development Permit, Shoreline Variance or Shoreline Conditional Use Permit may be filed by the applicant/property owner or any aggrieved party pursuant to RCW 90.58.180.

C. The effective date of the Town's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

2.5 Shoreline Substantial Development Permits

A. Substantial development as defined by RCW 90.58.030 shall not be undertaken by any person on the shorelines of the state without first obtaining a Shoreline Substantial Development Permit from the Town of Beaux Arts Village, unless the use or development is specifically identified as exempt from a Shoreline Substantial Development Permit per RCW 90.58 or by WAC 173-27.

B. The Town may grant a Shoreline Substantial Development Permit only when the development proposed is consistent with the policies and procedures of RCW.90.58, the provisions of WAC 173-27, and this Master Program.

2.6 Exemptions from Shoreline Substantial Development Permits

A. Uses and developments that are not considered substantial developments pursuant to RCW 90.58 and WAC 173-27 shall not require a Shoreline Substantial Development Permit, but shall conform to the policies and regulations of this Program.

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

C. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the Shoreline Management Act or this Shoreline Master

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Program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this Shoreline Master Program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to this Shoreline Master Program or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this Shoreline Master Program, such development or use can only be authorized by approval of a Shoreline Variance.

D. The burden of proof that a development or use is exempt from the permit process is on the applicant.

E. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

F. The Town's Shoreline Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Shoreline Management Act and this Shoreline Master Program.

G. Before determining that a proposal is exempt, the Town's Shoreline Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria.

I. Following review and approval, the Town's Shoreline Administrator shall issue a Letter of Exemption for each proposal exempt from a Shoreline Substantial Development Permit.

2.7 Shoreline Variances

A. The Town is authorized to grant a variance from the performance standards of this Program only when all of the criteria enumerated in WAC 173-27-170 are met.

B. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant/property owner or thwart the policies set forth in RCW 90.58.020.

C. Shoreline Variance Permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

D. The burden of proving that a proposed variance meets the criteria in WAC 173-27-170 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

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E. In the granting of all variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions or other users.

F. A variance from Town development code requirements shall not be construed to mean a shoreline variance from SMP use regulations and vice versa.

G. Variances may not be used to permit a use or development that is specifically prohibited.

2.8 Shoreline Conditional Use Permit

A. The Town is authorized to issue Shoreline Conditional Use Permits only when all the criteria enumerated in WAC 173-27-160 are met.

B. The burden of proving that a proposed shoreline conditional use meets the criteria in WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

C. The Town is authorized to impose conditions and standards to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and this Master Program.

D. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline 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.

E. Other uses which are not classified or set forth in this Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the criteria enumerated in WAC 173-27-160 and this Master Program.

F. Uses which are specifically prohibited by this Master Program may not be authorized as a conditional use.

2.9 Nonconforming Use and Development Standards

"Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of this Master Program. In such cases, the following standards shall apply:

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

B. A nonconforming structure which is destroyed by fire or other act of nature (or accident) may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed, provided the replacement structure does not warrant new shoreline armoring and that an application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance, unless an extension for just cause is granted.

C. Uses and developments that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the OHWM 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 upon approval of a Shoreline Conditional Use Permit.

D. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a Shoreline Conditional Use Permit has not been obtained, shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of the Master Program to the site and for which a Shoreline Conditional Use Permit has not been obtained, shall be considered a nonconforming use.

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

F. A structure which is being or has been used for a nonconforming use may not be used for a different nonconforming use.

G. If a nonconforming use is discontinued for twelve (12) consecutive months or for twelve (12) months during any two (2)-year period, the nonconforming rights shall expire and any subsequent use shall be conforming.

H. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established prior to the effective date of the Act or the Master Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the Town and so long as such development conforms to all other requirements of the Master Program and the Act.

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2.10 Initiation of Development

Development pursuant to a Shoreline Substantial Development Permit, Shoreline Variance, or Shoreline Conditional Use Permit shall not begin and shall not be authorized until twenty-one (21) days after the "date of filing" or until all appeal proceedings before the Shorelines Hearings Board have terminated.

2.11 Enforcement and Penalties

The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.

2.11.1 Enforcement

The Shoreline Administrator is authorized to enforce the provisions of this Program, including any rules and regulations promulgated thereunder, pursuant to the enforcement provisions of WAC 173-27.

2.11.2 Penalty

Any person found to have willfully engaged in activities on the Town's shorelines in violation of the Shoreline Management Act of 1971 or in violation of the Town's Master Program, rules or regulations adopted pursuant thereto, is guilty of a gross misdemeanor, and shall be subject to the penalty provisions of any applicable Beaux Arts Ordinance or Code (civil citation penalties and criminal penalties).

2.11.3 Violator's Liability

Any person subject to the regulatory program of the Master Program who violates any provision of the Master Program or permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The Attorney General or Beaux Arts Town Attorney shall bring suit for damages under this section on behalf of the Town government. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorneys' fees and costs of the suit to the prevailing party.

CHAPTER 3: SHORELINE MANAGEMENT GOALS AND POLICIES

3.1 Introduction

This section contains goals and policies that form the foundation of the Town of Beaux Arts Village Shoreline Master Program and apply to all areas and all designated shoreline

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environments. The Shoreline Management Act requires jurisdictions to adopt goals, or "elements," to guide and support major shoreline management issues. The elements required by RCW 90.58.100(2), when appropriate, include:

Shoreline Use – "A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;" (Section 3.2)

Economic Development - "An element for the location and design of industries, projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;" This is not applicable within Beaux Arts as there are no lands designated for commercial purposes; this element is excluded.

Public Access – "An element making provision for public access to publicly owned areas;" This is not applicable within upland areas of Beaux Arts as there are no current or potential publicly owned areas; this element is excluded. The waters of Lake Washington are in the public domain.

Recreational Use – "An element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;" (Section 3.3)

Circulation/Utility – "An element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;" (Section 3.4)

Conservation – "An element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;" (Section 3.5)

Historic, cultural, scientific, and education – "An element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;" (Section 3.6)

Flood Control – "An element that gives consideration to the statewide interest in the prevention and minimization of flood damages." This is not applicable within Beaux Arts as the Town is not located within a flood hazard zone; this element is excluded.

Restoration – An element to implement shoreline restoration projects. (Appendix C)

Beaux Arts adopted its first Shoreline Master Program with Ordinance 89 and stated "the policy of this Town is to preserve, to protect, and to maintain the existing recreational element, and environment of the shorelines and its aesthetic and natural amenities." That policy is hereby reiterated.

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3.2 Shoreline Use Element

Goal 3.2.1: Maintain the waterfront area of Beaux Arts as a recreational property. Areas east of the waterfront parcel shall continue to be appropriate for residential development.

Policy 3.2.1: All activities, development and redevelopment within the Town's shoreline jurisdiction shall be designed to ensure public safety and achieve *no net loss of shoreline ecological functions*.

Policy 3.2.2: All activities, development and redevelopment within the Town's shoreline jurisdiction shall be designed to ensure no aggregate loss of land area in the waterfront parcel.

3.3 Recreational Element

Goal 3.3.1: Encourage water-oriented recreational opportunities within the waterfront parcel, while protecting the integrity and character of the shoreline.

Policy 3.3.1 Maintain and improve recreational uses on the waterfront parcel for the benefit of WABA members.

3.4 Circulation/Utility Element

Goal 3.4.1: The Town-owned water wells and conveyance system shall continue to provide potable water to residents of the Town.

Policy 3.4.1: Continue to maintain the Town's water system through required water quality testing and preparation of mandated reports.

Goal 3.4.2: Private roads and parking areas shall continue to be maintained.

Policy 3.4.2: Private waterfront parcel access roads and parking areas are permitted within shoreline jurisdiction.

3.5 Conservation Element

Goal 3.5.1: Preserve and protect those features necessary for the support of terrestrial and aquatic life and the fragile shoreline area.

Policy 3.5.2: All future uses, development and maintenance activities shall achieve the State requirement of *no net loss of shoreline ecological function*.

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3.6 Historic, Cultural, Scientific, and Educational Element

Goal 3.6.1: Identify, protect, preserve, and restore archaeological, historical, and cultural sites located within the shoreline jurisdiction.

Policy 3.6.1: Encourage educational projects and programs that foster a greater appreciation for the importance of shoreline management, environmental conservation, and restoration of ecological functions.

3.7 Restoration Element

Goal 3.7.1: Shoreline areas with impaired ecological function should be enhanced over time.

Policy 3.7.1: The Town should support the Shoreline Restoration Plan attached as Appendix C.

CHAPTER 4: SHORELINE ENVIRONMENT DESCRIPTION AND DESIGNATIONS

4.1 Introduction

This section defines shoreline jurisdiction and the particular shoreline environments within the Town of Beaux Arts Village. Shoreline jurisdiction in the Town of Beaux Arts Village consists of the waters of Lake Washington and upland area extending 200 feet landward of the OHWM.

The Town's environment designation map is included in Appendix D. The Shoreline Administrator is responsible for keeping and maintaining the Town's official copy of the Shoreline Environment map.

4.2 Shoreline Residential Environment

4.2.1 Purpose

According to WAC 173-26-211(5)(f), the purpose of the "Shoreline Residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. The areas identified as Shoreline Residential within the Town are lands designated for residential development in the Town's Comprehensive Plan. These lots are located approximately 150 feet to the east of the OHWM, and are of such size that they may not be divided into additional lots.

4.2.2 Management Policies

A. Residences and accessory structures should be located, sited, designed and maintained to protect, enhance and be compatible with the shoreline environment.

B. Low impact development (LID) techniques, such as minimizing impervious surfaces, infiltration of run-off, use of pervious pavers, and other techniques, should be

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encouraged. The Town should encourage private property owners to use environmentally friendly landscaping practices and provide information and other assistance.

C. Access, utilities, and public services shall be available and adequate to serve existing needs and/or planned future development.

4.3 Urban Conservancy Environment

4.3.1 Purpose

The waterfront parcel along the Lake Washington shoreline has been designated as Urban Conservancy. The purpose of this designation is to protect and restore ecological functions of open space and other sensitive lands in urban and developed settings, while allowing a variety of compatible water-oriented and low-impact uses. The waterfront parcel has been designated as Open Space in the Town's Comprehensive Plan.

4.3.2 Management Policies

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

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

C. Community access and community recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

D. *Best management practices* (BMPs) shall be encouraged to maintain shoreline ecological functions.

E. *LID* techniques, as well as *BMPs*, shall be encouraged to avoid or reduce the impact of impervious surfaces where practical. Examples of such practices include permeable pavement for replacement parking areas, infiltration of run-off, use of pervious pavers, and environmentally friendly landscaping practices.

4.4 Aquatic Environment

4.4.1 Purpose

The Aquatic environment encompasses Lake Washington contained within the Beaux Arts town limits, waterward of the OHWM. The purpose of this environment is to protect, restore, and manage the unique characteristics and resources of the area.

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4.4.2 Management Policies

A. Allow new over-water structures only for water-dependent uses, community access, or ecological restoration.

B. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

C. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

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

E. Shoreline uses and modifications shall be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

CHAPTER 5: GENERAL REGULATIONS

5.1 Introduction

Based upon the goals established in this Master Program, the following general policies and regulations apply to all uses, developments, and activities in the shoreline area of Beaux Arts.

5.2 General Regulations

A. All shoreline uses and shoreline modification activities, including those that do not require a Shoreline Substantial Development Permit, must conform to the intent, policies, and regulations of chapter 90.58 RCW, the Shoreline Management Act, and this Master Program, including Shoreline Management Goals, Shoreline Environment Designation provisions (including the environment designation map), General Regulations, and Shoreline Use and Modification Policies and Regulations.

B. All shoreline development shall be designed in accordance with codes and regulations promulgated by and shall obtain all necessary permits from all applicable federal, state and local management agencies, including those administered or required by the U.S. Army Corps of Engineers, the Federal Emergency Management Agency, the U.S. Department of Agriculture, the State Department of Fish and Wildlife, the State Department of Ecology, or the State Department of Agriculture, and the Town of Beaux Arts Village. In particular, developments shall comply with the State Environmental Policy Act and the Town's zoning and other development regulations. Where there are conflicts between these regulations or between different regulations within this SMP, those which provide the most protection to shoreline ecological functions shall apply.

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C. Shoreline modification activities must be in support of an allowable shoreline use which conforms to the provisions of this Master Program. Except as otherwise noted, all shoreline modification activities not associated with a legally existing or an approved shoreline use are prohibited.

D. In order to ensure achievement of no net loss of ecological functions, applicants shall demonstrate all reasonable efforts have been taken to avoid, minimize and then mitigate potential adverse impacts to ecological function resulting from new development,redevelopment, and uses in shoreline jurisdiction in the following sequence of steps listed in prioritized order, to be applied consistent with WAC 173-26-201(2)(e):

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 to avoid or reduce impacts;

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

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

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

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

Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable. . Avoidance shall not be construed to prohibit uses and modifications otherwise allowed by this Master Program.

E. All shoreline uses and modifications shall be located, designed, constructed and managed to minimize adverse impacts on adjacent properties, to minimize creation of a hazard to public health and safety, to be compatible with surrounding land and water uses.

F. Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development, and shall not result in aggregate loss of land area above the OHWM in the waterfront parcel.

G. All shoreline uses and activities shall be located and designed to prevent or minimize the need for new or additional shoreline stabilization.

H. Navigation channels shall be kept free of hazardous or obstructing uses and activities.

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I. Accessory Utilities: To minimize disturbance in shoreline jurisdiction, and to reduce the impact on shoreline ecological functions, utilities serving any permitted development shall be co-located within existing or proposed roadway, driveway, and/or parking area corridors that provide access to the development, except when the consolidation of the utilities within those areas will not realize the intended function of the utility or the cost of avoiding disturbance is substantially disproportionate as compared to the environmental impact of proposed disturbance. If co-location is not possible, impacts related to new utility corridors and connections shall be mitigated.

5.3 Archaeological and Historical Resources

5.3.1 Policies

A. Due to the limited and irreplaceable nature of the resource, public or private uses and activities should be prevented from destroying or damaging any site having historic, cultural, scientific or educational value as identified by the appropriate authorities.

5.3.2 Regulations

A. All shoreline permits shall contain provisions that require developers to immediately stop work and notify the Town if any phenomena of possible archaeological interest are uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data is properly handled. The Town shall subsequently notify the Muckleshoot Tribe and the State Office of Archaeology and Historic Preservation. Failure to comply with this requirement shall be considered a violation of the Shoreline Permit.

B. Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation. When the Town determines that a site has significant archeological, natural scientific or historical value, a Shoreline Substantial Development Permit and/or any other permit authorizing development or land modification shall not be issued which would pose a threat to the site. The Town may require that a site be redesigned or that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts. A permit issued in areas documented to contain archaeological resources requires a site inspection or evaluation by a professional archaeologist in coordination with the affected Native American tribe.

C. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The Town shall notify the State Department of Ecology, the State Attorney General's Office, the appropriate Native American Tribe, and the State Historic Preservation Office of such a waiver in a timely manner.

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D. Archaeological sites are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Resources) and shall comply with Chapter 25-48 WAC (Archaeological Excavation and Removal Permit) or its successor as well as the provisions of this Master Program.

5.4 Critical Areas

5.4.1 Policies

A. Critical areas within shoreline jurisdiction are regulated by the Beaux Arts Critical Areas Regulations for Shoreline Jurisdiction.

B. Unique, rare and fragile natural features as well as scenic vistas from public property and wildlife habitats should be preserved and protected from unnecessary degradation or interference.

5.4.2 Regulations

A. All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or not adversely affect those natural features which are valuable, fragile or unique in the region, and to facilitate the appropriate intensity of human use of such features, including but not limited to:

- Native or priority fish and wildlife habitats and species, including spawning areas;
- Geologically hazardous areas.

B. Critical areas within shoreline jurisdiction are regulated by the Town's Critical Areas Regulations modified for consistency with the Shoreline Management Act and included in this SMP as Appendix E.

5.5 Public Access

There are no publicly owned shoreline parcels within the Town upland of the OHWM. The waters of Lake Washington belong to the public. The Town of Beaux Arts Village is unique in that its entire shoreline is available to Beaux Arts property owners through membership in the Western Academy of Beaux Arts Village, or WABA. WABA is the owner and manager of the waterfront parcel, locally referred to as "the Commons." The Commons contains both woodland and waterfront features.

Visual access to the shoreline is available from the water and from upland areas in the Town. However, visual access does not include the right to enter upon or cross private property. Should the land use designations or property ownership in shoreline jurisdiction change in the future, appropriate provisions for public access shall be incorporated if required by State law.[2]

[2] For example, subdivision of property into more than four residential parcels would be required to provide public access, as well as projects by public entities or on public land, among others. See WAC 173-26 for a complete discussion of when public access would be required of a given development.

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5.6 Vegetation Management

5.6.1 Policies

A. Trees and native plant communities within the shoreline environment should be protected to minimize damage to the ecology and environment of the shoreline area.

