



Staff Report

Shoreline Master Program Update

To: Leavenworth Planning Commission
From: Development Services Department
Date of Report: June 16, 2021 for the July 7, 2021 Hearing
Subject: Shoreline Master Program

OVERVIEW

The 2012 Shoreline Master Program is both a comprehensive plan element and a regulating document for the lands within 200' of the ordinary high-water mark or associated floodplain, known as the shoreline jurisdiction. For the City of Leavenworth, that covers lands from the Golf Course downstream to the KOA campgrounds. The shoreline jurisdiction is managed by both the City and Department of Ecology. This governing partnership includes an optional joint planning and updating process, pursuant to RCW 90.58.080(4), which is being used for this update.

The purpose of this update is to ensure the Shoreline Master Program is current with changes in State law, consistent with other City plans and regulations, and addresses changes in circumstances. Additionally, the City considered ways to streamline the regulations and permit processes.

The proposed amendments are available on the City website, and attached:

<https://cityofleavenworth.com/city-government/development-services-department/shoreline-master-program-update/>.

Generally, the amendments to the 2012 Shoreline Master Program included, but are not limited to:

- Removal of references to WAC, RCW and the Old SMP (County document) were removed
- Housekeeping changes included: replacing the “City of Leavenworth” references to “Shoreline Administrator” as appropriate; grammar corrections, updating of text for readability and simplification of text; moved application requirements to Section 7; and, removal of references that did not apply to the City
- Added reference to best available science
- Updated Appendix B, Critical Areas, to match amendments made to the City regulations by Ordinance 1597, approved by the City Council in 2019
- Removed or combined redundant regulations
- Updated Shoreline Use and Modification Matrix (Use/Permit Chart) to reflect definitions, designations and community needs for permitting; including removal of mining and forest practices as a permitted use
- Removed the requirement for written exemption letters for exempt activities

- Removed several buffer reductions, to better fit the City shoreline conditions; also moved buffer and reduction tables to new location (SMP Section 3.4) to improve flow/use of the SMP
- Prohibited new subdivisions within the channel migration zone
- Required all new development to connect to City sewer – except recreational facilities
- Simplified recreational development requirements
- Simplified shoreline stabilization – new and repair, which includes maintenance; removed requirements for enlargement and replacement which will be reviewed as new
- Removal of Section 5.21, Redevelopment, Repair and Maintenance which is covered within the SMP, including the non-conforming section
- Added “pre-existing residential structures” to the non-conforming section to clarify how these may be maintained/repared, replaced and/or enlarged
- Streamlined other non-conforming regulations
- Updated the duration/expiration of permit timelines for clarity
- Updated definitions, removing terms that were unnecessary and modifying others to improve clarity or consistency with the SMP

Additional modifications made to the public comment draft were made based on Department of Ecology recommended changes to the City of Cashmere. The City of Cashmere Shoreline Master Program is based on the same underlying County program used by the City of Leavenworth. For this reason, there were a few recommended changes that made sense to replicate for Leavenworth.

- Restated public access goal for clarity, Section 2.2
- Removed circulation element objective to encourage water-dependent transportation as not applicable to Leavenworth, Section 2.4
- Restated public access regulations for clarity, Section 4.4.2
- Retain the removal of a shoreline buffer reduction of 50%. Department of Ecology reference to ensuring no net loss WAC 173-26-186(8)(b), 173-26-201(2)(c) and 173-26-21-211(5).
- Add term for MTCA – Model Toxics Control Act, Section 5.8.2.C
- Modified the definition of Enhancement, Chapter 8
- Modified the definition of single-family residence to include “detached” consistent with WAC 173-27-040, Chapter 8

SUMMARY OF DATES

60-day Expedited Agency review:	March 26, 2021, ID# 2021-S-2602
SEPA Determination, Attachment B	June 15, 2021
Notice of 1 st Planning Commission Hearing:	Published in the Echo: March 12, 2021
1 st Planning Commission Public Hearing:	June 2, 2021

Notice of 2 nd Planning Commission Hearing:	Published in the Echo: June 23, 2021
2 nd Planning Commission Public Hearing:	July 7, 2021
City Council Public Hearing:	Tentatively Scheduled for September 2021

PUBLIC/AGENCY COMMENTS

Public comments were taken and incorporated into the formal public comment draft, issued May 12 through June 12, 2021. The Planning Commission held a hearing on June 2, 2021 with no public comment. Additional minor modifications to the draft were made by staff, as detailed above. As of the drafting of this staff report, no comments have been received. The public is encouraged to attend the Planning Commission Hearing and provide comment before a recommendation is forwarded to the City Council. The Planning Commission may incorporate comments into the recommendation. Additionally, the City Council will have an opportunity for public comment prior to a decision at the Council Public Hearing.

STAFF REVIEW

The following findings of fact and conclusions of law review the proposed amendments in relationship to the Comprehensive Plan and development regulations.