B. Restoration of degraded shorelines due to natural or manmade causes should, wherever feasible, use soil bioengineering techniques to minimize the processes of erosion and sedimentation.

C. Aquatic weed management should involve usage of native plant materials wherever possible in soil bioengineering applications and habitat restoration activities. Where active removal or destruction of aquatic vegetation is necessary, it should be done only to the extent necessary to allow water-dependent activities to continue. Removal or modification of aquatic vegetation should be conducted in a manner that minimizes adverse impacts to native plant communities and/or aquatic habitat, and should include appropriate handling or disposal of weed materials and attached sediments.

D. The shoreline property owner should use the following *BMPs* when maintaining the landscapes:

- Minimize use of herbicides, fertilizers, insecticides, and fungicides along the shore of Lake Washington, as well as in the water.
- Limit the amount of lawn and garden watering to minimize surface runoff.
- Grass clippings, leaves, or twigs should not be disposed of in the street, in a body of water, or near a storm drain.

5.6.2 Regulations

A. Shorelines that will be disturbed or degraded incidental to construction of an authorized development shall be revegetated using native plant materials, unless the disturbance will occur within a developed and maintained ornamental landscape, in which case noninvasive plant materials similar to that which most recently occurred on-site may be used.

B. Stabilization of exposed erosion-prone surfaces within shoreline jurisdiction shall, wherever feasible, utilize soil bioengineering techniques.

C. Waterward of the designated Woodlands area of the waterfront parcel, new vegetation shall not be installed in a manner that functions like or has the visual appearance of a hedge that would block existing views of the water or existing view corridors between key upland areas of the waterfront parcel. Vegetation planted for mitigation as a result of adverse impacts to vegetation near the water should be planted along the water's edge as

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needed to ensure no net loss of ecological functions.

D. Tree Protection Regulations

1. All property owners shall be allowed to remove any Protected Tree located within the building footprint of a proposed building associated with a building permit, including those tree(s) outside of the footprint which would become hazardous by the construction of the permitted building.

2. All property owners shall be allowed to remove up to 20% of the Protected Tree Units on their lot within any twelve-month period. At a minimum, one Protected Tree may be removed per each twelve-month period.

3. Hazardous trees may be removed and are exempt from the 20% limitation. If the tree is hazardous, or could become hazardous as a result of new construction for which a permit will be issued, a report from a Qualified Professional is required for review by the Town Arborist.

4. All property owners seeking to remove one or more trees shall retain a minimum of one tree unit per 1,000 sq. ft. of lot area or shall plant mitigation trees to meet a minimum of one tree unit per 1,000 sq. ft. of lot area.

5. When mitigation trees are necessary, a mitigation plan must be submitted that specifies trees a minimum of eight (8) feet tall, with a full, well-developed crown of foliage, and counting as a minimum of one tree unit. Trees planted as mitigation must be maintained with adequate water and care to survive a three-year warranty period or be replaced. Trees planted as mitigation shall be one of the Protected Tree species, or other native tree as agreed upon by the Town.

E. Where vegetation removal or alteration conducted consistent with this section results in adverse impacts to shoreline ecological function, new developments or site alterations shall be required to develop and implement a mitigation plan. Adverse impacts are assumed to result from removal of trees, shrubs and groundcovers or from construction or operation of new developments that could impair the tree's health. Mitigation plans shall be prepared by a qualified professional.

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

G. The control of aquatic vegetation, if proposed to maintain existing safe and nuisance-free boating and swimming conditions, shall be considered normal maintenance and repair. However, the action would not be exempt if the method of aquatic vegetation control causes substantial adverse effects to shoreline resource or the environment.

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H. The application of herbicides or pesticides in lakes requires a permit from the Washington Department of Ecology and may require preparation of a SEPA checklist for review by other agencies. The individual(s) involved must obtain a pesticide applicator license from the Washington State Department of Agriculture.

5.7 Water Quality

5.7.1 Policies

A. All shoreline uses and activities should be located, designed, constructed and maintained to minimize adverse impacts to water quality, and native or priority fish and wildlife species and habitats, including spawning, nesting, rearing, and feeding areas and migratory routes.

B. All measures for the treatment of runoff to maintain and/or enhance water quality should be conducted on-site at the source of contamination.

C. The following *BMPs* regarding water quality management should be supported:

- Hazardous materials should always be disposed of properly if they cannot be reused or recycled. Household products identified by such labels as poisonous, corrosive, caustic, flammable, volatile, explosive, or dangerous, and their associated containers, should never be dumped outdoors at a residence.

- Ground cloths or drip pans should be used beneath any outdoor work involving hazardous materials such as paints, wood preservatives, finishes, stains, and rust removers. Collected drips and spills should be recycled or disposed of properly.

- The runoff from upland washing should drain to vegetated areas, such as lawns. If soaps or detergents are used, products without phosphates should be selected. Use a high pressure hose with trigger to minimize water usage.

- Sand blasting and spray-painting activities over the water are prohibited.

- Bilge and ballast water that has an oily sheen on the surface should be collected for proper disposal rather than dumped on land or over water. Several companies are available for bilge pumpout services. The problem can possibly be avoided if oil-absorbent pads are used to capture the oil in the bilge water before pumping. If pads are used, they must be recycled or properly disposed.

- Paint and solvent mixing, fuel mixing, and similar handling of liquids should be performed on shore, or such that no spillage can occur directly in surface water bodies.

- Feeding Canada geese and other wildlife along the shoreline should be discouraged to prevent them from gathering in large numbers and potentially contaminating the water from bird droppings.

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5.7.2 Regulations

A. All shoreline development shall comply with the applicable requirements of the most recent edition of the Department of Ecology *Stormwater Management Manual for Western Washington* and all applicable Town stormwater regulations.

B. The direct release of solid waste, liquid waste, untreated effluent, oil and hazardous materials or chemicals onto the land or into water is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leakproof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

C. All shoreline uses and activities shall utilize BMPs to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Physical control measures include, but are not limited to, catch basins, settling ponds, oil/water separators, filtration systems, grass-lined swales, interceptor drains and landscaped buffers. All types of *BMPs* require regular maintenance to continue to function as intended.

CHAPTER 6: SHORELINE USE AND MODIFICATION POLICIES AND REGULATIONS

6.1 Shoreline Use and Modification Permit Matrix

A. Table 6.1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process as its primary use, unless such accessory uses are specifically listed in Table 6.1. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.

B. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.

C. Any use, development or modification not classified in this Shoreline Master Program or listed below shall require a Shoreline Conditional Use Permit.

D. Uses and modifications identified as “Permitted” require either a Substantial Development Permit or may be exempt from the requirement to obtain a Substantial Development Permit, as outlined in Chapter 2.5 of this SMP. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.

E. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.

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F. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Substantial Development Permit.

G. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in Chapter 2.5 of this SMP, a Shoreline Permit is not required if Table 6.1 indicates "Permitted." However, for all exemptions other than 2.5.3.B (normal maintenance and repair), uses and modifications listed as "Conditional Use" or "Prohibited" are not eligible for an exemption.

Table 6.1 Shoreline Use and Modification Permit Matrix

USE OR MODIFICATION	Urban Conservancy	Shoreline Residential	Aquatic
Agriculture	Prohibited	Prohibited	Prohibited
Aquaculture	Prohibited	Prohibited	Conditional Use*
Boating Facilities and Aquatic Recreation Facilities • Boat moorage facilities (including mooring/ navigation buoys and mooring piles) • Boatlift • Canopy • Boat launch facilities • Swim dock • Swim area marker ropes • Covered moorage and boathouses	Permitted NA NA Permitted Permitted NA NA	NA	Permitted Permitted Prohibited Permitted Permitted Permitted Prohibited
Breakwaters, Jetties and Groins	Prohibited	NA	Prohibited
Clearing and Grading	Permitted	Permitted	NA
Commercial Development	Prohibited	Prohibited	Prohibited
Dredging and Dredge Material Disposal	Conditional Use	Prohibited	Conditional Use
Fill (waterward of OHWM)	NA	NA	Conditional Use, Permitted if restoration
Industrial Development	Prohibited	Prohibited	Prohibited
Forest Practices	Prohibited	Prohibited	Prohibited
Mining	Prohibited	Prohibited	Prohibited
Parking • Primary Use • Accessory Use	Prohibited Permitted	Prohibited Permitted	Prohibited Prohibited
Recreational Development		NA	

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USE OR MODIFICATION	Urban Conservancy	Shoreline Residential	Aquatic
(Upland) • Water-dependent and water enjoyment • Water-related (including boat storage facilities) • New non-water-oriented • Expansion non-water-oriented	 Permitted Permitted Prohibited Permitted		 Permitted Permitted Prohibited Prohibited
Residential Development • Single Family • Multi Family • Subdivision	 Prohibited Prohibited Prohibited	 Permitted Prohibited Prohibited	 Prohibited Prohibited NA
Shoreline Habitat and Natural Systems Enhancement	Permitted	Permitted	Permitted
Shoreline Stabilization • Beach Restoration and Enhancement • Soil Bioengineering • Bulkheads	 Permitted Permitted Permitted	 NA	 Permitted Permitted Permitted
Signs	Permitted	Permitted	Permitted
Transportation Facilities • Expansion of existing • New	 Permitted Prohibited	 Permitted Prohibited	 Conditional Use
Utilities (primary) • New • Repair, replacement and upgrade	 Prohibited Permitted	 Prohibited Permitted	 Prohibited Permitted

*Future aquaculture uses are not anticipated within the Town's shoreline jurisdiction, for reasons including geographical limitations, potential conflicts with navigation, and water-quality concerns. However, some scale or form of aquaculture may be appropriate, and may be considered by the Town on a case-by-case basis through a Shoreline Conditional Use Permit.

6.2 Development Standards Matrix

A. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers and height are provided in Table 6.2. In addition, shoreline developments shall comply with all other dimensional requirements of the Town's zoning and other development regulations.

B. When a development or use is proposed that does not comply with the shoreline dimensional standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance. Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit.

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Table 6.2 Development Standards Matrix

REGULATION	Urban Conservancy	Shoreline Residential	Aquatic
Height Limit	20' single-story structure	30'	NA
Side Setback	10'	10'	10'
Shoreline Setback[1]			NA
• Water-dependent	0'	NA	
• Water-related (N. of 27th and S. of 29th)	5'	NA	
• Water-enjoyment			
- Fire pits/BBQ/permanent or fixed benches and picnic tables	10'	NA	
- Play structures	35'	NA	
• All other uses	50'	100'	

[1] Shoreline setbacks shall be measured from the pre-restoration OHWM as of the date of the Shoreline Analysis Report, August 2011.

6.3 Boating and Aquatic Recreation Facilities

6.3.1 Policies

A. Environmental, aesthetic, navigation, and recreation factors should all be considered in the location and design of any new or expanded boating and aquatic recreation facilities.

B. The proposed size of the structure and intensity of use or uses of any new or expanded boating and aquatic recreation facilities should be compatible with the surrounding environment and land and water uses.

6.3.2 Regulations

A. General

1. All boating and aquatic recreation facility dimensions shall be minimized to the maximum extent feasible based on projected community use and demand.

2. Boating and aquatic recreation facilities shall be designed and located so they do not interfere with navigation, aesthetics or the public's safe use of the lake and community's use of the shoreline.

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

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4. No portion of the deck of a pier shall protrude more than four (4) feet above the OHWM.

5. No additional skirting is permitted on any structure.

6. All boating and aquatic recreation facilities shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.

7. Lighting associated with overwater structures shall be beamed, hooded or directed to minimize glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for human safety.

8. Piles, floats and other water-use structures that are in direct contact with water or over water shall not be treated or coated with herbicides, fungicides, paint, or pentachlorophenol. Use of wood members treated with arsenate compounds or creosote is prohibited.

9. Overwater boating and aquatic recreation facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night.

10. Exterior finish shall be generally non-reflective (e.g., generally matte, rather than glossy).

11. Mooring and navigation buoys may be installed where they will not interfere with navigation or access to existing moorage facilities. Design features shall meet Washington Department of Fish and Wildlife, U.S. Army Corps of Engineers and/or Department of Natural Resources standards.

12. Ropes or other marker lines suspended by floats are allowed to delineate swim areas and other non-boating areas for safety purposes.

13. Covered moorage is not permitted.

14. Temporary aircraft and floatplane moorage is permitted.

15. New, replacement, or expanded structures or over-water cover must be designed using mitigation sequencing principles, and must compensate for any adverse impacts through development and implementation of a mitigation plan consistent with state and federal requirements. Mitigation may include installation of additional shoreline vegetation (consistent with regulations in Section 5.6.2), removal of existing piles, removal of existing overwater cover, or installation of grating on existing overwater cover to achieve no net loss of ecological function.

B. Overwater Boating and Aquatic Recreation Facilities

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1. New overwater structures shall comply with the following dimensional standards:

Table 6.3. Requirements for New Overwater Structures

Standard	Requirements
Maximum Waterward Intrusion	200 feet
Maximum Width	• 6 feet for access walkway or ramp portion of pier or dock and primary walkways. 6 feet for access walkway or ramp portion of pier or dock and primary walkways • 8 feet for ells. • 4 feet for fingers • 6 ft. for floats, unless floats are over water greater than 10 feet deep at OHW or are farther waterward of OHWM than 100 feet. Seasonal floats located closer than 30 feet waterward of the OHWM may be 8 feet wide. • Swim docks located at least 85 feet waterward of OHWM may be any dimensions totaling no more than 600 square feet
Height of fixed-pile piers	• Minimum of 1.5 ft above ordinary high water to bottom of pier stringer • Maximum of 4 ft. above OHWM
Decking for piers, docks, walkways, ells and fingers	• Fully grated or contain other materials that allow a minimum of 40% light transmittance through the material. • If float tubs for docks preclude use of fully grated decking material, then a minimum of 2 ft. of grating down the center of the entire float shall be provided
Location of moorage, new ells, fingers and floats	• No closer than 30 ft. waterward of the OHWM, measured perpendicular to the OHWM. • Temporary floats may be located closer than 30 feet waterward of the OHWM provided they are seasonal, limited to June 1 through September 30
Pilings	• The diameter of pilings shall be minimized to the maximum extent allowed by site-specific engineering or design considerations. • First set of pilings for the moorage facility located no closer than 18 ft from OHWM, unless otherwise indicated by site-specific engineering or design considerations. • The spacing between pilings shall be maximized to the extent allowed by site-specific engineering or design considerations.

2. Replacement - Replacement of overwater structures or portions thereof shall comply with the above standards unless otherwise specified below:

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Table 6.4. Requirements for Replacement Overwater Structures

Standard	Requirements
Maximum Width	• Same dimension as existing structure
Location of new piers	• Same location as existing structure

3. Additions – Additions to existing boating facilities may be permitted provided the following:

   a. A needs analysis or master plan prepared by the applicant, and approved by the Town, projects future needs for expanded boating facility space. The needs analysis shall include:

      i. An assessment of the anticipated need for the requested expansion and ability of the site to accommodate the proposal, considering such factors as environmental conditions, shoreline configuration, access, and neighboring or on-site recreational uses.

      ii. An assessment of the impacts and measures taken to avoid, minimize, and mitigate impacts.

   b. Enlarged portions of the boating facility must meet standards for length and width, height, water depth, location, decking and pilings, and materials described in Table 6.3.

   c. At a minimum, mitigation measures identified in Table 6.5 shall be followed.

Table 6.5. Requirements for Additions to Existing Overwater Structure

Over-water Structure Addition Standards	Requirements
Decking for over-water structures	An area of nearshore decking equivalent to the area of the addition must be converted to grated decking that allows a minimum of 40% light transmittance through the material.

4. Over-water Structure Repair

   a. Repair proposals that replace only decking or decking substructure or less than 50 percent of the existing pier-support piles must comply with requirements of Table 6.6:

Table 6.6. Requirements for Overwater Structure Repairs

Minor Repair to Over-water	Requirements

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Structures	
Replacement pilings or moorage piles	Must use materials as described for new over-water structures
Replacement of 10 percent or more of the decking or decking substructure	• Must use materials as described for new over-water structures • Must replace any solid decking surface of the over-water structure located within 30 ft. of the OHWM with a grated surface material. If float tubs for docks preclude use of fully grated decking material, then a minimum of 2 ft. of grating down the center of the entire float shall be provided

b. If cumulative repairs over a 24-month period of an existing pier would make a proposed repair exceed the threshold established in 4.a above, the repair proposal shall be reviewed under standards for a replacement pier.

C. Boat Launch

1. Location Standards – Boat launches for non-motorized boats shall be sited so that they minimize damage to native species and priority fish and wildlife habitats and species. New motorized boat launches are prohibited, but existing launches may be expanded or re-located.

2. Size - The applicant shall demonstrate that the proposed size of the new, expanded or re-located boat launch is the minimum necessary to safely launch the intended craft and meet the projected demand.

3. Design Standards – Shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available, with consideration for site-specific conditions and the particular needs of that use. Seasonal ramps that can be removed and stored upland are preferred. Any adverse impacts to shoreline ecological functions shall be mitigated.

D. Moorage Piles

Moorage Piles	Moorage piles shall be located no closer than 30 ft. from the OHWM, nor any farther waterward than the end of the over-water structure.

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6.4 Clearing and Grading

6.4.1 Policies

A. All clearing and grading activities should be designed and conducted to minimize impacts to wildlife habitat; to minimize sedimentation of creeks, Lake Washington, and wetlands; and to minimize degradation of water quality.

B. Clearing and grading activities in shoreline areas should be limited to the minimum necessary to accommodate shoreline development.

C. Adverse environmental and shoreline use impacts of clearing and grading should be avoided wherever possible through use of BMPs and other considerations.

D. Cleared and disturbed sites remaining after completion of construction should be promptly replanted with native vegetation or with other appropriate non-invasive species as approved by the Town.

6.4.2 Regulations

A. For proposed land clearing, upland fill, or grading activities over fifty (50) cubic yards in quantity, or a cut of two (2) feet or more, or a fill of two (2) feet or more, a clearing and grading plan addressing species removal, replanting, irrigation, erosion and sedimentation control and other methods of riparian corridor protection shall be required.

B. Clearing and grading activities may only be allowed when associated with a permitted shoreline development. Clearing and grading activities in shoreline areas should be limited to the minimum necessary.

C. Normal, nondestructive pruning and trimming of vegetation for maintenance purposes shall not be subject to these clearing and grading regulations. In addition, clearing by hand-held equipment of invasive, nonnative shoreline vegetation or plants listed on the State Noxious Weed List is permitted in shoreline jurisdiction.

D. In all cases where clearing is followed by revegetation, native or appropriate non-invasive plants shall be preferred.

6.5 Dredging and Dredge Material Disposal

6.5.1 Policies

A. Dredging in Lake Washington should be restricted to the minimum necessary to support existing or planned water-dependent, water-oriented or water-related uses, and only when other solutions would result in greater adverse environmental impacts. New development should not be proposed in areas which would require maintenance dredging.

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B. Dredging waterward of the OHWM for the primary purpose of obtaining fill or construction material is prohibited.

C. In all cases, dredging operations should be planned and conducted to protect and maintain existing aquatic habitat and other shoreline uses, properties, and values.

D. Dredging operations should be designed and scheduled to avoid impacts to fish, including impacts to fish migration, rearing, feeding and spawning.

E. Dredging and dredge material disposal should be located and conducted in a manner that minimizes damage to existing ecological values and natural resources of the area to be dredged and of the disposal site. Proposals that include dredging shall provide mitigation.

F. Dredge material disposal in waterbodies should be prohibited, except for habitat improvement projects.

6.5.2 Regulations

A. Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width. Dredging waterward of the OWHM may also be permitted as part of an approved habitat improvement project.

B. New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

C. When dredging is permitted, the extent of dredging shall be the minimum necessary to accommodate the proposed use.

D. If suitable alternatives for land disposal are not available or are infeasible, water disposal shall be conducted at approved open-water disposal sites. Open-water disposal operations shall comply with Department of Natural Resources leasing practices, the Department of Ecology Water Quality Certification process, and the permit requirements of the State Department of Fish and Wildlife and the U.S. Army Corps of Engineers.

E. Dredging waterward of the OHWM for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high water mark. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

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F. Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.

6.6 Fill (waterward of OHWM)

6.6.1 Policies

A. Fills waterward of the OHWM should be allowed only when necessary to facilitate water-dependent uses and restoration projects, including beach restoration projects, which are consistent with this Master Program.

B. Shoreline fills should be designed, located and constructed to ensure protection of ecological processes and functions and no alteration of local currents, surface and subsurface drainage, or flood waters which would result in hazard to adjacent life, property, or natural resource systems.

C. Where permitted, aquatic fill coverage should be the minimum necessary to provide for the desired ecological restoration outcome or the proposed water-dependent use. Fills should be permitted only when tied to a specific development proposal that is permitted by this Master Program.

6.6.2 Regulations

A. Fills waterward of the OHWM shall be permitted only in conjunction with a water-dependent use; community access; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material considered suitable under, and conducted in accordance with the Dredged Material Management Program of the Department of Natural Resources; mitigation action; environmental restoration; or beach nourishment or enhancement project. Fills waterward of the OHWM for any use except ecological restoration or approved soft shoreline stabilization should require a Shoreline Conditional Use Permit.

B. Fills shall be located, designed, and constructed to avoid and minimize material movement, erosion, and sedimentation from the affected area.

C. Fill shall be permitted only where it is demonstrated that the proposed action will protect shoreline ecological functions and ecosystem-wide processes.

6.7 Parking

6.7.1 Policies

A. Parking facilities in shoreline jurisdiction are not a preferred use and should be allowed only as necessary to support an authorized use.

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6.7.2 Regulations

A. Parking in shoreline areas shall not be expanded and shall be designed to minimize adverse impacts including those related to stormwater runoff, water quality, and vegetation and habitat maintenance.

B. Parking in shoreline areas must directly serve a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in shoreline jurisdiction is prohibited.

6.8 Recreational Development - Upland

6.8.1 Policies

A. Give priority to shoreline recreational development in order to provide access, use, and enjoyment of the Town's shoreline.

B. Develop and manage recreational activity areas in a manner which complements local use and/or natural habitats.

6.8.2 Regulations

A. Recreational uses and facilities shall be designed to be primarily related to access, enjoyment and use of the water and adjoining shorelands.

B. No developments, other than those accessory to passive or active community recreation activities, shall result in a reduction of passive or active community recreation activities.

6.9 Residential Development

6.9.1 Policies

A. Residential development should be designed to preserve shoreline aesthetic characteristics, views, and minimize physical impacts to shoreline ecological functions.

B. Residential development should be designed to preserve existing shoreline vegetation, control erosion and protect water quality using *BMPs* and, where possible, utilizing *LID* technologies.

6.9.2 Regulations

A. <u>Residential development shall be permitted only where there are adequate provisions for utilities, circulation and access.</u>

B. <u>Residential development shall comply with the shoreline setbacks and vegetation management regulations in order to avoid and minimize adverse ecological impacts.</u>

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C. The Town shall encourage the use of *BMPs* to reduce impervious surfaces and surface water runoff.

6.10 Shoreline Habitat and Natural Systems Enhancement Projects

6.10.1 Policies

A. The Town should allow restoration projects, especially those identified in or consistent with the *Beaux Arts Village Shoreline Restoration Plan* or the *Final WRIA 8 Chinook Salmon Conservation Plan* endorsed by the Town in Resolution No. 220.

B. The Town should protect and improve wildlife and aquatic habitats wherever feasible.

6.10.2 Regulations

A. Shoreline enhancement may be permitted if the project proponent demonstrates that its purpose is to establish, restore, or enhance the natural character and ecological function of the shoreline, and/or habitat for priority and other native species in shoreline jurisdiction.

B. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters.

C. Shoreline restoration and ecological enhancement projects shall be permitted in all shoreline environments, provided the project project's purpose is the restoration or enhancement of natural character and ecological functions of the shoreline and does not result in aggregate loss of land area above the OHWM in the waterfront parcel.

6.11 Shoreline Stabilization

6.11.1 General Shoreline Stabilization Policies

A. Hard structural solutions to reduce shoreline damage from erosion should be allowed only after it is demonstrated that nonstructural or soft structural solutions would not provide sufficient protection to principle uses or structures. Nonstructural and soft structural solutions include (but are not limited to) soil bioengineering, beach enhancement, alternative site designs, drainage improvements and increased building setbacks (for proposed structures).

B. Proposals for shoreline stabilization activities should address the impact of these activities on Lake Washington and the larger aquatic environment. This planning should consider off-site erosion, accretion, or flood damage that might occur as a result of shoreline stabilization structures or activities.

C. Shoreline stabilization structures should allow passage of ground and surface waters into Lake Washington.

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D. The burden of proof for the need for shoreline stabilization to protect existing developments rests on the applicant(s).

E. Areas of significance in the spawning, nesting, rearing, or residency of aquatic and terrestrial biota should be given special consideration in the review of shoreline stabilization actions.

6.11.2 General Shoreline Stabilization Regulations

A. All new shoreline development shall be located and designed to prevent or minimize the need for shoreline stabilization activities.

B. Consideration shall be given to the impact of proposed shoreline modification structures on ecosystem-wide processes (e.g., sediment movement) and functions (e.g., habitat). Provisions shall be made to avoid and minimize impacts.

C. Shoreline stabilization solutions developed to replace existing shoreline stabilization shall be placed along the same alignment as the shoreline stabilization being replaced and shall result in no net loss of aggregate land area.

D. New shoreline stabilization shall be permitted only when it has been demonstrated that shoreline stabilization is necessary for the protection of legally established structures and public improvements.

E. Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body.

F. Shoreline stabilization shall be designed so as not to constitute a hazard to navigation and to not substantially interfere with visual access to the water.

G. Shoreline stabilization shall be designed so as not to create a need for shoreline stabilization elsewhere.

H. A licensed engineer with experience in lakeshore processes and shoreline stabilization Professional design (as approved by the Town) of all shoreline stabilization or modification structures is required.

6.11.3 Beach Restoration or Enhancement Regulations

A. Beach enhancement shall be permitted when the applicant has demonstrated that the project will minimize interruption of littoral processes, and will not adversely redirect waves, current, or sediment to other shoreline areas, including adjacent properties.

B. Natural beach restoration/enhancement shall extend waterward as far as necessary to achieve the desired stabilization and creation or augmentation of shallow-water habitat.

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C. The size and/or mix of new materials to be added to a beach shall be as similar as possible to that of the natural beach substrate, but large enough to resist the annual maximum current, wake, or wave action at the site.

D. Beach enhancement within fish and/or wildlife spawning, nesting, or breeding habitat shall be conducted when the activity would have the least potential for adverse impacts and also where littoral drift of the enhancement materials would not significantly adversely affect adjacent spawning grounds or other areas of biological significance.

6.11.4 Soil Bioengineering Regulations

A. All soil bioengineering projects shall use native plant materials appropriate to the area, including trees, shrubs and groundcovers.

B. All cleared areas shall be replanted and/or stabilized immediately following construction.

C. All construction and planting activities shall be scheduled to minimize impacts to water quality and native or priority fish and wildlife species and aquatic and upland habitats, and to optimize survival of new vegetation.

6.11.5 Bulkhead Regulations

A. New or Enlarged Structural Stabilization (Bulkhead)

1. Submittal for new or enlarged hard and soft structural stabilization shall include a geotechnical report prepared by a qualified professional with an engineering degree. The report shall include the following:

   a. An assessment of the necessity for structural stabilization by estimating time frames and rates of erosion and documenting the urgency associated with the specific situation.

   b. An assessment of the cause of erosion, including on-site drainage issues, looking at processes occurring both waterward and landward of the OHWM.

   c. An assessment of the feasibility of using nonstructural or soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

2. For both hard and soft structural shoreline stabilization measures, design recommendations for minimizing the sizing of shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

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3. The Town shall permit new or enlarged bulkheads to protect an existing primary structure if a geotechnical analysis provides conclusive evidence that the structure is in danger from shoreline erosion caused by waves, and either:

   a. There is a significant possibility that an existing structure will be damaged within three (3) years as a result of shoreline erosion in the absence of hard structural stabilization measures;

   b. Waiting until the need is immediate will result in the loss of opportunity to use measures that would avoid impacts on ecological functions; or

   c. Where the geotechnical report confirms a need to prevent potential damage to a structure, but the need is not as immediate as three (3) years, the report may still be used to justify more immediate authorization to protect against erosion using soft structural stabilization measures.

4. Any on-site drainage issues must be directed away from the shoreline edge prior to considering structural stabilization.

5. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements must be explored and must be shown to be infeasible or insufficient to protect the primary structure.

B. Replacement or Major Repair of Hard Structural Stabilization

1. For the purposes of this section, major repair or replacement that does not increase the size of a hard shoreline stabilization measure shall include the following activities:

   a. A repair, or series of repairs needed to a portion of an existing stabilization structure that has collapsed, eroded away or otherwise demonstrated a loss of structural integrity, when the repair or repairs involves modification of 50 percent or greater by length of the existing hard shoreline stabilization measure's bottom course of rock or footings over a 24-month period; or

   b. A repair, or series of repairs needed to an existing hard structural shoreline stabilization that has collapsed, eroded away, or otherwise demonstrated a loss of structural integrity when the repair or repairs involves modification of more than 75 percent of the linear length of the existing hard structural shoreline stabilization measure's top or middle course of rocks or other similar repair activities over a 24-month period.

2. The Town may permit a major repair or replacement of an existing hard structural stabilization measure with a hard structural shoreline stabilization measure to protect existing primary structures and principal uses, provided conclusive

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evidence is presented to the Town that the structure or use is in danger from shoreline erosion caused by waves.

3. If hard structural stabilization is removed to implement a softer shoreline stabilization measure, and that softer measure fails or does not otherwise provide the expected level of shoreline stabilization, it may be reconstructed as hard structural shoreline stabilization and permitted as a replacement.

4. Submittals for replacement or major repairs of hard shoreline stabilization with similar hard shoreline stabilization shall include a written narrative that provides a demonstration of need. A qualified professional (e.g., shoreline designer or other consultant familiar with lakeshore processes and shore stabilization), but not necessarily a licensed geotechnical engineer, shall prepare a written narrative consisting of the following:

   a. An assessment of the necessity for hard or soft structural stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch, and location of the nearest structure.

   b. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard or soft structural shoreline stabilization.

   c. An assessment of the feasibility of using soft structural stabilization measures in lieu of hard structural shoreline stabilization measures. Soft stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.

   d. Design recommendations for minimizing impacts and ensuring that the replacement or repaired stabilization measure is designed, located, sized, and constructed to assure no net loss of ecological functions and no aggregate loss of land area above the OHWM in the waterfront parcel.

Submittals for replacement or major repairs of hard structural shoreline stabilization with softer shoreline stabilization measures shall submit a full geotechnical analysis as would be required for a new or enlarged shoreline stabilization measure.

C. Minor Repairs of Hard Shoreline Stabilization include those maintenance and repair activities not otherwise addressed in the subsections above. The Town shall allow minor repair activities to existing hard structural shoreline stabilization measures.

D. Repair or Replacement of Soft Shoreline Stabilization

1. Repair or replacement of soft shoreline stabilization measures shall be permitted.

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2. The applicant shall submit to the Town a description of design elements that minimize impacts and ensure that the replacement or repaired stabilization measure is designed, located, sized, and constructed to assure no net loss of ecological functions and no aggregate loss of land area above the OHWM in the waterfront parcel.

E. General Submittal Requirements for New, Enlarged, Replacement and Major Repair Measures. Detailed construction plans shall be submitted to the Town, including the following:

1. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWM.

2. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials shall be selected to accomplish the following objectives: Protect the property and structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from wind- and boat- driven waves; allow safe passage and migration of native or priority fish and wildlife; and minimize or eliminate juvenile salmon predator habitat.

3. For hard structural stabilization measures when shoreline vegetation is required as part of mitigation, a detailed three-year vegetation maintenance and monitoring program to include goals and objectives of the shoreline stabilization plan; a three-year monitoring plan, consisting of one site visit per year by a qualified professional, specifying submittal of annual progress reports to the Shoreline Administrator and all other agencies with jurisdiction; and a contingency plan in case of failure.

4. Fees for Town review of submittal materials shall be the responsibility of the project applicant.

F. General Design Standards - The following design standards shall be incorporated into the stabilization design:

1. Soft structural shoreline stabilization measures shall be used to the maximum extent feasible and only when appropriate for site-specific conditions.

2. Construction activities must minimize and mitigate any adverse impacts to ecological functions.

3. Hard and soft shoreline stabilization measures shall be designed to not significantly interfere with normal surface and/or subsurface drainage into Lake Washington, nor to constitute a hazard to navigation.

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4. Hard and soft stabilization measures are allowed to have gravel, logs and rocks waterward of the OHWM, as approved by the Town and federal and state agencies, to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat.

5. Stairs or other water access measures may be incorporated into the shoreline stabilization, but shall not extend waterward of the shoreline stabilization measure.

6. The shoreline stabilization measures shall be designed to ensure that the measures do not restrict community access or make access unsafe to the shoreline.

7. Where hard stabilization measures are not located on adjacent properties, the construction of a hard stabilization measure on the site shall tie in with the existing contours of the adjoining properties, as feasible, such that the proposed stabilization will not cause erosion of the adjoining properties.

8. Where hard stabilization measures are located on adjacent properties, the proposed hard stabilization measure may tie in flush with existing hard stabilization measures on adjoining properties, but by no more than as reasonably required. The new hard stabilization measure shall not extend waterward of the OHWM, except as necessary to make the connection to the adjoining hard stabilization measures. No net intrusion into the lake and no net creation of upland shall occur with the connection to adjacent stabilization measures.