1. The amendments are necessary to resolve inconsistencies in the provisions of the comprehensive plan and/or development regulations or to address state or federal mandates.

Staff Finding: The Shoreline Master Program is required by the Washington State Shoreline Management Act, RCW 90.58.080(4) to be periodically reviewed and updated. The review ensures the Shoreline Master Program is current with changes in State law, remains consistent with other City plans and regulations, and considers changes in circumstances or new information. Additionally, the City considered ways to streamline the regulations and permit processes.

See Attachments D and E for a detailed summary of the changes.

Conclusion: The amendments are necessary to address changes in state and city regulations.

2. The amendments are consistent with the overall intent of the existing comprehensive plan and the other documents incorporated therein.

Staff Finding: The Comprehensive Plan Land Use Element goal 18 policy 8 states *the goals and policies of the Leavenworth Shoreline Master Program, as amended, are considered an element of the City of Leavenworth Comprehensive Plan, and are included by reference as if fully set forth herein.* The proposed changes to the Shoreline Master Program will be incorporated in the Comprehensive Plan.

Conclusion: The amendments are consistent with the overall intent of the existing comprehensive plan.

3. The amendments are consistent with the assumptions and/or other factors such as population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan.

Staff Finding: The proposed amendments to the Leavenworth Shoreline Master Program do not change the assumptions or other factors used in the Comprehensive Plan.

Conclusion: Not applicable.

4. The amendments are consistent with the requirements of the Growth Management Act and the county-wide planning policies.

Staff Finding: The Growth Management Act requires review and update of local Shoreline Master Programs. The current Shoreline Master Program reflects a joint planning process

consistent with the County-Wide Planning Policies. The proposed amendments have been provided to the County and do not represent a significant change in planning, regulations or processes.

Conclusion: The amendments are consistent with the requirements of the Growth Management Act and the county-wide planning policies.

5. The amendments are consistent with and do not adversely affect the supply of land for various purposes which are available to accommodate projected growth over a twenty-year period.

Staff Finding: The proposed amendments do not change land uses in matter which would impact the supply of land or affect the projected growth.

Conclusion: Not applicable.

6. Where applicable, conditions have changed such that assumptions and/or other factors such as population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan have been revised and/or enhanced to reflect said conditions;

Staff Finding: The proposed amendments do not change the Comprehensive Plan assumptions.

Conclusion: Not applicable.

7. Amendments to the comprehensive plan land use designation map(s) are either consistent and/or compatible with, or do not adversely affect, adjacent land uses and surrounding environment;

Staff Finding: The proposed code amendments will not change the Comprehensive Plan maps.

Conclusion: Not applicable.

8. The proposed amendments are consistent with and do not negatively impact public facilities, utilities and infrastructure, including transportation systems, and any adopted levels of service.

Staff Finding: The proposed amendments do not change land uses, public facilities, utilities and infrastructure or directly impact the adopted levels of service.

Conclusion: Not applicable.

9. The proposed amendments do not adversely affect lands designated resource lands of long-term commercial significance or critical areas.

Staff Finding: There are no designated resource lands within the city limits. Review of known critical areas occurs at the time of future building permit applications.

Conclusion: Not applicable.

STAFF RECOMMENDATION

Staff recommends adoption of the Shoreline Master Program amendments.

ATTACHMENTS

Attachment A: Leavenworth SMP Hearing Draft

Attachment B: Draft Leavenworth SMP Appendix B Critical Areas

Attachment C: DNS and SEPA Checklist

Attachment D: Checklist Amendments DOE

Attachment E: Checklist Additional Amendments

SHORELINE MASTER PROGRAM
for ~~Shorelines in~~ the City of Leavenworth and its ~~UGA of Chelan County~~ Urban Growth Area

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Prepared by The Watershed Company, ICF International for Department of Ecology and City of Leavenworth
November 19, 2012, updated xx/2021

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Design and Management Standards

~~Design and Management Standards~~

SHORELINE MASTER PROGRAM

THE CITY OF LEAVENWORTH AND ITS UGA OF CHELAN COUNTY

READER'S GUIDE

Chelan County and its Cities developed and adopted Shoreline Master Programs (SMPs) in 1975 for the purpose of “focusing comprehensive, coordinated planning attention at the critical land-water interface” (page 1). ~~The Since current SMP (the 1975 SMP) was developed more than 30 years ago and since then much has changed along Chelan County shorelines. In addition, knowledge of best development and conservation practices has evolved and t. There have also been changes in State laws and rules. In 2012, the City of Leavenworth adopted a comprehensive rewrite of the 1975 SMP. This work was started with Chelan County and the Cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee who conducted nine Vision Workshops in fall 2008 to capture citizen questions, concerns, goals and aspirations regarding County and City shorelines. The Vision Workshop results have been factored into the development of this SMP as well (see brief summary in Appendix D). In addition, the Planning Commission held, an “Open House” with the final draft of the Leavenworth Shoreline Master Program on October 17, 2012.~~

~~This SMP, adopted November 19, 2012 and updated xx 2021, has been prepared to meet the requirements of the Shoreline Management Act of 1971 (RCW 90.58), and the implementing State rules codified as Chapter 173-26 of the Washington Administrative Code (WAC), as amended through 2020. “State Master Program Approval/Amendment Procedures and Master Program Guidelines” that were revised in 2003, and other applicable local, state, and federal laws. As was the case in 1975 and today, the SMP is developed locally, but must meet the Shoreline Management Act and implementing State rules, and is subject to approval by the Washington State Department of Ecology (Ecology) before it can be implemented.~~

~~The SMP has been prepared under a grant agreement with Ecology. For planning purposes and as part of the grant agreement, Chelan County and the Cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee conducted nine Vision Workshops in fall 2008 to capture citizen questions, concerns, goals and aspirations regarding County and City shorelines. The Vision Workshop results have factored into the development of this SMP as well (see brief summary in Appendix D). In addition, the Planning Commission held study session, an “Open House” with the final draft of the Leavenworth Shoreline Master Program on October 17, 2012, and public hearings.~~

~~The contents of this Shoreline Master Program are structured as follows:~~

~~Chapter 1 Authority and Purpose~~

~~Chapter 2 Goals and Objectives~~

~~Chapter 3 Shoreline Jurisdiction and Environment Designations~~

~~Chapter 4 General Policies and Regulations~~

~~Chapter 5 Shoreline Modifications and Uses~~

~~Chapter 6 Nonconforming Uses and Development Standards~~

~~Chapter 7 Shoreline Permits, Procedures and Administration~~

~~Chapter 8 Definitions~~

~~To guide the reader, most sections or provisions show the source of the goal, policy, or regulation either in the body of the text or in parentheses, which may include citations to: the Shoreline Management Act (RCW 90.58), State Shoreline Master Program Guidelines, (WAC 173-26), State Shoreline~~

City of Leavenworth Shoreline Master Program

~~Management Permit and Enforcement Procedures (WAC 173-27), current Chelan County Shoreline Master Program provisions, current County or City comprehensive plan elements, or other example SMPs recently adopted and approved by the State.~~

When reading the SMP, it is useful to consider the definitions of the following terms that are based on definitions in the State Shoreline Master Program Guidelines (WAC 173-26-020):

- Shall or must: means a mandate; the action must be done.
- Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and shoreline master program, against taking the action.
- May: means the action is acceptable, provided it conforms to the provisions of this shoreline master program and the Act.

In general, this SMP uses the word “should” in goals, objectives, and policies, and “shall” in the regulations. Additional definitions are located in Chapter 8.

The SMP has a high level of detail for the following reasons: 1) to allow for more shoreline applications to be approved administratively for an efficient and cost-effective process, 2) to cross-reference applicable state and federal laws to help consolidate requirements and be a resource for property owners and the City of Leavenworth staff, and 3) to provide some certainty of interpretation and application that benefits property owners and the City of Leavenworth staff over time.

1 AUTHORITY AND PURPOSE

1.1 The Shoreline Management Act

Washington State's citizens voted to approve the Shoreline Management Act of 1971 in November 1972. The adoption of the Shoreline Management Act (Act) recognized *"that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation"* and that *"coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest"* (RCW 90.58.020).

The Act seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses ~~as follows: (RCW 90.58.020)~~

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

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

~~The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:~~

- ~~(1) — Recognize and protect the statewide interest over local interest;~~
- ~~(2) — Preserve the natural character of the shoreline;~~
- ~~(3) — Result in long term over short term benefit;~~
- ~~(4) — Protect the resources and ecology of the shoreline;~~
- ~~(5) — Increase public access to publicly owned areas of the shorelines;~~
- ~~(6) — Increase recreational opportunities for the public in the shoreline;~~
- ~~(7) — Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.~~

~~In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred~~

~~which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.~~

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

Under the Act, shoreline master programs are created and implemented based on a “cooperative program of shoreline management between local government and the state” (RCW 90.58.050). The roles of local governments and the state are:

“Local government shall have the primary responsibility for initiating the planning required by this chapter and administering the regulatory program consistent with the policy and provisions of this chapter. The department [of Ecology] shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and on insuring compliance with the policy and provisions of this chapter.” (RCW 90.58.050)

In recognition of the Act and citizen ideas collected through a local shoreline planning process, ~~Chelan County and the Cities of Cashmere, Chelan, Entiat, the City of Leavenworth, and Wenatchee~~ (collectively “Cities”) have has developed this Shoreline Master Program (SMP), and continually implements and administers it through shoreline permits and reviews. The Washington State Department of Ecology (Ecology) reviews and approves local master programs and certain local permit decisions.