H. Upland Shifts in OHWM - If shoreline restoration projects, including shoreline stabilization improvements that are not mitigation, intended to improve ecological functions results in shifting the OHWM landward of the pre-modification location, then shoreline regulations shall not apply to such affected property. If shoreline stabilization activities result in a reduced lot size for the subject property, the property's square footage prior to the stabilization improvement shall be considered for all aspects of compliance with the Town's zoning restrictions.

6.12 Signs

6.12.1 Policies

A. All signs should be located and designed to minimize interference with vistas, viewpoints and visual access to the shoreline.

6.12.2 Regulations

A. All signs shall be located and designed to minimize interference with vistas, viewpoints and visual access to the shoreline.

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B. Water navigational signs and local signs necessary for operation, safety and direction are permitted.

6.13 Transportation Facilities

6.13.1 Policies

A. Safe, reasonable, and adequate circulation systems should be maintained in shoreline jurisdiction.

B. Only those transportation facilities that are consistent with existing and proposed uses in shoreline jurisdiction should be allowed.

6.13.2 Regulations

A. New roadways are prohibited.

B. Existing roadways may be maintained, repaired and expanded if needed to support existing and proposed shoreline uses.

C. Floatplane and helicopter facilities are prohibited.

6.14 Utilities (Primary)

6.14.1 Policies

A. Repair, maintenance, replacement, expansion and upgrades to existing primary utilities, including the City of Bellevue's sanitary sewer line and the Town's municipal water or stormwater management systems, should be allowed.

B. New primary utilities should be prohibited.

6.14.2 Regulations

A. Repair, maintenance, replacement, expansion and upgrades to existing primary utilities, including the City of Bellevue's sanitary sewer line and the Town's municipal water or stormwater management systems, should be allowed.

B. Clearing and grading for the repair, maintenance, replacement, expansions, and upgrades of primary utilities shall be kept to a minimum and, upon project completion, any disturbed area shall be restored as nearly as possible to pre-project conditions, including replanting with native or other appropriate non-invasive species approved by the Town. If the previous condition is identified as being undesirable, then landscaping and other improvements shall be undertaken.

C. The Town shall implement maintenance procedures to assure continued proper functioning of public surface water management and drainage systems.

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D. Any new primary utility lines shall be located underground. Existing above-ground lines shall be moved underground when properties are redeveloped or in conjunction with replacements or major system upgrades.

E. No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted along the Lake Washington shoreline in Beaux Arts.

F. Accessory utilities are governed by Section 5.2.I. and other applicable provisions of this SMP.

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APPENDIX A: Shoreline Master Program Update Background

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A.1 History and Requirements of the Shoreline Management Act

Washington's **Shoreline Management Act** (SMA), passed by the Legislature in 1971 and adopted by the public in a 1972 referendum, provides guidance for the development of locally adopted Shoreline Master Programs.

The primary goal of the SMA is to "prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The area within Beaux Arts that is subject to the SMA includes the Lake Washington shoreline and land areas ("shorelands") that extend 200 feet from the Lake Washington edge of the water, including any biological wetlands associated with either the lake or the shorelands. These areas are collectively referred to as the "shoreline jurisdiction."

The SMA establishes a broad policy giving preferences to uses that:

- **Encourage water-dependent uses:** "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines..."

- **Protect shoreline natural resources**, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..."

- **Promote public access:** "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

The SMA establishes a balance of authority between local and state government. Under the SMA, Beaux Arts is required to adopt a Shoreline Master Program ("Program") that is based on state guidelines but tailored to the specific needs of the community. The program represents a comprehensive vision of how shoreline areas will be used and developed over time. It is essentially a shoreline-specific combined comprehensive plan, zoning ordinance, and development permit system.

Under the SMA, the town is responsible for the following:

- Development of an **inventory** of the natural characteristics and land use patterns along shorelines covered by the act.

- Preparation of a **"Master Program"** to determine the future of the shorelines.

- Development of a **permit system** to further the goals and policies of both the act and the local Master Plan.

- Development of a **Restoration Plan** (Appendix C) that includes goals, policies and actions for restoration of impaired shoreline ecological functions.

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A.2 Master Program Development and Public Participation

Beaux Arts' original Shoreline Master Program was adopted in 1973 (Ordinance 89) in compliance with the SMA. The 2011 Update of the Program has been developed through an extensive Public Participation Outreach Program, conducted by the Town's Planning Commission.

Public participation has been essential to the development of the Program. Both the SMA and Ecology's procedural rules and guidelines require public participation. The SMA states the local government and Ecology shall "not only invite but actively encourage participation" in SMP development (*RCW 90.58.130*). The procedural rules require local governments to "make all reasonable efforts to inform, fully involve and encourage participation" of interested persons, private entities and local, state and federal agencies (WAC 173-26-090). The Guidelines repeat these mandates, specifically requiring communication with state agencies and affected Indian tribes. (WAC 173-26- 201(3)(b)).

To initiate the data gathering that was required for the preparation of the Shoreline Inventory, the Town canvassed dozens of local organizations, as well as government agencies, to collect available information. Recipients of the request were invited to participate in the development of the SMP.

In October 2010, the Town Planning Commission hosted a "Shoreline Open House" to present the results of the Shoreline Inventory and to invite the community to participate in a "Visioning Workshop" in order to provide direction for the goals, policies, and regulations of the SMP. Town residents were joined by a representative of the Department of Ecology. The general consensus of those present was that the existing shoreline rules had allowed for the development of the unique water-oriented recreational community that is Beaux Arts Village, and such rules and development regulations should be retained.

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APPENDIX B: Definitions

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Accessory use or accessory structure - Any use or structure customarily incidental and accessory to the principal use of a site or a building or other structure located upon the same lot.

Accretion - The growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, and hooks.

Act - The Shoreline Management Act of 1971, as amended (Chapter 90.58 RCW and WAC 173-27-030(1)).

Adjacent lands - Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). The SMA directs local governments to develop land use controls (i.e. zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules and the local shoreline master program (Chapter 90.58.340 RCW).

Agriculture - The cultivation of the soil, production of crops, and/or raising of livestock, including incidental preparation of these products for human use.

Anadromous fish - Species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to procreate.

Appurtenance - A structure or development which is necessarily connected to the use and enjoyment of a single family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. (On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed two hundred fifty cubic yards (250) [except to construct a conventional drainfield] and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark) (WAC 173-27-040(1g)).

Aquaculture - The commercial cultivation of fish, shellfish, and/or other aquatic animals or plants, including the incidental preparation of these products for human use.

Aquascreens - A fiberglass screen used as a bottom barrier to limit and/or control aquatic plant growth. The screen is typically anchored to an area of the lake bottom and functions as a physical barrier to prevent plants from growing on the lake bottom.

Archaeological - Having to do with the scientific study of material remains of past human life and activities.

Associated Wetlands - Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act. Refer to WAC 173-22-030(1).

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; provided that in case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by

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averaging the elevations at the center of all exterior walls of the proposed building or structure WAC 173-27-030(3)).

Baseline - The existing shoreline condition, in terms of both ecological function and shoreline use, established at the time this Shoreline Master Program is approved.

BMPs - see *Best Management Practices.*

Beach - The zone of unconsolidated material that is moved by waves, wind and tidal currents, extending landward to the coastline.

Beach enhancement/restoration - Beach enhancement is the alteration of exposed and submerged shorelines for the purpose of stabilization, recreational enhancement, and or/aquatic habitat creation or restoration using native or appropriateve non-invasive material, beach material supplementation, vegetation, drift sills and other nonintrusive means as applicable.

Beach feeding - "Beach feeding" means landfill deposited on land or in the water to be distributed by natural water processes for the purpose of supplementing beach material.

Benthos - Living organisms associated with the bottom layer of aquatic systems, at the interface of the sediment (or substrate) and overlying water column. Benthos commonly refers to an assemblage of insects, worms, algae, plants and bacteria.

Best Management Practices (BMPs) - BMPs are methods of improving water quality that can have a great effect when applied by numerous individuals. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater runoff and in receiving waters.

Bioengineering - see *Soil bioengineering*

Biofiltration - A storm water or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grass-lined swales, retention ponds and other vegetative features.

Biota - The animals and plants that live in a particular location or region.

Boat launch or ramp - Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat lift - A mechanical device that can hoist vessels out of the water for storage.

Boathouse - A structure with a roof and at least one wall designed for storage of vessels.

Boating Facility – A permanent or temporary moorage or launch structure, and its accessories, serving uses other than four or fewer single-family residences.

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Bog - A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

Breakwater - An off-shore structure generally built parallel to the shore that may or may not be connected to land. Its primary purpose is to protect a harbor , moorage, or navigational activity from wave and wind action by creating a still-water area along the shore. A secondary purpose is to protect the shoreline from wave-caused erosion.

Bulkhead - Bulkheads are shoreline structures, either sloped or vertical, usually constructed parallel to the shore. The primary purpose they serve is to contain and prevent the loss of soil caused by erosion or wave action. Bulkheads have historically been constructed of poured-in-place or precast concrete, concrete blocks, steel or aluminum sheet piling, wood or wood and structural steel combinations, and boulders. Bulkheads may be either thin structures penetrating deep into the ground or more massive structures resting on the surface.

Buoy, mooring - An anchored float for the purpose of mooring vessels.

Buoy, navigation - An anchored float for the purpose of identifying navigational hazards or directing watercraft traffic.

Certified engineer/biologist - see *Professional engineer* and *Professional biologist*.

Clean Water Act - The primary federal law providing water pollution prevention and control; previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

Clearing - The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

Community dock - A private water-dependent facility designed for moorage of pleasure craft as its primary use that serves a specified residential development of more than four single-family residences or multi-family units. Other water-enjoyment uses, such as fishing or viewing, may occur on community docks.

Comprehensive Plan - Comprehensive plan means the document, including maps adopted by the town council, that outlines the Town's goals and policies relating to management of growth, and prepared in accordance with RCW 36.70A.

Conditional Use - A use, development, or substantial development that is classified as a conditional use or is not classified within the Shoreline Master Program. Refer to WAC 173-27-030(4).

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Covered moorage - A roofed structure over a boat, typically supported by posts mounted on the pier.

Critical areas - As defined under chapter 36.70A RCW includes the following areas and ecosystems: 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.

Cumulative Impact - The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Development - A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any stage of water (RCW 90.58.030(3d)).

Dock - Commonly referred to as a floating moorage structure, but can also be used in reference to fixed-pile piers (see exemptions). See "floating dock" and "float" for definition used in this Shoreline Master Program.

Dredge spoil - The material removed by dredging.

Dredging - Excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for shellfish harvesting or for cleanup of polluted sediments.

Dwelling unit – a single unit providing complete, independent living facilities for one or more persons, not to exceed one family, and which includes permanent provisions for living, sleeping, eating, cooking and sanitation.

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

Ecological integrity - a system's overall health and wholeness, including the presence of all appropriate elements (physical and biological) and the occurrence of all processes (e.g. erosion and deposition) at appropriate rates.

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

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specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Ecology (WDOE) - The Washington State Department of Ecology.

Ell – Terminal section of a pier which typically extends perpendicular to the pier walkway. These sections can be either on fixed-piles or floating docks and are typically wider than the pier walkway.

Endangered Species Act (ESA) - A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

Emergency - An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the master program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii) and WAC 173-14- 040(1d)).

Enhancement - Alteration of an existing resource to improve its ecological functions and/or ecosystem-wide processes without degrading other existing functions.

Environmental Impacts - The effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA). Refer to WAC 197-11- 600 and WAC 197-11-444.

Environments, (Shoreline Environment) - Designations given specific shoreline areas based on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of a Master Program.

Erosion - The wearing away of land by the action of natural forces.

Excavation - The artificial movement of earth materials.

Exemption - Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit (RCW 90.58.030(3e); WAC 173-27-030(7) and -040). For a complete list of exemptions, see WAC 173-27-040.

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

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development shall include the fair market value of any donated, contributed or found labor, equipment or materials. (WAC 173-27-030(8)).

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

a. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
b. The action provides a reasonable likelihood of achieving its intended purpose; and
c. The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

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

Finger Pier – A narrow extension to a fixed-pile pier, usually extending perpendicular to the pier walkway along with an ell to form an enclosed area for boat moorage.

Float or Floating Dock - A floating structure that is moored, anchored, or otherwise secured in the water and that is generally located at the terminal end of a fixed-pile pier. They may be used for boat moorage or other water-oriented recreation.

Floodplain - Synonymous with 100-year floodplain. The land area susceptible to inundation with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

Floodway – 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

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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 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.

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.

Grass-lined swale - A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

Groin - A barrier-type structure extending from, and usually perpendicular to, the backshore into a water body. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials. This is accomplished by building or preserving an accretion beach on its updrift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

Growth Management Hearings Board - The growth management hearings board was established pursuant to chapter 36.70A RCW. The board is an independent quasi-judicial agency of the state of Washington with seven members appointed by the governor who are qualified by experience or training in matters pertaining to land use planning. The function of the board is to make informed decisions on appeals within the scope of its jurisdiction arising from implementation of the Growth Management Act, Shoreline Management Act, and State Environmental Policy Act, in a clear, consistent, timely, and impartial manner that recognizes regional diversity.

Habitat - The place or type of site where a plant or animal naturally or normally lives and grows.

Harbor - the area of navigable waters as determined in Section 1 of Article 15 of the Washington Constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

Hard Structural Shoreline Stabilization - Shore erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces that are located at or waterward of ordinary high water, as well those structures located on average within five (5) feet landward of OHWM. These include bulkheads, rip-rap, groins, retaining walls and similar structures.

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Hazardous Tree - Any Protected Tree with structural defects, disease, or both, which makes it a significant damage or injury risk factor, when the hazardous condition cannot be lessened by reasonable and proper arboricultural practice, as determined by a Qualified Professional and reviewed by the Town Arborist.

Hearing Examiner - The Hearing Examiner of the Town of Beaux Arts.

Hedge - a row of two or more trees, shrubs, or other plants constituting a barrier in excess of six linear feet and establishing a boundary, or hindering free passage of humans or animals on the surface of the ground, or screening or obscuring vision, or baffling sound.

Height – The distance measured from the average grade level to the highest point of a structure. Television antennas, chimneys and similar appurtenances shall only be included in height calculations where they obstruct the view of a substantial number of adjoining shoreline uses. Temporary construction or equipment shall be excluded from any height calculation.

Hydraulic Project Approval (HPA) - The permit issued by the Washington State Department of Fish and Wildlife pursuant to the State Hydraulic Code Chapter 77.55 RCW.

Hydric soils - Generally, soils which are, or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants (WAC 173-22-030(5)).

Hydrophytes - Those plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (WAC 173-22- 030(5)).

Impervious surface – Any hard surface area that: a) impedes the infiltration of stormwater into the soil mantle relative to pre-project or natural conditions; b) increases the quantity of stormwater that runs off a project site; and/or c) increases the rate at which stormwater runs off a project site. Impervious surfaces include, but are not limited to, areas paved with concrete or asphalt; covered buildings; mechanically compacted soils and compacted gravel surfaces with material sizes of 5/6-inch or less. Open and uncovered stormwater retention facilities shall not be considered impervious surfaces.

In-kind replacement - To replace wetlands, habitat, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced or degraded by an activity.

Interested party or interested person - Synonymous with "party of record", and means all persons who have notified local government of their desire to receive a copy of the final order on a permit under WAC 173-14-070 (WAC 173-27-030(12)).

Lacustrine (also lacustrian) - Of, on, or pertaining to lakes.

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Lake, shoreline - A body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream (RCW 90.58.030(1d); WAC 173-20-030; WAC 173-22-030(4)).

Landmark Tree - Any living coniferous tree, evergreen tree, madrone tree, oak tree, or big-leaf maple having a minimum diameter of three (3) feet, measured at a height of four and one-half (4-1/2) feet above the surrounding ground surface.

Landscaping - Vegetation ground cover including shrubs, trees, flower beds, grass, ivy and other similar plants and including tree bark and other materials which aid vegetative growth and maintenance.

Launching ramp - See *Boat launch or ramp.*

Littoral - Living on, or occurring on, the shore.

Littoral drift - The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

Low impact development (LID) – stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns.

Marina - A public or private water-dependent wet moorage facility for pleasure craft and/or commercial craft where goods, moorage or services related to boating may be sold commercially or provided for a fee, e.g. yacht club, etc. Community docks that do not provide nonwater-oriented uses or water-oriented commercial services, other than to the specific residential community served by the community dock, are not considered marinas.

May - "May" means the action is acceptable, provided it conforms to the provisions of this chapter.

Mitigation or Mitigation Sequencing - The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768 and WAC 173-26-201(2)(e). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority: (a) Avoiding the impact all together by not taking a certain action or parts of an action; (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts; (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (d) Reducing or eliminating the impact over time by preservation and maintenance operations; (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and (f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

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Moorage - Any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessel (such as a pier or buoy).

Moorage Piles - Structural members that are driven into the lake bed to serve as a stationary moorage point. Moorage piles are accessory to a dock or pier.

Must - "Must" means a mandate; the action is required.

Native plants - These are plants that are historically indigenous to the Lake Washington watershed, and that distribute and reproduce without aid. Native plants in western Washington are those that existed prior to intensive settlement that began in the 1850s.

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. (WAC 173-27-030(11))

No Net Loss of Ecological Function - means a public policy goal and requirement to maintain the aggregate total of the Town's shoreline ecological functions at its current level. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Analysis Report (August 2011). As a development standard, <u>it means the result of the application of Mitigation Sequencing,</u> in which impacts of a particular shoreline development and/or use, whether permitted or exempt, are identified and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

Nonconforming use or development - A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080(1)).

Normal maintenance - Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2b)). See also *Normal repair*.

Normal protective bulkhead - Structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion (WAC 173-27-040(2c)).

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

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adverse effects to shoreline resources or environment (WAC 173-27-040(2b)). See also *Normal maintenance*.

OHWM, Ordinary High Water Mark - That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: *provided*, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(c) and WAC 173-22-030(5).

Off-site replacement - To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

Oil separator - Specialized catch basins that are designed to trap oil and other materials lighter than water in the basin while allowing the water to escape through the drainage system.

On-site replacement - To replace wetlands or other shoreline environmental resources at or adjacent to the site on which a resource has been impacted by a regulated activity.

Overwater moorage cover – A permanent cover over a vessel composed of hard materials and either attached to a pier or freestanding.

Overwater structure - Any device or structure projecting over the ordinary high water mark, including, but not limited to piers, docks, floats, and moorage.

Parking - Parking is the temporary storage of automobiles or other motorized vehicles.

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. (WAC 173-27-030(12))

Permit (or Shoreline Permit) - Any substantial development, variance or conditional use permit, or revision, or any combination thereof, authorized by the Act. Refer to Chapter 173-27 WAC.

Pier - a fixed, pile-supported structure.

Practicable alternative - An alternative that is available and capable of being carried out after taking into consideration short-term and long-term cost, options of project scale and phasing, existing technology and logistics in light of overall project purposes.

Priority Habitat - A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

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- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important wildlife habitat;
- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

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

Priority Species - Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.
(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
(d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Professional biologist - A specialist with education and training in the area of natural sciences concerned with the plants and animal life of a region.

Professional engineer - A person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and

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design, acquired by professional education and practical experience, is qualified to practice engineering and is licensed by the state of Washington.

Protected Tree - Any Landmark or Significant Tree on private property, with the exception of holly and laurel; and any tree planted as mitigation.

Protected Tree Species - Any coniferous tree, evergreen tree, madrone tree, oak tree, or big-leaf maple. Holly and laurel are not protected tree species.

Public access - Public access is the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Refer to WAC 173-26-221(4).

Public interest - The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

Public use - Public use means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. Refer to WAC 332-30-106.

RCW - Revised Code of Washington.

RCW 90.58 - The Shoreline Management Act of 1971.

Qualified professional (as required by Section 5.6 of this SMP) - An individual with relevant education and training in arboriculture or urban forestry. The individual must be an arborist certified by the International Society of Arboriculture (ISA) or a registered consulting arborist from the American Society of Consulting Arborists (ASCA). A qualified professional must possess the ability to perform tree risk assessments and prescribe appropriate measures necessary for the preservation of the tree during development.

Recreational facilities - Facilities such as parks, trails, and pathways that provide a means for relaxation, play, or amusement.

Recreational uses – include both passive and active activities, such as, but not limited to, walking, viewing, sunbathing, picnicking, boating, and swimming.

Recreational float - A floating structure that is moored, anchored, or otherwise secured in the water off-shore and that is generally used for recreational purposes other than boating, such as swimming and diving.

Residential development – Development of one or more buildings, structures, lots, parcels, or portions thereof which are designed for and used or intended to be used to provide a place of abode for human beings, limited to single family residences, together with accessory uses and structures normally applicable to residential uses located landward of the OHWM, including, but

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not limited to, swimming pools, accessory dwelling units, garages, sheds, sports courts, and fences.

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 re-vegetation, 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. (WAC 173-26-020(27))

Retrieval Lines - A system by which a float or other floating object is retrieved to a pier, dock, or shoreland.

Riparian - Of, on, or pertaining to the banks of a river, stream or lake.

Riprap - A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

Rotovating - An aquatic vegetation harvesting technique that uses rototilling technology to uproot and remove plants.

Runoff - Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

SEPA - see *State Environmental Policy Act*

SEPA Checklist - A checklist required of some projects under SEPA to identify the probable significant adverse impacts on the quality of the environment. (WAC 197-11-960).

Sign - A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes.

SMA - see *Shoreline Management Act*

SMP - see *Shoreline Master Program*

Salmon and Steelhead Habitats - Gravel bottomed streams, creeks, and rivers used for spawning; streams, creeks, rivers, side channels, ponds, lakes, and wetlands used for rearing, feeding, and cover and refuge from predators and high water; streams, creeks, rivers, used as migration corridors.

Sediment - The fine grained material deposited by water or wind.

Setback - A required open space, specified in shoreline master programs, measured horizontally upland from and perpendicular to the ordinary high water mark.

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Shall - "Shall" means a mandate; the action must be done.

Shoreline Administrator - The Town Clerk or his/her designee, charged with the responsibility of administering the shoreline master program.

Shoreline environment designations - The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. See WAC 173-16-040(4).

Shoreline jurisdiction - The term describing all of the geographic areas covered by the SMA, related rules and this master program. Also, such areas within a specified local government's authority under the SMA. See definitions of *Shorelines*, *Shorelines of the state*, *Shorelines of statewide significance*, and *Wetlands, jurisdictional*.

Shoreline Management Act of 1971 - Chapter 90.58 RCW, as amended.

Shoreline Master Program (SMP) - The comprehensive use plan and related use regulations which are used by local governments to administer and enforce the permit system for shoreline management. Master programs are developed in accordance with the policies of the SMA, approved and adopted by the state, and are consistent with the rules (WACs) adopted by Ecology.

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.

Shoreline permit - A substantial development, exemption, conditional use, revision, or variance permit or any combination thereof (WAC 173-27-030(13)).

Shoreline stabilization - Means for protecting shoreline upland areas and shoreline uses from the effects of shoreline wave action, flooding or erosion. Shoreline stabilization includes structural methods such as, riprap, bulkheads, gabions, jetties, dikes and levees, flood control weirs, bioengineered walls, or embankments, and and non-structural methods such as building setbacks, structure relocation or ground water management.

Shorelines - All of the water areas of the state, including reservoirs and their associated uplands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d). See RCW 90.58.030 (2)(d) and WAC 173-18, 173-19 and 173-22.

Shorelines Hearings Board – The Shorelines Hearings Board, under the State of Washington Environmental and Land Use Hearings Office, hears appeals from shoreline substantial development, conditional use, and variance permits, and from those shoreline penalties jointly issued by local government and Ecology, or issued by Ecology alone. The Board is not affiliated with any other unit of government.

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Shorelines of statewide significance - A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist policies apply and where greater planning authority is granted by the SMA. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020.

Shorelines of the state - Shorelines and shorelines of statewide significance.

Should - "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Master Program, against taking the action.

Sign - A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

Significant Ecological Impact - An adverse effect or consequence of an action if any of the following apply:

A. The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.
B. Scientific evidence or objective analysis indicates the action could cause measurable or noticeable reduction or harm to those ecological functions or ecosystem-wide processes under foreseeable conditions.
C. Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

Any project may have one or more significant ecological impacts, which can be either short-term or long-term. Projects with short-term significant ecological impacts may still be considered beneficial if the project improved ecological function over the long term, either due to mitigation or because of short-term impacts may be construction-related only.

Single-family residence - A detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2g)).

Soft Structural Shoreline Stabilization **-** Shore erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, sloping arrangement.

Soil bioengineering - The practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material; fabric or other soil stabilization techniques; and limited rock toe protection, where appropriate. Soil bioengineering projects often include fisheries habitat enhancement measures such as anchored logs or root wads, in project design

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Solid waste - Solid waste means all garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including any and all source-separated recyclable materials and yard waste.

State Environmental Policy Act - SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

Stream, Shoreline - A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel (WAC 173-22-030(8)).

Structural Shoreline Stabilization **-** Means for protecting shoreline upland areas and shoreline uses from the effects of shoreline wave action, flooding or erosion that incorporate structural methods, including both hard structural shoreline stabilization methods and soft structural shoreline stabilization measures.

Structure - A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels (WAC 173-14- 03015)).

Substantial Development - Any development of which the total cost or fair market value, whichever is higher, exceeds the amount determined in accordance with WAC 173-27-040(2)(a), or any development which materially interferes with the normal public use of the water or shorelines of the state. A list of activities and developments that shall not be considered substantial development is provided in Section 2.5.3 of this SMP.

Substantially degrade - means to cause significant ecological impact.

Terrestrial - Of or relating to land as distinct from air or water.

Town – The Town of Beaux Arts.

Transportation facilities **-** structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges, bikeways, trails, floatplane moorage, and other related facilities.

Upland – The land area above and landward of the ordinary high water mark.

Utilities - Services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities."

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Variance - A means to grant relief from the specific bulk, dimensional or performance standards specified in this master program and not a means to vary a use of a shoreline. Shoreline Variances must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-030(17)).

WAC - Washington Administrative Code.

Water-dependent use - A use or a 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.

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.

Water-oriented use - A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Water-related use - A use or a portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location 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.

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 chapter, 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through RCW 90.03.340.

Watershed restoration plan - A plan developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, and/or the Department of Transportation acting within or pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation , restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to 43.21C RCW, the State Environmental Policy Act.

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

Zoning - To designate by ordinance, including maps, areas of land reserved and regulated for specific land uses.

draft

APPENDIX C: Shoreline Restoration Plan

draft

APPENDIX D: Shoreline Environment Designations Map

draft

APPENDIX E: Critical Areas Regulations for Shoreline Jurisdiction

draft

APPENDIX F: Native Plant List

draft

Native Plant List

(not an all-inclusive list)

TREES
Bigleaf maple (*Acer macrophyllum*)
Black cottonwood (*Populus balsamifera*)
Douglas-fir (*Pseudotsuga menziesii*)
Grand fir (*Abies grandis*)
Pacific willow (*Salix lucida*)
Paper birch (*Betula papyrifera*)
Red alder (*Alnus rubra*)
Scouler's willow *(Salix scouleriana*)
Shore pine *(Pinus contorta*)
Sitka spruce (*Picea sitchensisl*)
Sitka willow (*Salix sitchensis*)
Western hemlock (*Tsuga heterophylla*)
Western red cedar (*Thuja plicata*)

SHRUBS
Beaked hazelnut (*Corylus cornuta*)
Bitter cherry (*Prunus emarginata*)
Evergreen huckleberry (*Vaccinium ovatum*)
Hardhack (spiraea) (*Spiraea douglasii*)
Mock orange *(Philadelphus lewisii*)
Mountain ash (*Sorbus sitchensis*)
Nootka rose (*Rosa nutkana*)
Oregon grape (*Berberis nervosa or aquifolium*)
Red elderberry (*Sambucus racemosa*)
Red-flowering currant (*Ribes sanguineum*)
Red-osier dogwood (*Cornus sericea)*
Salal *(Gaultheria shallon)*
Serviceberry *(Amelanchier alnifolia)*
Snowberry (*Symphoricarpos albus*
Twinberry *(Lonicera involucrata)*
Vine maple *(Acer circinatum)*
Western crabapple *(Pyrus fusca)*

GROUNDCOVERS
Bracken fern (*Pteridium aquilinum*)
Canada goldenrod (*Solidago canadensis*)
Deer fern (*Blechnum spicant*)
Goatsbeard (*Aruncus dioicus*)
Kinnikinnick *(Arctostaphylos uva-ursi)*
Lady fern (*Athyrium filix-femina*)
Lowbush penstemon (*Penstemon fruticosus*)
Pacific bleeding heart (*Dicentra formosa*)
Potentilla (*Potentilla fruticosa)*
Solomon's star (*Smilacina stellata*)
Sword fern (*Polystichum munitum)*
Western blue flax (*Linum perenne*)
Western columbine (*Aquilegia formosa*)
Wild ginger (*Asarum caudatum)*
Wild lily-of-the-valley (*Maianthemum dilatatum*)
Wild strawberry (*Fragaria chiloensis*)
Various sedges and rushes (wet soils) (*Carex, Scirpus, Juncus*)

EMERGENTS
Hardstem bulrush (*Scirpus acutus)*
Small-fruited bulrush (*Scirpus microcarpus*)

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ENVIRONMENT DESIGNATIONS

BEAUX ARTS VILLAGE SHORELINE MASTER PROGRAM

MAP LEGEND

- Town Boundary

Environment Designation

- Shoreline Residential
- Urban Conservancy

*All areas waterward of the ordinary high water mark are designated Aquatic.

0 100 200
Feet

THE WATERSHED COMPANY

Data: King County, Town of Beaux Arts, TWC. March 22, 2012.

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

Appendix E - Critical Areas Regulations in Shoreline Jurisdiction

The Shoreline Master Program, and not this appendix to the Shoreline Master Program, exclusively governs uses and modifications in Lake Washington and establishes a Lake Washington setback with corresponding regulations. These Appendix E regulations apply to all other critical areas within shoreline jurisdiction, including those that may be found within a Lake Washington setback.

Note that the Town of Beaux Arts Village does not contain any streams or critical aquifer recharge areas within its shoreline jurisdiction. All requirements traditionally found in critical areas regulations pertaining to streams or critical aquifer recharge areas will not be found in this appendix.

1. General Regulations

A. Purpose

1. The purpose of these critical areas regulations is to designate and classify ecologically sensitive and hazardous areas within shoreline jurisdiction and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

2. The Town finds that critical areas provide a variety of valuable and beneficial biological and physical functions that include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, protection from hazards, historical and archaeological and aesthetic value protection, and recreation.

3. Goals. By limiting development and alteration of critical areas, these regulations seek to:

   a. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;

   b. Protect unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats.

   c. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands and habitat conservation areas.

4. These regulations are to be administered with flexibility and attention to site-specific characteristics. It is not the intent of these regulations to make a parcel of property unusable by denying its owner reasonable economic use of the property.

B. Relationship to other regulations

1. These critical area regulations shall apply as an overlay and in addition to this Shoreline Master Program, zoning and other regulations adopted by the Town.

2. These critical area regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as adopted by the Town. When any provision of this Title or any existing regulation, easement, covenant, or deed restriction, conflicts with this Title, that which provides more protection to the critical areas shall apply.

3. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved.

C. Administrative procedures. The administrative procedures followed during the critical area review process shall conform to the standards and requirements of this Shoreline Master Program and Beaux Arts Village Municipal Code. This shall include, but not be limited to, timing, appeals, and fees associated with applications covered by these regulations.

D. Fees.

1. The Town by resolution may establish fees for critical area review processing, and other services provided by the Town as required by these regulations.

2. Unless otherwise indicated in these regulations, the applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the application.

E. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of these regulations may be appealed according to, and as part of, the appeal procedure for the shoreline permit or approval.

F. Applicability. The provisions of these regulations shall apply to all lands, all land uses and development activity, and all structures and facilities in the Town's shoreline jurisdiction, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the shoreline jurisdiction of the Town. No person, company, agency, or applicant shall alter a critical area or buffer within shoreline jurisdiction except as consistent with the purposes and requirements of this SMP.

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G. Critical area reports – Requirements

1. Prepared by qualified professional. If required by any part of these critical areas regulations, the applicant shall submit a critical area report prepared by a qualified professional as defined herein. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

2. Incorporating science. The critical area report shall use the most current, accurate, and complete scientific and technical information available in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Title.

3. Minimum report contents. At a minimum, the report shall contain the following:

   a. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested.

   b. A written assessment and accompanying maps of the critical areas and buffers of the project area, including the following information at a minimum:

      i. Identification and characterization of existing critical areas and required buffers

      ii. Description of the development proposal with dimensions, including limits of areas to be cleared;

      iii. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations.

      iv. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development.

      v. An analysis of site development alternatives.

      vi. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas.

      vii. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Mitigation Plan Requirements, including, but not limited to:

      viii. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

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ix. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.

x. A discussion of the performance standards applicable to the critical area and proposed activity.

c. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site.

d. A statement specifying the accuracy of the report, and all assumptions made and relied upon.

e. Financial guarantees to ensure compliance.

f. Any additional information required for the critical area as specified in the corresponding chapter.

g. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, 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 Shoreline Administrator.

H. Critical area report – modifications to requirements

1. Limitations to study area. The Shoreline Administrator may limit the required geographic area of the critical area report as appropriate if:

a. The applicant, with assistance from the Town, 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. Modifications to required contents. The applicant may consult with the Shoreline Administrator prior to or during preparation of the critical area report to obtain Town approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

3. Additional information may be required. The Shoreline Administrator may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity. Additional information that may be required, includes, but is not limited to:

a. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site.