1.2 Authority

This SMP is enacted and administered according to the following state law and rules:

- A. ~~A.~~—The Shoreline Management Act of 1971, Chapter 90.58 RCW;
- B. ~~B.~~—State master program approval/amendment procedures and master program guidelines, WAC 173-26; and
- C. ~~C.~~—Shoreline management permit and enforcement procedures, Chapter 173-27 WAC.

1.3 Applicability

No structure or lot within Shoreline jurisdiction shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or altered except in compliance with the provisions of the SMP. ~~A.~~—All proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 1.2 and this SMP whether or not a permit or other form of authorization is required. See Chapter 3 for the definition of shoreline jurisdiction and Chapter 8 for definitions of uses, activities, and development. ~~(RCW 90.58.140(1) and WAC 173-26-191)~~

~~B.A.~~ This SMP does not apply to the following activities:

- ~~1. Interior building improvements that do not change the use or occupancy;~~
- ~~2. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;~~
- ~~3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and~~
- ~~4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections~~

1. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.
2. Restoration projects which are consistent with RCW 90.58.580; and,
- ~~3. Remedial hazardous substance clean-up action; boatyard improvements and certain Washington State Department of Transportation maintenance and safety projects and activities, as addressed in WAC 173-27-044.~~

~~CB. The shoreline permit procedures, policies and regulations established in this SMP shall apply county wide to all nonfederal uses, activities, and development.~~

~~D. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership. Federal lands include, but are not limited to, National Forests, National Parks, National Wilderness Areas, and lands owned by the Federal Bureau of Land Management (BLM). (WAC 173-27-060).~~

~~E. The following subsections shall guide the determination of SMP applicability on federal lands:~~

- ~~1. Federal development on federally owned land is not subject to this SMP nor required to obtain a Shoreline permit unless otherwise required by federal law, or unless the state by statute has ceded all regulatory authority over the federal ownership;~~
- ~~2. Federal development on a federally owned lease is not subject to this SMP nor required to obtain a Shoreline permit, unless otherwise required by federal law, or unless the state by statute has ceded all regulatory authority over the federal ownership as long as the development is consistent with the purpose of the lease;~~
- ~~3. Development on federally owned land under a federal lease or easement for a non federal activity is subject to this SMP and must obtain a Shoreline permit; for example, the SMP applies to private activities on federal land such as leases where the private citizen owns the structure but the federal government owns the land;~~
- ~~4. Non federal development or use on federally owned land is subject to this SMP and must obtain a Shoreline permit;~~
- ~~5. Development on non federal land is subject to this SMP and must obtain a Shoreline permit, even if it is leased, rented, etc. to the federal government, or it is within the boundaries of federal ownership unless the state by statute has ceded all regulatory authority over the federal ownership.~~ Pursuant to WAC 173-27-060, federal agency activities may be required to meet the permitting requirements of RCW 90.58.

~~FC. As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Indian Nations or Tribes.~~

~~GD. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply.~~ When other State or Federal agencies standards would be more protective of the ecological function, those standards should apply.

1.4 Purpose and Intent

The purposes of this SMP ~~are~~is to:

1. ~~To promote~~Promote the public health, safety, and general welfare of the community by providing comprehensive policies and effective, reasonable regulations for development, use and protection of jurisdictional shorelines; and ~~(WAC 173-26-241(2)(a)(ii))~~
2. ~~To further~~Further assume and carry out the local government responsibilities established by the Act in RCW 90.58.050 including planning and administering the regulatory program consistent with the policy and provisions of the Act in RCW 90.58.020; and
3. Promote reasonable and appropriate use of the shorelines considering State and local interests defined in laws, rules, and plans as well as private property rights; and ~~(1975 SMP Overall Goal 1)~~
4. Protect against significant adverse effects to the land, its vegetation and wildlife, and the waters and their aquatic life within jurisdictional shorelines; and ~~(1975 SMP Overall Goal 2) (WAC 173-26-241(2)(a)(ii))~~
5. ~~To give~~Give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas, as illustrated in use allowances of this SMP; and ~~(WAC 173-26-241(2)(a)(i))~~
6. Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline, such as through application of vegetation management, water quality, restoration and similar standards. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses in assigning permit types; and ~~(WAC 173-26-241(2)(a)(iii))~~
7. Assure no net loss of ecological functions associated with the shoreline, using best available science; and ~~(WAC 173-26-241(2)(a)(iv))~~
8. Protect rights of navigation; and ~~(1975 SMP Overall Goal 3)~~
9. Recognize private property rights and constitutional limitations on the regulation of private property and protect those rights while implementing this SMP; and ~~(1975 SMP Overall Goal 4)~~
10. Maintain or recreate a high quality of environment along jurisdictional shorelines; and ~~(1975 SMP Overall Goal 5)~~
11. Preserve and protect fragile natural resources and cultural significant features; and ~~(1975 SMP Overall Goal 6)~~
12. Increase public access to publicly owned areas of the shorelines where increased use levels are desirable; and ~~(1975 SMP Overall Goal 7)~~
13. Protect public and private properties from adverse effects of improper development in hazardous shoreline areas; and ~~(1975 SMP Overall Goal 8)~~

14. Recognize the importance of an informed and responsible public observing basic rules of good behavior in the use and enjoyment of all shorelines; and ~~(1975 SMP Overall Goal 9)~~
15. Recognize that this SMP does not alter existing law on access to or trespass on private property and does not give the general public any right to enter private property without the owner's permission.

1.5 Relationship to Other Codes, Ordinances and Plans

- A. All applicable federal, state, and local laws shall apply to properties in the shoreline jurisdiction.
- B. The City's Comprehensive Plan, zoning regulations, subdivision regulations, health regulations and other regulatory provisions, including State and Federal regulations, apply within the shoreline jurisdiction. In the event the provisions of this SMP conflict with other regulations, the more protective of the shoreline ecological functions and processes shall prevail. ~~At the time of application or initial inquiry, the Shoreline Administrator shall inform the applicant/proponent of other local laws and rules that may be applicable to the project. The responsibility for determining applicable federal, state or special district statutes and regulations and complying with the same rests with the applicant/proponent or responsible person carrying out the activity, use, or development in question.~~
- C. Consistent with RCW 36.70A.480, the goals and policies of this SMP ~~approved under chapter 90.58 RCW~~ shall be considered an element of ~~Chelan County's and~~ the Leavenworth's comprehensive plans. All regulatory elements of this SMP, including, but not limited to definitions and use regulations, shall be considered a part of ~~Chelan County's and~~ the Leavenworth's development regulations. ~~The County shall apply City regulations in unincorporated urban growth areas.~~
- D. ~~All local development regulations including, but not limited to, zoning and subdivision rules shall apply in addition to this SMP.~~ This SMP includes critical areas regulations applicable only in the shoreline jurisdiction, and shall control within shoreline jurisdiction over ~~other~~ Leavenworth Municipal Code (LMC) Chapter 16.08 eCritical area Areas regulations adopted pursuant to the Growth Management Act. ~~Amendments to the Critical Areas LMC~~ regulations are separate and distinct from the SMP, and do not require amendment to the SMP.
- E. ~~In the event provisions of this SMP conflict with provisions of Federal, State, County or City regulations, the provision that is most protective of shoreline resources shall prevail, when consistent with policies set out in the Act. (RCW 90.58.900; WAC 173-26-221(6)(b)(ii))~~

1.6 Liberal Construction

As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and this SMP shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which they were enacted. ~~(1975 SMP Section 40; RCW 90.58.900)~~

1.7 Severability

Should any section or provision of this SMP be declared invalid, such decision shall not affect the validity of this SMP as a whole. ~~(Common ordinance construction; RCW 90.58.910)~~

1.8 Effective Date

~~The This~~ SMP ~~is hereby~~ adopted on the 22nd day of January, 2013, was amended on xx 2021, City Ordinance xxxx. This SMP and all amendments thereto shall become effective ~~immediately upon 14-~~ days after final approval by Ecology. ~~(RCW 90.58.090(7))~~

2 GOALS AND OBJECTIVES

~~Per WAC 173-26-186(3), all relevant policy goals must be addressed in the planning policies of master programs.~~ This section contains shoreline goals and objectives. Goals express the ultimate aim of the ~~County, Cities and citizens along their shorelines~~ City, residents and visitors. An objective identifies a measurable step that moves toward achieving a long-term goal. Goals and objectives provide a framework upon which the more detailed SMP shoreline use environments, policies, regulations, and administrative procedures are based in subsequent chapters.

2.1 Economic Development Element ~~(RCW 90.58.100(2)(a))~~

Goal ED-1. Permit those commercial, industrial, recreational, and other developments requiring a shoreline location which may contribute to the economic well-being of ~~Chelan County and the Cities~~ Leavenworth. ~~(1975 SMP Goal A)~~

Objective ED-1.1. Encourage shoreline development that has a positive effect upon community economic and social activities.

Objective ED-1.2. Promote new water-dependent, water-related, and water-enjoyment economic development. ~~(WAC 173-26-241(2)(a)(iii))~~

~~–Goal ED-2.~~ Encourage the protection and restoration of unique, fragile, and scenic elements in shoreline areas as a means to promote long-term economic well-being. **90.58.020**

Objective ED-2.1. Promote environmental education.

Objective ED-2.2: Develop incentives for protection and restoration in shoreline areas without loss of economic development such as ~~by~~ allowing transfer of development rights to less sensitive areas.