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b. Grading and drainage plans.

c. Information specific to the type, location, and nature of the critical area.

I. Mitigation requirements

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved critical area report and SEPA documents.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. Off-site mitigation shall be allowed in an agency-approved wetland bank within the same watershed or agency-approved in-lieu fee sites within the same watershed.

3. Mitigation shall not be implemented until after Town and agency, if applicable, approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

J. Mitigation sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following 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,;

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

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

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

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

Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable. Mitigation for individual actions may include a combination of the above measures.

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K. Mitigation plan requirements. When mitigation is required, the applicant shall submit for approval by the Town a mitigation plan as part of the critical area report. The mitigation plan shall include the following:

1. Environmental goals and objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed, including:

2. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area.

3. A review of the most current, accurate, and complete scientific and technical information available 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. An analysis of the likelihood of success of the compensation project.

5. Performance standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of these critical areas regulations have been met.

6. Mitigation shall achieve equivalent or greater biological functions. Mitigation of alterations to critical areas shall achieve equivalent or greater biological functions. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

7. Detailed construction plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

8. The proposed construction sequence, timing, and duration.

9. Grading and excavation details.

10. Erosion and sediment control features.

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

12. Measures to protect and maintain plants until established.

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13. Detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

14. Monitoring program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed, but not necessarily annually, to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. The monitoring of mitigation that includes planting of shrubs and trees shall be for a period of not less than ten (10) years.

15. Contingency plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

L. Unauthorized critical area alterations and enforcement

1. When a critical area or its buffer has been altered in violation of the provisions of this SMP, all ongoing development work shall stop and the critical area shall be restored. The Town shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Title. If the violator fails to perform or pay as required in this Section, and the violator is not the owner or responsible party, the Shoreline Administrator may seek compliance or payment from the owner or responsible party.

2. Restoration plan required. All development work shall remain stopped until a restoration plan is prepared by the applicant and approved by the Town. Such a plan shall be prepared by a qualified professional and shall describe how the actions proposed meet the minimum requirements described in Subsection 3 below. The Shoreline Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

3. Minimum performance standards for restoration.

   a. For alterations to wetlands and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

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i. The pre-disturbance structural and functional values shall be restored, including water quality and habitat functions;

ii. The historic soil types and configuration shall be replicated;

iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities; and

iv. The historic functions and values should be replicated at the location of the alteration.

b. For alterations to geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

iii. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

4. Site investigations. The Shoreline Administrator is authorized to make site inspections and take such actions as are necessary to enforce these critical areas regulations. The Shoreline Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

5. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of these critical areas regulations shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of these critical areas regulations is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of these critical areas regulations shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The Town may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of these critical areas regulations.

M. Subdivisions. The subdivision and short subdivision of land in a critical area and associated buffers is subject to the following:

1. Land that is located wholly within a critical area or its buffer may not be subdivided.

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2. Land that is located partially within a critical area or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:

   a. Located outside of the critical area and its buffer; and

   b. Meets the minimum lot size requirements of the Town's zoning regulations.

   c. Access roads and utilities serving the proposed subdivision may be permitted within the critical area and associated buffers only if the Town determines that no other feasible alternative exists consistent with these critical areas regulations.

N. Critical area markers and signs. The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration.

O. Notice on title

1. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the county records and elections division according to the direction of the Town. The notice shall state the presence of the critical area or buffer on the property, of the application of these critical areas regulations to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall run with the land.

2. This notice on title shall not be required for a development proposal by a public agency or public or private utility:

3. Within a recorded easement or right-of-way;

4. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or

5. On the site of a permanent public facility.

6. The applicant shall submit proof that the notice has been filed for public record before the Town approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

P. Building setbacks. Unless otherwise provided, buildings and other structures shall be set back a distance of fifteen (15) feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

1. Landscaping;

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2. Uncovered decks;

3. Building overhangs if such overhangs do not extend more than twenty four (24) inches into the setback area; and

4. Impervious ground surfaces, such as driveways and patios, provided that such improvements may be subject to water quality regulations as adopted in the most current version of the Department of Ecology Stormwater Management Manual for Western Washington.

Q. Performance Bond. Prior to issuance of any permit or approval that authorizes site disturbance within critical areas or their buffers, the Shoreline Administrator or his/her designee shall require performance security in a form and amount deemed acceptable by the Town to cover long-term monitoring, maintenance, and replacement costs for mitigation projects to ensure mitigation is fully functional for the duration of the monitoring period. Bonds or other security for required mitigation projects shall be held by the Town for a minimum of five years or until all performance standards have been achieved to ensure that the mitigation project has been fully implemented and demonstrated to function. The bond may be held for longer periods upon written finding by the Town that it is still necessary to hold the bond to ensure the mitigation project has meet all elements of the approved mitigation plan.

R. Critical area inspections. Reasonable access to the site shall be provided to the Town, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

2. Wetlands

A. Designating wetlands. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. Any areas within the Town meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter.

B. Wetland ratings. Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents (Western Washington, Ecology Publication #93-74) or as revised by Ecology. These documents contain the definitions and methods for determining if the criteria below are met.

1. Wetland rating categories

a. Category I. Category I wetlands are:

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

ii. Bogs.

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iii. Mature and old-growth forested wetlands larger than 1 acre.

iv. Wetlands that perform many functions well (scoring 70 points or more).

These wetlands: (1) represent unique or rare wetlands; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; (4) provide a high level of functions.

b. Category II. Category II wetlands are Wetlands with a moderately high level of functions (scoring between 51 and 69 points).

c. Category III. Category III wetlands are wetlands with a moderate level of functions (scoring between 30 and 50 points). Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape that Category II wetlands.

d. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 30 points) and are often heavily disturbed. These are wetlands that are capable of being replaced, or in some cases improved. These wetlands may provide some important functions, and should be protected to some degree.

C. Activities allowed in wetlands. The activities listed below are allowed in wetlands and do not require submission of a critical area report, except where such activities result in a loss to the functions and values of a wetland or wetland buffer. These activities include:

1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland.

2. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources.

3. Educational and scientific research activities.

D. Critical area report – Additional requirements for wetlands. In addition to the general critical area report requirements of Section 1.G and 1.H, critical area reports for wetlands must include the following at a minimum:

1. Wetland delineation and required buffers;

2. Existing wetland acreage;

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3. Wetland category;

4. Vegetative, faunal, and hydrologic characteristics;

5. Soil and substrate conditions;

6. Topographic elevations, at two-foot contours;

7. Existing and proposed adjacent site conditions; and

8. Property ownership.

E. Performance standards – General requirements

1. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not result in net loss of critical areas or shoreline ecological functions and is necessary to accommodate preferred uses when consistent with the Shoreline Management Act and this Shoreline Master Program.

2. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in these critical areas regulations.

3. Category I wetlands. Activities and uses shall be prohibited from Category I wetlands, except for low-impact public access and recreation facilities, such as raised boardwalks or platforms for hiking or bird/wildlife watching, that provide opportunities for significant numbers of people to enjoy the natural environment. Such facilities shall be designed to avoid or minimize significant vegetation removal. Projects shall be designed to result in no net loss of ecological functions, and all adverse impacts shall be mitigated.

4. Category II and III wetlands. The following activities are allowed in Category II and III wetlands and their associated buffers:

   a. Water-dependent activities as provided for under the Town's Shoreline Master Program may be allowed where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffer and other critical areas.

   b. Low-impact public access and recreation facilities, such as raised boardwalks, may be allowed if they provide opportunities for substantial numbers of the general public to enjoy the natural environment. Such facilities shall be designed to avoid or minimize significant vegetation removal. Projects shall be designed to result in no net loss of ecological functions, and all adverse impacts shall be mitigated. Public access and recreational facilities shall incorporate interpretive signs or other mechanism to educate the public about wetland functions.

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c. Where activities are proposed that are neither water-dependent nor related to public access and recreation, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:

i. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and

ii. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

5. Category IV wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives.

F. Wetland buffers

1. Buffer Requirements. The standard buffer widths have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington. Additional buffer widths are added to the standard buffer widths. The buffers widths shall be as follows:

Wetland Category	**Standard Buffer Width**	**Additional buffer width if wetland scores**		
		21-25 habitat points	**26-29 habitat points**	**30-36 habitat points**
Category I - based on total score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Category I - Bogs	190 feet	NA	NA	Add 35 feet
Category I - Natural Heritage Wetlands	190 feet	NA	NA	Add 35 feet
Category I - Forested	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Category II - based on score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Category III (all)	60 feet	Add 45 feet	Add 105 feet	NA
Category IV (all)	40 feet	NA	NA	NA

2. The use of the standard buffer widths requires the implementation of the following measures, where applicable, to minimize the impacts of the adjacent land uses:

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Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish and additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (per PSAT publication on LID techniques)
Change in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	Use best management practices to control dust
Disruption of corridors or connections	• Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

3. If an applicant chooses not to apply the mitigation measures listed in F.2, above, then a 33% increase in the width of all buffers is required.

4. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided. Where a buffer planting plan is proposed, it shall include provisions for monitoring and maintenance to ensure success.

5. Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

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6. Increased wetland buffer widths. The Shoreline Administrator shall require increased buffer widths in accordance with the recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

    a. A larger buffer is needed to protect other critical areas; or

    b. The buffer or adjacent uplands has a slope greater than thirty percent (30%) or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland.

7. Reduction of wetland buffer widths

    a. The Shoreline Administrator may allow the standard wetland buffer width to be reduced in accordance with an approved critical area report and the most current, accurate, and complete scientific and technical information available on a case-by-case basis when it is determined that a smaller area is adequate to protect the wetland functions and values based on site-specific characteristics, that there is no feasible alternative, and that buffers will not be reduced more than twenty five percent (25%).

    b. This determination shall be supported by documentation showing that a reduced buffer is adequate based on all of the following criteria:

        i. The critical area report provides a sound rationale for a reduced buffer based on the most current, accurate, and complete scientific and technical information available.

        ii. The existing buffer area is well-vegetated with native species and has less than ten percent (10%) slopes.

        iii. No direct or indirect, short-term or long-term, adverse impacts to wetlands will result from the proposed activity.

    c. The Shoreline Administrator may require long-term monitoring of the buffer and wetland. Subsequent corrective actions may be required if adverse impacts to wetlands are discovered during the monitoring period.

    d. In no case shall the standard buffer width be reduced by more than twenty-five percent (25%), or the buffer width be less than fifty (50) feet except for buffers between Category IV wetlands and low or moderate intensity land uses.

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8. Wetland buffer width averaging. The Shoreline Administrator may allow averaging of buffer widths where a qualified wetlands professional demonstrates that:

   a. It will not reduce wetland functions or values;

   b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

   c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

   d. The buffer width is not reduced to less than twenty five percent (25%) of the standard width or fifty (50) feet, whichever is greater, except for buffers between Category IV wetlands and low or moderate intensity land uses, in which standard buffers of 40 feet apply.

9. Fencing of wetlands

   a. The Shoreline Administrator may condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence as determined by the Shoreline Administrator at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.

   b. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

   c. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

G. Performance standards – Mitigation requirements

1. Mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Mitigation plans shall be consistent with "Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans" (Version 1, Publication #06-06-011b, March 2006 or as revised).

2. Wetland mitigation actions shall not result in a net loss of wetland area except when the lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determined by a site-specific function assessment.

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3. Mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland functions as those lost except when the lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment plan or protocol.

4. Mitigation actions that require compensation by replacing, enhancing, or substitution, shall occur in the following order of preference:

    a. Restoring wetlands on upland sites that were formerly wetlands.

    b. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species.

    c. Enhancing significantly degraded wetlands.

    d. Preserving high-quality wetlands that are under imminent threat.

5. Mitigation sites shall be selected using "Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)" (Publication #09-06-032, December 2009).

6. Except where determined by the Shoreline Administrator due to weather or project conditions, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

7. The Shoreline Administrator may authorize a one-time temporary delay, up to one-hundred-twenty (120) days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the Town, and include a financial guarantee.

8. Mitigation ratios

    a. Acreage replacement ratios. Wetland buffers for all categories shall be replaced on a 1-to-1 ratio. The following ratios shall apply to creation, rehabilitation, enhancement, or preservation of wetlands that is in-kind, on-site, the same category, timed prior to or concurrent with alteration,

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and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases.

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement	Preservation
Category I: Bog, Natural Heritage Site	Not considered possible	6:1	Case by case	10:1
Category I: Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on functions	4:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

b. Increased replacement ratio. The Shoreline Administrator may increase the ratios under the following circumstances:

i. Uncertainty exists as to the probable success of the proposed restoration or creation;

ii. A significant period of time will elapse between impact and replication of wetland functions;

iii. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

iv. The impact was an unauthorized impact.

c. Decreased replacement ratio. The Shoreline Administrator may decrease these ratios under the following circumstances:

i. Documentation by a qualified wetlands professional demonstrates that the proposed mitigation actions have a very high likelihood of success;

ii. Documentation by a qualified wetlands professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or

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iii. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.

9. Wetlands enhancement as mitigation

a. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

b. At a minimum, enhancement acreage shall be as listed in Subsection 8.a. The enhancement proposal shall not result in the reduction of other wetland functions currently being provided in the wetland.

3. Geologically Hazardous Areas

A. Designation of geologically hazardous areas. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

1. Erosion hazard;

2. Landslide hazard; and

3. Seismic hazard.

B. Designation of specific hazard areas

1. Erosion hazard areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard.

2. 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 any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these include, but are not limited to, the following:

3. Areas of historic failures, such as:

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a. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;

b. Those areas mapped by the Department of Ecology (Coastal Zone Atlas) or the Department of Natural Resources (slope stability mapping) as unstable ("U" or class 3), unstable old slides ("UOS" or class 4), or unstable recent slides ("URS" or class 5); or

c. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources.

4. Areas with all three of the following characteristics:

a. Slopes steeper than fifteen percent (15%); and

b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

c. Springs or ground water seepage.

5. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch.

6. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

7. Slopes having gradients steeper than eighty percent (80%) subject to rock fall during seismic shaking.

8. Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.

9. 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:

a. The magnitude of an earthquake;

b. The distance from the source of an earthquake;

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c. The type of thickness of geologic materials at the surface; and

d. The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.

C. Mapping of geologically hazardous areas.

1. The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps. The adopted critical area maps include:

a. U.S. Geological Survey landslide hazard maps.

b. Department of Natural Resources seismic hazard maps for Western Washington.

c. Department of Natural Resources slope stability maps.

d. Liquefaction Susceptibility Map of Snohomish County, Washington

e. Town adopted maps.

2. These maps are to be used as a guide for the Town, project applicants and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

D. Activities allowed in geologically hazardous areas. The following activities are allowed in geologically hazardous areas and do not require submission of a critical area report:

1. Erosion and landslide hazard areas. Except as otherwise provided for in these critical areas regulations, only those activities approved and permitted consistent with an approved critical area report in accordance with these critical areas regulations shall be allowed in erosion or landslide hazard areas.

2. Seismic hazard areas. The following activities are allowed within seismic hazard areas:

a. Additions to existing single-story residences that are 250 square feet or less over the lifespan of the structure; and

b. Installation of fences.

E. Critical area report – Additional requirements for geologically hazardous areas.

1. Geotechnical assessment. In addition to critical area report requirements in Section 1.G and 1.H, a critical area report for a geologically hazardous area shall

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contain an assessment of geological hazards including the following site- and proposal-related information at a minimum:

a. Site and construction plans. The report shall include a copy of the site plans for the proposal showing:

   i. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities;

   ii. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report;

   iii. The height of slope, slope gradient, and cross section of the project area;

   iv. The location of springs, seeps, or other surface expressions of ground water on or within two hundred (200) feet of the project area or that have potential to be affected by the proposal; and

   v. The location and description of surface water runoff.

b. Assessment of geological characteristics. The report shall include an assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted taxonomic classification systems in use in the region. The assessment shall include, but not be limited to:

   i. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;

   ii. A detailed overview of the field investigations, published data and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and

   iii. A description of the vulnerability of the site to seismic and other geologic events.

c. An estimate of load capacity including surface and ground water conditions, public and private sewage disposal systems, fills and excavations and all structural development;

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d. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

e. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred year storm event;

f. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;

g. A study of slope stability including an analysis of proposed angles of cut and fill and site grading;

h. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement; and

i. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

j. An analysis of potential impacts of seismic activity if seismic hazard is found to be present.

2. Minimum buffer and building setback. The report shall make a recommendation for the minimum no-disturbance buffer and/or minimum building setback from any geologic hazard based upon the geotechnical analysis. In no case shall the minimum be less than twenty five (25) feet from the top and bottom of the slope.

3. Erosion and sediment control plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the latest version of the Department of Ecology Stormwater Management Manual for Western Washington.

4. Drainage plan. The report shall include a drainage plan for the collection, transport, treatment, discharge and/or recycle of water prepared in accordance with the latest version of the Department of Ecology Stormwater Management Manual for Western Washington. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area.