2.2 Public Access Element ~~(RCW 90.58.100(2)(b))~~

Goal PA-1. Ensure public access to shorelines:

- Is safe, convenient and diversified; ~~(1975 SMP Goal B)~~
- ~~Makes provisions~~ Provides for public access to publicly owned shoreline jurisdiction areas; ~~(WAC 173-26-176(3), WAC 173-26-191(1)(b); based on 90.58.100(2))~~
- Avoids endangering life or adverse effects on property or fragile natural features; ~~(1975 SMP Goal B)~~
- Minimizes conflicts between the public and private property; ~~(1975 SMP Goal B)~~
- Enables the public to enjoy the physical and aesthetic qualities of natural shorelines of the state which shall be preserved to the greatest extent feasible, consistent with the overall best interest of the state and the people generally; ~~(WAC 173-26-176(3)(b) from RCW 90.58.020)~~
- Is designed for persons with disabilities, where feasible, consistent with federal standards; and
- ~~That alters the~~ Limits altering the natural conditions of the shorelines of the state ~~to, in those limited instances when development provides an opportunity for substantial numbers of people to enjoy the shorelines of the state.~~ ~~(WAC 173-26-176(3)(b) from RCW 90.58.020)~~

Objective PA-1.1. Increase public access to shorelines, particularly on public properties, by developing and implementing parks, recreation, and trails plans. ~~(WAC 173-26-221(4)(e))~~

Objective PA-1.2. Require public access as part of public shoreline development, where appropriate. ~~(WAC 173-26-221(4)(d)(ii))~~

Objective PA-1.3. Require and/or encourage public access as part of private shoreline development in accordance with adopted -shoreline public access plans, where appropriate and in compliance with constitutional limitations. ~~(WAC 173-26-221(4)(d)(iii))~~

Objective PA-1.4. Protect and enhance visual and physical access to shorelines. ~~(WAC 173-26-221(4)(d)(iv))~~

Objective PA-1.5. Assure that public access improvements do not result in a net loss of shoreline ecological functions.

Objective PA-1.6. Encourage development of public access by using tools such as acquisition of land, incentives, enhancement of existing public land where public access could be developed, etc.

Goal to maintain current access. The City encourages maintenance of existing access prior to and/or as a preference to establishing and constructing new access points.

2.3 Recreation Element ~~(RCW 90.58.100(2)(c))~~

Goal REC-1. Promote diverse, convenient, and adequate recreational opportunities along public shorelines for local residents and visitors. ~~(1975 SMP Goal D)~~

Objective REC-1.1. Encourage cooperation among public agencies, non-profit groups, and private landowners and developers to increase and diversify recreational opportunities. ~~(WAC 173-26-241(3)(i))~~

Objective REC-1.2. Ensure shoreline recreation facilities are preserved and enlarged as necessary to serve projected County and City growth in accordance with adopted levels of service. ~~(WAC 173-26-241(3)(i))~~

Objective REC-1.3. Ensure recreation facilities are designed for persons with disabilities, where feasible, consistent with federal standards.

2.4 Circulation Element ~~(RCW 90.58.100(2)(d))~~

Goal CIRC-1. Since major transportation and utility systems pre-exist near many shorelines, minimize conflicts between these systems and shoreline uses when considering circulation additions or modifications. (1975 SMP Goal C)

Objective CIRC-1.1. Encourage multiple modes of transportation. ~~(WAC 173-26-241(3)(k))~~

Objective CIRC-1.2. Promote non-motorized travel and public access opportunities. ~~(WAC 173-26-241(3)(k))~~

~~**Objective CIRC-1.3.** Encourage water dependent transportation where appropriate. (RCW 90.58.020)~~

Objective CIRC-1.4³. Promote the design of new or expanded road corridors for motorized vehicles outside of shoreline jurisdiction unless there is no reasonably feasible alternative or location. ~~(WAC 173-26-241(3)(k))~~

Objective CIRC-1.5⁴. Promote the design of new utilities outside shoreline jurisdiction unless water crossings are unavoidable or utilities are required for authorized shoreline uses consistent with this SMP.

2.5 Shoreline Use Element ~~(RCW 90.58.100(2)(e))~~

Goal LU-1. Assure an appropriate pattern of sound development in suitable locations without diminishing the quality of the environment along shorelines. ~~(1975 SMP Goal E)~~

Objective LU-1.1. Give preference along the shoreline to water-oriented and single-family residential uses, consistent with the control of pollution and prevention of damage to the natural environment. ~~(RCW 90.58.020)~~

Objective LU-1.2. Encourage shoreline uses and development that enhance and/or increase public access to the shoreline or provide significant public benefit. ~~(WAC 173-26-241(3) (d), (f), (i), (j) and WAC 173-26-221(4))~~

Goal LU-2. Consider irrigated agriculture as a water-related use and a key factor in the economy of Chelan County and the Cities. Agricultural lands should be conserved and protected from incompatible uses. Other shoreline uses should not jeopardize production on designated agricultural lands. ~~(1975 SMP Goal H)~~.

Objective LU-2.1. Protect current agricultural activities occurring on agricultural land. Provide for new agricultural uses that are located and designed to assure no net loss of ecological functions and that do not have a significant adverse impact on other shoreline resources and values. ~~(WAC 173-26-241(3)(a)(ii))~~

2.6 Conservation Element ~~(RCW 90.58.100(2)(f))~~

Goal CONS-1. Protect shoreline resources by:

- Preserving unique and fragile environments, and scenic elements such as views of natural features that support area tourism;
- Conserving non-renewable natural resources; and
- Managing renewable resources such as timber, water, and wildlife. ~~(1975 SMP Goal G)~~

Objective CONS-1.1. Provide for no net loss of shoreline ecological function.

Goal CONS-2. Encourage the restoration of shoreline areas which have been modified, blighted, or otherwise disrupted by natural or human activities. ~~(1975 SMP Goal I)~~

Objective CONS-2.1. Ensure restoration and enhancement is consistent with and prioritized based on adopted watershed and basin plans. ~~(Recognizes County and City restoration plans; WAC 173-26-186 (8)(c))~~

2.7 Historic, Cultural, Scientific, and Educational Element ~~(RCW 90.58.100(2)(g))~~

Goal HIST-1. Protect and restore areas having documented significant historic, cultural, educational or scientific values. ~~(1975 SMP Goal F)~~

Objective HIST-1.1. Work with property owners to encourage the preservation of significant historic, cultural, educational or scientific values.

Goal HIST-2. Protect shoreline features to prevent the destruction of, or damage to, any site having archaeological, historic, cultural, or scientific value through coordination and consultation with the appropriate local, state, tribal and federal authorities. ~~(Recommendations by State Department of Archaeology and Historic Preservation (DAHP))~~

Objective HIST-2.1. Protect sites in collaboration with appropriate tribal, state, federal, and local governments and affected property owners. Encourage cooperation among public and private parties in the identification, protection, and management of historic cultural resources. ~~(Recommendations by DAHP)~~

Objective HIST-2.2. When and/or where appropriate, make access to such sites available to parties of interest. Design and manage access to such sites in a manner that gives maximum protection to the historic resource. ~~(Recommendations by DAHP)~~

Objective HIST-2.3. Provide opportunities for education related to archaeological, historical and cultural features when and/or where appropriate and incorporate into public and private management efforts, programs and development. ~~(Recommendations by DAHP)~~

2.8 Flood Hazard Prevention Element ~~(RCW 90.58.100(2)(h))~~

Goal FLOOD-1. Recognize the hydrologic functions of floodplains, and protect frequently flooded areas. ~~(WAC 173-26-241(4) and Comprehensive Plans, including Chelan County Policy LU-4; Leavenworth Policy LU-1)~~

Objective FLOOD-1.1. Avoid or mitigate land use practices that may impede the flow of floodwater or cause danger to life or property. Mitigate the loss of floodplain storage capacity to avoid greater impact of flooding downstream. ~~(WAC 173-26-221(3) and Comprehensive Plans, including Chelan County Policy LU-5 and; Leavenworth Policy LU-2; Cashmere Frequently Flooded Areas Policies; →)~~

Objective FLOOD-1.2. Implement the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. ~~(Comprehensive Plans: Chelan County Policy LU-4; Leavenworth Policy LU-1)~~

Objective FLOOD-1.3. Seek to map areas that are potential flood hazard areas and/or have experienced historical flooding events, but are not currently included in the Federal Emergency Management Agency's mapping efforts. Work with the Federal Emergency Management Agency to correct maps that are inaccurate.

Objective FLOOD-1.4. Prepare and implement channel migration zone plans. ~~(Based on WAC 173-26-221(3) and prepared CMZ plans)~~

Objective FLOOD-1.5. Coordinate shoreline jurisdiction flood hazard prevention policies and regulations with Growth Management Act provisions to protect critical areas including frequently flooded areas.

Objective FLOOD-1.7. Monitor stream flows and consider any trends or changes in stream flow regimes due to climatic changes.

3 SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

3.1 Shoreline Jurisdiction

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated “shorelands.” The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is ~~greater than~~ 20 acres or greater. The City of Leavenworth contains two shorelines: the Wenatchee River, a Shoreline of Statewide Significance, and Chumstick Creek.

~~Certain shoreline waterbodies and their associated shorelands have elevated status under the Act if they are lakes equal to or larger than 1,000 acres or they are streams and rivers in Eastern Washington that are “...downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer” (RCW 90.58.030(2)(e)(v)(B)). These waterbodies are considered to be “shorelines of statewide significance,” and have unique supplemental provisions outlined in Section 3.4.~~

Shorelands are minimally defined as:

“those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark [OHWM]; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter....” (RCW 90.58.030).