5. Mitigation plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan and/or other means for maintaining long term soil stability.

6. Monitoring surface waters. If the Shoreline Administrator determines that there is a significant risk of damage to receiving waters due to potential erosion from the

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site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the critical area report shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the Town.

7. Incorporation of previous study. Where a valid geotechnical report has been prepared within the last five (5) years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a geotechnical assessment detailing any changed environmental conditions associated with the site.

8. Mitigation of long-term impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

F. Performance standards – General requirements

1. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

   a. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions.

   b. Will not adversely impact other critical areas.

   c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions.

   d. Are certified as safe as designed and under anticipated conditions by a qualified professional.

   e. Will not require structural shoreline stabilization over the life of the development except when the applicant can demonstrate that stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.

2. Critical facilities prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.

G. Performance standards – Specific hazards

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1. Erosion and landslide hazard areas. Activities on sites containing erosion or landslide hazards shall meet the following requirements:

   a. Buffer required. A buffer shall be established from all edges of erosion or landslide hazard areas. The size of the buffer shall be determined by the Shoreline Administrator to eliminate or minimize the risk of property damage, death or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

      i. Minimum buffer. The minimum buffer shall be equal to the height of the slope or twenty five (25) feet from the top and bottom of the slope, whichever is greater.

      ii. Buffer reduction. The buffer may be reduced to a minimum of ten (10) feet when a qualified professional demonstrates to the Shoreline Administrator's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses and the subject critical area.

      iii. Increased buffer. The buffer may be increased where the Shoreline Administrator determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

   b. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geotechnical analysis is submitted and certifies that:

      i. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

      ii. The development will not decrease slope stability on adjacent properties; and

      iii. Such alterations will not adversely impact other critical areas.

   c. Design standards. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of these critical areas regulations. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

      i. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static

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conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the Town building code;

ii. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;

iii. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;

iv. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

v. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

vi. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

vii. Development shall be designed to minimize impervious lot coverage.

d. Vegetation shall be retained. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.

e. Seasonal restriction. Clearing shall be allowed only from May 1st to October 1st of each year provided that the Town may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions.

f. Utility lines and pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

g. Point discharges. Point discharges from surface water facilities and roof drains onto or upslope from an erosion or landslide hazard area shall be prohibited except as follows:

i. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downslope from the discharge;

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ii. Discharged at flow durations matching pre-developed conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the pre-developed state; or

iii. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

h. Prohibited development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.

4. Fish and Wildlife Habitat Conservation Areas

A. Designation of fish and wildlife habitat conservation areas. Fish and wildlife habitat conservation areas in the Town of Beaux Arts Village may include:

1. The documented presence of species proposed or listed by the federal government or state of Washington as endangered, threatened, or sensitive.

2. State priority habitats and areas associated with state priority species.

3. Heron rookeries or raptor nesting trees.

4. Category I and II wetlands as defined in these critical areas regulations.

5. Areas of native vegetation and/or stands of significant trees as designated by a qualified professional that provide a corridor between any of the critical fish and wildlife habitat areas listed in this section.

6. Land essential for preserving connections between habitat blocks and open spaces.

B. Mapping of fish and wildlife habitat conservation areas. The following maps, which may be continuously updated, may be used as a guide for locating habitat conservation areas in the Town of Beaux Arts Village:

1. Washington Department of Fish and Wildlife Priority Habitat and Species maps; and

2. Washington State Department of Natural Resources Natural Heritage Program mapping data.

C. Critical area report – Additional requirements for habitat conservation areas. In addition to the general critical area report requirements of Section 1.G and 1.H, a critical area

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report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:

1. Detailed description of vegetation on and adjacent to the project area.

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

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

4. A detailed discussion of the potential impacts on habitat by the project, including potential impacts to water quality.

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

6. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

D. Buffers.

1. The Shoreline Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife.

2. 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.

E. Performance standards – General requirements

1. All regulations for fish and wildlife habitat conservation areas are in addition to regulations that govern these sensitive areas in other portions of these critical areas regulations. Whenever a conflict occurs between these regulations, the one that provides the most protection for the sensitive area shall govern.

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2. Alterations shall not degrade the functions and values of habitat. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with these critical areas regulations. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. All unavoidable impacts shall be fully mitigated.

3. Non-indigenous species shall not be introduced. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

4. Mitigation shall result in contiguous corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

5. Approvals of activities may be conditioned. The Shoreline Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

    a. Establishment of buffer zones.

    b. Preservation of critically important vegetation.

    c. Limitation of access to the habitat area, including fencing to deter unauthorized access.

    d. Seasonal restriction of construction activities.

    e. Establishment of a duration and timetable for periodic review of mitigation activities.

    f. Requirement of a performance bond or other security, when necessary, to ensure completion and success of proposed mitigation.

6. Fencing

    a. The Shoreline Administrator may condition any permit or authorization issued pursuant to this Title to require the applicant to install a permanent fence, as determined by the Shoreline Administrator, at the edge of the habitat conservation area, when fencing will prevent future impacts to the area.

    b. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration.

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7. Roads, trails, and rights-of-way. Construction of trails and roadways may be permitted in accordance with an approved critical area report subject to the following standards and regulations in Section 6.13, Transportation Facilities of this SMP:

   a. There is no other feasible alternative route with less impact on the environment;

   b. Trails shall be located on the outer edge of a buffer, except for limited viewing platforms and crossings;

   c. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

   d. Trails and associated viewing platforms shall not be made of continuous impervious materials.

8. Utility Facilities. New utility lines and facilities may be permitted to cross habitat conservation areas in accordance with an approved critical area report if they comply with the following standards and regulations in Section 6.14 Utilities (Primary) of this SMP:

   a. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;

   b. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

   c. Mitigation shall be provided for all unavoidable impacts.

9. Stormwater conveyance facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

   a. No other feasible alternatives with less impact exist;

   b. Mitigation for impacts is provided and mitigation sequencing is followed; and

   c. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

F. Performance standards – Endangered, threatened, and sensitive species

1. No development shall be allowed within a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, with the exception of aquatic species.

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2. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species, with the exception of aquatic species, have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the Town. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Department of Fish and Wildlife and the appropriate federal agency.

3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within eight hundred (800) feet, or within a quarter mile (2,640 feet) and in a shoreline foraging area. The Town shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the appropriate state or federal agency.

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Appendix E - Critical Areas Regulations in Shoreline Jurisdiction

The Shoreline Master Program, and not this appendix to the Shoreline Master Program, exclusively governs uses and modifications in Lake Washington and establishes a Lake Washington setback with corresponding regulations. These Appendix E regulations apply to all other critical areas within shoreline jurisdiction, including those that may be found within a Lake Washington setback.

Note that the Town of Beaux Arts Village does not contain any streams or critical aquifer recharge areas within its shoreline jurisdiction. All requirements traditionally found in critical areas regulations pertaining to streams or critical aquifer recharge areas will not be found in this appendix.

1. General Regulations

A. Purpose

1. The purpose of these critical areas regulations is to designate and classify ecologically sensitive and hazardous areas within shoreline jurisdiction and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

2. The Town finds that critical areas provide a variety of valuable and beneficial biological and physical functions that include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, protection from hazards, historical and archaeological and aesthetic value protection, and recreation.

3. Goals. By limiting development and alteration of critical areas, these regulations seek to:

   a. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;

   b. Protect unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats.

   c. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands and habitat conservation areas.

4. These regulations are to be administered with flexibility and attention to site-specific characteristics. It is not the intent of these regulations to make a parcel of property unusable by denying its owner reasonable economic use of the property.

B. Relationship to other regulations

1. These critical area regulations shall apply as an overlay and in addition to this Shoreline Master Program, zoning and other regulations adopted by the Town.

2. These critical area regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as adopted by the Town. When any provision of this Title or any existing regulation, easement, covenant, or deed restriction, conflicts with this Title, that which provides more protection to the critical areas shall apply.

3. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved.

C. Administrative procedures. The administrative procedures followed during the critical area review process shall conform to the standards and requirements of this Shoreline Master Program and Beaux Arts Village Municipal Code. This shall include, but not be limited to, timing, appeals, and fees associated with applications covered by these regulations.

D. Fees.

1. The Town by resolution may establish fees for critical area review processing, and other services provided by the Town as required by these regulations.

2. Unless otherwise indicated in these regulations, the applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the application.

E. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of these regulations may be appealed according to, and as part of, the appeal procedure for the shoreline permit or approval.

F. Applicability. The provisions of these regulations shall apply to all lands, all land uses and development activity, and all structures and facilities in the Town's shoreline jurisdiction, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the shoreline jurisdiction of the Town. No person, company, agency, or applicant shall alter a critical area or buffer within shoreline jurisdiction except as consistent with the purposes and requirements of this SMP.

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G. Critical area reports – Requirements

1. Prepared by qualified professional. If required by any part of these critical areas regulations, the applicant shall submit a critical area report prepared by a qualified professional as defined herein. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

2. Incorporating science. The critical area report shall use the most current, accurate, and complete scientific and technical information available in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Title.

3. Minimum report contents. At a minimum, the report shall contain the following:

   a. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested.

   b. A written assessment and accompanying maps of the critical areas and buffers of the project area, including the following information at a minimum:

      i. Identification and characterization of existing critical areas and required buffers

      ii. Description of the development proposal with dimensions, including limits of areas to be cleared;

      iii. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations.

      iv. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development.

      v. An analysis of site development alternatives.

      vi. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas.

      vii. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Mitigation Plan Requirements, including, but not limited to:

      viii. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

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ix. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.

x. A discussion of the performance standards applicable to the critical area and proposed activity.

c. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site.

d. A statement specifying the accuracy of the report, and all assumptions made and relied upon.

e. Financial guarantees to ensure compliance.

f. Any additional information required for the critical area as specified in the corresponding chapter.

g. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, 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 Shoreline Administrator.

H. Critical area report – modifications to requirements

1. Limitations to study area. The Shoreline Administrator may limit the required geographic area of the critical area report as appropriate if:

a. The applicant, with assistance from the Town, 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. Modifications to required contents. The applicant may consult with the Shoreline Administrator prior to or during preparation of the critical area report to obtain Town approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

3. Additional information may be required. The Shoreline Administrator may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity. Additional information that may be required, includes, but is not limited to:

a. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site.

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b. Grading and drainage plans.

c. Information specific to the type, location, and nature of the critical area.

I. Mitigation requirements

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved critical area report and SEPA documents.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. Off-site mitigation shall be allowed in an agency-approved wetland bank within the same watershed or agency-approved in-lieu fee sites within the same watershed.

3. Mitigation shall not be implemented until after Town and agency, if applicable, approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

J. Mitigation sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following 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,;

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

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

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

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

Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable. Mitigation for individual actions may include a combination of the above measures.

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K. Mitigation plan requirements. When mitigation is required, the applicant shall submit for approval by the Town a mitigation plan as part of the critical area report. The mitigation plan shall include the following:

1. Environmental goals and objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed, including:

2. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area.

3. A review of the most current, accurate, and complete scientific and technical information available 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. An analysis of the likelihood of success of the compensation project.

5. Performance standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of these critical areas regulations have been met.

6. Mitigation shall achieve equivalent or greater biological functions. Mitigation of alterations to critical areas shall achieve equivalent or greater biological functions. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

7. Detailed construction plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

8. The proposed construction sequence, timing, and duration.

9. Grading and excavation details.

10. Erosion and sediment control features.

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

12. Measures to protect and maintain plants until established.

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13. Detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

14. Monitoring program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed, but not necessarily annually, to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. The monitoring of mitigation that includes planting of shrubs and trees shall be for a period of not less than ten (10) years.

15. Contingency plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

L. Unauthorized critical area alterations and enforcement

1. When a critical area or its buffer has been altered in violation of the provisions of this SMP, all ongoing development work shall stop and the critical area shall be restored. The Town shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Title. If the violator fails to perform or pay as required in this Section, and the violator is not the owner or responsible party, the Shoreline Administrator may seek compliance or payment from the owner or responsible party.

2. Restoration plan required. All development work shall remain stopped until a restoration plan is prepared by the applicant and approved by the Town. Such a plan shall be prepared by a qualified professional and shall describe how the actions proposed meet the minimum requirements described in Subsection 3 below. The Shoreline Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

3. Minimum performance standards for restoration.

   a. For alterations to wetlands and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

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i. The pre-disturbance structural and functional values shall be restored, including water quality and habitat functions;

ii. The historic soil types and configuration shall be replicated;

iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities; and

iv. The historic functions and values should be replicated at the location of the alteration.

b. For alterations to geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

iii. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

4. Site investigations. The Shoreline Administrator is authorized to make site inspections and take such actions as are necessary to enforce these critical areas regulations. The Shoreline Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

5. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of these critical areas regulations shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of these critical areas regulations is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of these critical areas regulations shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The Town may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of these critical areas regulations.

M. Subdivisions. The subdivision and short subdivision of land in a critical area and associated buffers is subject to the following:

1. Land that is located wholly within a critical area or its buffer may not be subdivided.

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2. Land that is located partially within a critical area or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:

   a. Located outside of the critical area and its buffer; and

   b. Meets the minimum lot size requirements of the Town's zoning regulations.

   c. Access roads and utilities serving the proposed subdivision may be permitted within the critical area and associated buffers only if the Town determines that no other feasible alternative exists consistent with these critical areas regulations.

N. Critical area markers and signs. The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration.

O. Notice on title

1. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the county records and elections division according to the direction of the Town. The notice shall state the presence of the critical area or buffer on the property, of the application of these critical areas regulations to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall run with the land.

2. This notice on title shall not be required for a development proposal by a public agency or public or private utility:

3. Within a recorded easement or right-of-way;

4. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or

5. On the site of a permanent public facility.

6. The applicant shall submit proof that the notice has been filed for public record before the Town approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

P. Building setbacks. Unless otherwise provided, buildings and other structures shall be set back a distance of fifteen (15) feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

1. Landscaping;

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2. Uncovered decks;

3. Building overhangs if such overhangs do not extend more than twenty four (24) inches into the setback area; and

4. Impervious ground surfaces, such as driveways and patios, provided that such improvements may be subject to water quality regulations as adopted in the most current version of the Department of Ecology Stormwater Management Manual for Western Washington.

Q. Performance Bond. Prior to issuance of any permit or approval that authorizes site disturbance within critical areas or their buffers, the Shoreline Administrator or his/her designee shall require performance security in a form and amount deemed acceptable by the Town to cover long-term monitoring, maintenance, and replacement costs for mitigation projects to ensure mitigation is fully functional for the duration of the monitoring period. Bonds or other security for required mitigation projects shall be held by the Town for a minimum of five years or until all performance standards have been achieved to ensure that the mitigation project has been fully implemented and demonstrated to function. The bond may be held for longer periods upon written finding by the Town that it is still necessary to hold the bond to ensure the mitigation project has meet all elements of the approved mitigation plan.

R. Critical area inspections. Reasonable access to the site shall be provided to the Town, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

2. Wetlands

A. Designating wetlands. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. Any areas within the Town meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter.

B. Wetland ratings. Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents (Western Washington, Ecology Publication #93-74) or as revised by Ecology. These documents contain the definitions and methods for determining if the criteria below are met.

1. Wetland rating categories

a. Category I. Category I wetlands are:

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

ii. Bogs.

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iii. Mature and old-growth forested wetlands larger than 1 acre.

iv. Wetlands that perform many functions well (scoring 70 points or more).

These wetlands: (1) represent unique or rare wetlands; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; (4) provide a high level of functions.

b. Category II. Category II wetlands are Wetlands with a moderately high level of functions (scoring between 51 and 69 points).

c. Category III. Category III wetlands are wetlands with a moderate level of functions (scoring between 30 and 50 points). Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape that Category II wetlands.

d. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 30 points) and are often heavily disturbed. These are wetlands that are capable of being replaced, or in some cases improved. These wetlands may provide some important functions, and should be protected to some degree.

C. Activities allowed in wetlands. The activities listed below are allowed in wetlands and do not require submission of a critical area report, except where such activities result in a loss to the functions and values of a wetland or wetland buffer. These activities include:

1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland.

2. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources.

3. Educational and scientific research activities.

D. Critical area report – Additional requirements for wetlands. In addition to the general critical area report requirements of Section 1.G and 1.H, critical area reports for wetlands must include the following at a minimum:

1. Wetland delineation and required buffers;

2. Existing wetland acreage;

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3. Wetland category;

4. Vegetative, faunal, and hydrologic characteristics;

5. Soil and substrate conditions;

6. Topographic elevations, at two-foot contours;

7. Existing and proposed adjacent site conditions; and

8. Property ownership.

E. Performance standards – General requirements

1. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not result in net loss of critical areas or shoreline ecological functions and is necessary to accommodate preferred uses when consistent with the Shoreline Management Act and this Shoreline Master Program.

2. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in these critical areas regulations.

3. Category I wetlands. Activities and uses shall be prohibited from Category I wetlands, except for low-impact public access and recreation facilities, such as raised boardwalks or platforms for hiking or bird/wildlife watching, that provide opportunities for significant numbers of people to enjoy the natural environment. Such facilities shall be designed to avoid or minimize significant vegetation removal. Projects shall be designed to result in no net loss of ecological functions, and all adverse impacts shall be mitigated.

4. Category II and III wetlands. The following activities are allowed in Category II and III wetlands and their associated buffers:

   a. Water-dependent activities as provided for under the Town's Shoreline Master Program may be allowed where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffer and other critical areas.

   b. Low-impact public access and recreation facilities, such as raised boardwalks, may be allowed if they provide opportunities for substantial numbers of the general public to enjoy the natural environment. Such facilities shall be designed to avoid or minimize significant vegetation removal. Projects shall be designed to result in no net loss of ecological functions, and all adverse impacts shall be mitigated. Public access and recreational facilities shall incorporate interpretive signs or other mechanism to educate the public about wetland functions.

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c. Where activities are proposed that are neither water-dependent nor related to public access and recreation, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:

i. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and

ii. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

5. Category IV wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives.

F. Wetland buffers

1. Buffer Requirements. The standard buffer widths have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington. Additional buffer widths are added to the standard buffer widths. The buffers widths shall be as follows:

Wetland Category	**Standard Buffer Width**	**Additional buffer width if wetland scores**		
		21-25 habitat points	**26-29 habitat points**	**30-36 habitat points**
Category I - based on total score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Category I - Bogs	190 feet	NA	NA	Add 35 feet
Category I - Natural Heritage Wetlands	190 feet	NA	NA	Add 35 feet
Category I - Forested	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Category II - based on score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Category III (all)	60 feet	Add 45 feet	Add 105 feet	NA
Category IV (all)	40 feet	NA	NA	NA

2. The use of the standard buffer widths requires the implementation of the following measures, where applicable, to minimize the impacts of the adjacent land uses:

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Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish and additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (per PSAT publication on LID techniques)
Change in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	Use best management practices to control dust
Disruption of corridors or connections	• Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

3. If an applicant chooses not to apply the mitigation measures listed in F.2, above, then a 33% increase in the width of all buffers is required.

4. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided. Where a buffer planting plan is proposed, it shall include provisions for monitoring and maintenance to ensure success.

5. Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

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6. Increased wetland buffer widths. The Shoreline Administrator shall require increased buffer widths in accordance with the recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

    a. A larger buffer is needed to protect other critical areas; or

    b. The buffer or adjacent uplands has a slope greater than thirty percent (30%) or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland.

7. Reduction of wetland buffer widths

    a. The Shoreline Administrator may allow the standard wetland buffer width to be reduced in accordance with an approved critical area report and the most current, accurate, and complete scientific and technical information available on a case-by-case basis when it is determined that a smaller area is adequate to protect the wetland functions and values based on site-specific characteristics, that there is no feasible alternative, and that buffers will not be reduced more than twenty five percent (25%).

    b. This determination shall be supported by documentation showing that a reduced buffer is adequate based on all of the following criteria:

        i. The critical area report provides a sound rationale for a reduced buffer based on the most current, accurate, and complete scientific and technical information available.

        ii. The existing buffer area is well-vegetated with native species and has less than ten percent (10%) slopes.

        iii. No direct or indirect, short-term or long-term, adverse impacts to wetlands will result from the proposed activity.

    c. The Shoreline Administrator may require long-term monitoring of the buffer and wetland. Subsequent corrective actions may be required if adverse impacts to wetlands are discovered during the monitoring period.

    d. In no case shall the standard buffer width be reduced by more than twenty-five percent (25%), or the buffer width be less than fifty (50) feet except for buffers between Category IV wetlands and low or moderate intensity land uses.

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8. Wetland buffer width averaging. The Shoreline Administrator may allow averaging of buffer widths where a qualified wetlands professional demonstrates that:

   a. It will not reduce wetland functions or values;

   b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

   c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

   d. The buffer width is not reduced to less than twenty five percent (25%) of the standard width or fifty (50) feet, whichever is greater, except for buffers between Category IV wetlands and low or moderate intensity land uses, in which standard buffers of 40 feet apply.

9. Fencing of wetlands

   a. The Shoreline Administrator may condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence as determined by the Shoreline Administrator at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.

   b. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

   c. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

G. Performance standards – Mitigation requirements

1. Mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Mitigation plans shall be consistent with "Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans" (Version 1, Publication #06-06-011b, March 2006 or as revised).

2. Wetland mitigation actions shall not result in a net loss of wetland area except when the lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determined by a site-specific function assessment.

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3. Mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland functions as those lost except when the lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment plan or protocol.

4. Mitigation actions that require compensation by replacing, enhancing, or substitution, shall occur in the following order of preference:

    a. Restoring wetlands on upland sites that were formerly wetlands.

    b. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species.

    c. Enhancing significantly degraded wetlands.

    d. Preserving high-quality wetlands that are under imminent threat.

5. Mitigation sites shall be selected using "Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)" (Publication #09-06-032, December 2009).

6. Except where determined by the Shoreline Administrator due to weather or project conditions, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

7. The Shoreline Administrator may authorize a one-time temporary delay, up to one-hundred-twenty (120) days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the Town, and include a financial guarantee.

8. Mitigation ratios

    a. Acreage replacement ratios. Wetland buffers for all categories shall be replaced on a 1-to-1 ratio. The following ratios shall apply to creation, rehabilitation, enhancement, or preservation of wetlands that is in-kind, on-site, the same category, timed prior to or concurrent with alteration,

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and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases.

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement	Preservation
Category I: Bog, Natural Heritage Site	Not considered possible	6:1	Case by case	10:1
Category I: Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on functions	4:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

b. Increased replacement ratio. The Shoreline Administrator may increase the ratios under the following circumstances:

i. Uncertainty exists as to the probable success of the proposed restoration or creation;

ii. A significant period of time will elapse between impact and replication of wetland functions;

iii. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

iv. The impact was an unauthorized impact.

c. Decreased replacement ratio. The Shoreline Administrator may decrease these ratios under the following circumstances:

i. Documentation by a qualified wetlands professional demonstrates that the proposed mitigation actions have a very high likelihood of success;

ii. Documentation by a qualified wetlands professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or

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iii. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.

9. Wetlands enhancement as mitigation

a. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

b. At a minimum, enhancement acreage shall be as listed in Subsection 8.a. The enhancement proposal shall not result in the reduction of other wetland functions currently being provided in the wetland.

3. Geologically Hazardous Areas

A. Designation of geologically hazardous areas. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

1. Erosion hazard;

2. Landslide hazard; and

3. Seismic hazard.

B. Designation of specific hazard areas

1. Erosion hazard areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard.

2. 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 any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these include, but are not limited to, the following:

3. Areas of historic failures, such as:

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a. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;

b. Those areas mapped by the Department of Ecology (Coastal Zone Atlas) or the Department of Natural Resources (slope stability mapping) as unstable ("U" or class 3), unstable old slides ("UOS" or class 4), or unstable recent slides ("URS" or class 5); or

c. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources.

4. Areas with all three of the following characteristics:

a. Slopes steeper than fifteen percent (15%); and

b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

c. Springs or ground water seepage.

5. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch.

6. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

7. Slopes having gradients steeper than eighty percent (80%) subject to rock fall during seismic shaking.

8. Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.

9. 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:

a. The magnitude of an earthquake;

b. The distance from the source of an earthquake;

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c. The type of thickness of geologic materials at the surface; and

d. The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.

C. Mapping of geologically hazardous areas.

1. The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps. The adopted critical area maps include:

a. U.S. Geological Survey landslide hazard maps.

b. Department of Natural Resources seismic hazard maps for Western Washington.

c. Department of Natural Resources slope stability maps.

d. Liquefaction Susceptibility Map of Snohomish County, Washington

e. Town adopted maps.

2. These maps are to be used as a guide for the Town, project applicants and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

D. Activities allowed in geologically hazardous areas. The following activities are allowed in geologically hazardous areas and do not require submission of a critical area report:

1. Erosion and landslide hazard areas. Except as otherwise provided for in these critical areas regulations, only those activities approved and permitted consistent with an approved critical area report in accordance with these critical areas regulations shall be allowed in erosion or landslide hazard areas.

2. Seismic hazard areas. The following activities are allowed within seismic hazard areas:

a. Additions to existing single-story residences that are 250 square feet or less over the lifespan of the structure; and

b. Installation of fences.

E. Critical area report – Additional requirements for geologically hazardous areas.

1. Geotechnical assessment. In addition to critical area report requirements in Section 1.G and 1.H, a critical area report for a geologically hazardous area shall

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contain an assessment of geological hazards including the following site- and proposal-related information at a minimum:

a. Site and construction plans. The report shall include a copy of the site plans for the proposal showing:

   i. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities;

   ii. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report;

   iii. The height of slope, slope gradient, and cross section of the project area;

   iv. The location of springs, seeps, or other surface expressions of ground water on or within two hundred (200) feet of the project area or that have potential to be affected by the proposal; and

   v. The location and description of surface water runoff.

b. Assessment of geological characteristics. The report shall include an assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted taxonomic classification systems in use in the region. The assessment shall include, but not be limited to:

   i. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;

   ii. A detailed overview of the field investigations, published data and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and

   iii. A description of the vulnerability of the site to seismic and other geologic events.

c. An estimate of load capacity including surface and ground water conditions, public and private sewage disposal systems, fills and excavations and all structural development;

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d. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

e. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred year storm event;

f. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;

g. A study of slope stability including an analysis of proposed angles of cut and fill and site grading;

h. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement; and

i. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

j. An analysis of potential impacts of seismic activity if seismic hazard is found to be present.

2. Minimum buffer and building setback. The report shall make a recommendation for the minimum no-disturbance buffer and/or minimum building setback from any geologic hazard based upon the geotechnical analysis. In no case shall the minimum be less than twenty five (25) feet from the top and bottom of the slope.

3. Erosion and sediment control plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the latest version of the Department of Ecology Stormwater Management Manual for Western Washington.

4. Drainage plan. The report shall include a drainage plan for the collection, transport, treatment, discharge and/or recycle of water prepared in accordance with the latest version of the Department of Ecology Stormwater Management Manual for Western Washington. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area.

5. Mitigation plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan and/or other means for maintaining long term soil stability.

6. Monitoring surface waters. If the Shoreline Administrator determines that there is a significant risk of damage to receiving waters due to potential erosion from the

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site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the critical area report shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the Town.

7. Incorporation of previous study. Where a valid geotechnical report has been prepared within the last five (5) years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a geotechnical assessment detailing any changed environmental conditions associated with the site.

8. Mitigation of long-term impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

F. Performance standards – General requirements

1. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

   a. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions.

   b. Will not adversely impact other critical areas.

   c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions.

   d. Are certified as safe as designed and under anticipated conditions by a qualified professional.

   e. Will not require structural shoreline stabilization over the life of the development except when the applicant can demonstrate that stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.

2. Critical facilities prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.

G. Performance standards – Specific hazards

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1. Erosion and landslide hazard areas. Activities on sites containing erosion or landslide hazards shall meet the following requirements:

   a. Buffer required. A buffer shall be established from all edges of erosion or landslide hazard areas. The size of the buffer shall be determined by the Shoreline Administrator to eliminate or minimize the risk of property damage, death or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

      i. Minimum buffer. The minimum buffer shall be equal to the height of the slope or twenty five (25) feet from the top and bottom of the slope, whichever is greater.

      ii. Buffer reduction. The buffer may be reduced to a minimum of ten (10) feet when a qualified professional demonstrates to the Shoreline Administrator's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses and the subject critical area.

      iii. Increased buffer. The buffer may be increased where the Shoreline Administrator determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

   b. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geotechnical analysis is submitted and certifies that:

      i. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

      ii. The development will not decrease slope stability on adjacent properties; and

      iii. Such alterations will not adversely impact other critical areas.

   c. Design standards. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of these critical areas regulations. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

      i. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static

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conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the Town building code;

ii. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;

iii. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;

iv. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

v. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

vi. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

vii. Development shall be designed to minimize impervious lot coverage.

d. Vegetation shall be retained. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.

e. Seasonal restriction. Clearing shall be allowed only from May 1st to October 1st of each year provided that the Town may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions.

f. Utility lines and pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

g. Point discharges. Point discharges from surface water facilities and roof drains onto or upslope from an erosion or landslide hazard area shall be prohibited except as follows:

i. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downslope from the discharge;

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ii. Discharged at flow durations matching pre-developed conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the pre-developed state; or

iii. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

h. Prohibited development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.

4. Fish and Wildlife Habitat Conservation Areas

A. Designation of fish and wildlife habitat conservation areas. Fish and wildlife habitat conservation areas in the Town of Beaux Arts Village may include:

1. The documented presence of species proposed or listed by the federal government or state of Washington as endangered, threatened, or sensitive.

2. State priority habitats and areas associated with state priority species.

3. Heron rookeries or raptor nesting trees.

4. Category I and II wetlands as defined in these critical areas regulations.

5. Areas of native vegetation and/or stands of significant trees as designated by a qualified professional that provide a corridor between any of the critical fish and wildlife habitat areas listed in this section.

6. Land essential for preserving connections between habitat blocks and open spaces.

B. Mapping of fish and wildlife habitat conservation areas. The following maps, which may be continuously updated, may be used as a guide for locating habitat conservation areas in the Town of Beaux Arts Village:

1. Washington Department of Fish and Wildlife Priority Habitat and Species maps; and

2. Washington State Department of Natural Resources Natural Heritage Program mapping data.

C. Critical area report – Additional requirements for habitat conservation areas. In addition to the general critical area report requirements of Section 1.G and 1.H, a critical area

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report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:

1. Detailed description of vegetation on and adjacent to the project area.

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

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

4. A detailed discussion of the potential impacts on habitat by the project, including potential impacts to water quality.

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

6. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

D. Buffers.

1. The Shoreline Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife.

2. 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.

E. Performance standards – General requirements

1. All regulations for fish and wildlife habitat conservation areas are in addition to regulations that govern these sensitive areas in other portions of these critical areas regulations. Whenever a conflict occurs between these regulations, the one that provides the most protection for the sensitive area shall govern.

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2. Alterations shall not degrade the functions and values of habitat. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with these critical areas regulations. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. All unavoidable impacts shall be fully mitigated.

3. Non-indigenous species shall not be introduced. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

4. Mitigation shall result in contiguous corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

5. Approvals of activities may be conditioned. The Shoreline Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

    a. Establishment of buffer zones.

    b. Preservation of critically important vegetation.

    c. Limitation of access to the habitat area, including fencing to deter unauthorized access.

    d. Seasonal restriction of construction activities.

    e. Establishment of a duration and timetable for periodic review of mitigation activities.

    f. Requirement of a performance bond or other security, when necessary, to ensure completion and success of proposed mitigation.

6. Fencing

    a. The Shoreline Administrator may condition any permit or authorization issued pursuant to this Title to require the applicant to install a permanent fence, as determined by the Shoreline Administrator, at the edge of the habitat conservation area, when fencing will prevent future impacts to the area.

    b. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration.

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7. Roads, trails, and rights-of-way. Construction of trails and roadways may be permitted in accordance with an approved critical area report subject to the following standards and regulations in Section 6.13, Transportation Facilities of this SMP:

   a. There is no other feasible alternative route with less impact on the environment;

   b. Trails shall be located on the outer edge of a buffer, except for limited viewing platforms and crossings;

   c. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

   d. Trails and associated viewing platforms shall not be made of continuous impervious materials.

8. Utility Facilities. New utility lines and facilities may be permitted to cross habitat conservation areas in accordance with an approved critical area report if they comply with the following standards and regulations in Section 6.14 Utilities (Primary) of this SMP:

   a. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;

   b. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

   c. Mitigation shall be provided for all unavoidable impacts.

9. Stormwater conveyance facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

   a. No other feasible alternatives with less impact exist;

   b. Mitigation for impacts is provided and mitigation sequencing is followed; and

   c. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

F. Performance standards – Endangered, threatened, and sensitive species

1. No development shall be allowed within a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, with the exception of aquatic species.

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2. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species, with the exception of aquatic species, have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the Town. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Department of Fish and Wildlife and the appropriate federal agency.

3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within eight hundred (800) feet, or within a quarter mile (2,640 feet) and in a shoreline foraging area. The Town shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the appropriate state or federal agency.

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ENVIRONMENT DESIGNATIONS

BEAUX ARTS VILLAGE SHORELINE MASTER PROGRAM

MAP LEGEND

- Town Boundary

Environment Designation

- Shoreline Residential
- Urban Conservancy

*All areas waterward of the ordinary high water mark are designated Aquatic.

0 100 200
Feet

THE WATERSHED COMPANY

Data: King County, Town of Beaux Arts, TWC. March 22, 2012.

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