The location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed, using a professional OHWM delineation, FEMA maps and, as appropriate, surveys.

The upstream extent of shoreline jurisdiction for streams and those lakes that meet shoreline criteria are indicated on the Official Shoreline Maps included in Appendix A. The purpose of the Official Shoreline Maps is to identify Environment Designations ~~(Section 3.2 below)~~. The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary ~~high water~~high-water mark (OHWM), floodway, and presence of associated wetlands.

~~The City of Leavenworth contains two shorelines: the Wenatchee River, a Shoreline of Statewide Significance, and Chumstick Creek. See Section 3.1 of this SMP.~~

In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program. The other portions of the parcel are still subject to all ~~County or City~~adopted planning and zoning ordinances.

~~County and City planning shall include concurrency planning with this SMP.~~

3.2 Environment Designations

3.2.1 Environment Designation System

~~This SMP is intended to meet the requirements in WAC 173-26-211. It states that:~~

~~Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section.~~

Each master program's classification system shall be consistent with that described in WAC 173-26-211 (4) and (5) unless the alternative proposed provides equal or better implementation of the act.

~~The following environmental designations reflect the State option to deviate the categories of designations giving the city an~~ This SMP is consistent with these requirements, deviating from WAC 173-26-211 (4) and (5) with respect only to some environment designation names, or the addition of new environment designations where such provides local government with opportunity to provide further, but complementary, designations consistent with existing land management plans. Each environment designation contains a purpose statement, designation criteria, and management policies components.

~~3.2.2 Official Shoreline Maps and Unmapped or Undesignated Shorelines~~

~~Appendix A (Shoreline Jurisdiction Boundaries and Environment Designations Maps) includes a hard copy of the Official Shoreline Maps at the time of SMP adoption, which illustrate the delineation of shoreline jurisdiction and environment designations in City of Leavenworth and UGA. The electronic files of the Official Shoreline Maps will be considered the official version and may be updated administratively or through an SMP amendment as indicated in 3.2.2.B, C and D below. The Department of Ecology will be provided with electronic files of the Official Shoreline Maps when any updates are made.~~

~~Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site specific surveys of ordinary high water mark, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Park environment designation, or the most protective environment designation of the City of Leavenworth. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Maps without an SMP amendment. These minor mapping errors corrected administratively shall not be greater than 1.0 acres in size. If greater than 1.0 acres in size a SMP amendment shall be completed within 3 years of finding the mapping error.~~

3.2.3 Urban Park

A. **Purpose.** The purpose of the "Urban Park" environment is to:

1. Ensure appropriate management and development of existing and future public parks and recreation areas.
2. Protect and restore ecological functions of open space, floodplain and other sensitive, public or protected lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

B. **Designation Criteria.** "Urban Park" environment designation will be assigned to shorelines that:

1. Are within existing or planned public parks intended to accommodate public access and recreational developments that are compatible with maintaining or restoring the ecological functions of the area, and that are not generally suitable for commercial or industrial water-dependent uses;
2. Are suitable for water-related or water-enjoyment uses;
3. May be designated as open space, floodplain or other sensitive or protected areas that should not be more intensively developed; or
4. Retain important ecological functions, even though partially developed.

- C. **Management Policies.** Development within the “Urban Park” environment shall be consistent with the following policies:
1. Public access and public recreation objectives should be implemented in parks or other public lands located within the City or its UGA whenever feasible and when any significant ecological impacts can be mitigated.
 2. When considering park and urban recreational development proposals, water-oriented uses and their accessory uses should be given priority over non-water-oriented uses. Non-water-oriented uses should be allowed when located upland of other water-oriented uses or when the non-water-oriented use would not conflict with or preclude implementation of planned water-oriented uses. Where a public shoreline recreational development or use is established, it should be primarily related to access to, enjoyment and use of the water. Non-water-oriented water-oriented uses may be allowed in such situations where they do not conflict with or limit opportunities for water-oriented water-oriented uses.
 3. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of this environment and the setting.
 4. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Urban Park" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

3.2.4. Shoreline Residential

- A. **Purpose.** The purpose of the "Shoreline Residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.
- B. **Designation Criteria.** A "Shoreline Residential" environment designation will be assigned to shorelands if they are predominantly single-family or multi-family residential development or are planned for residential development.
- C. **Management Policies.** Development within the “Shoreline Residential” environment shall be consistent with the following policies:
1. Non-residential development should be limited to water-oriented uses and not conflict with the residential character of lands in the “Shoreline Residential” environment.
 2. Water-oriented recreational uses should be allowed. ~~Adequate land area and services should be provided.~~
 3. Land division and development should be permitted only 1) when adequate buffers are provided to protect ecological functions and 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.
 4. Development standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
 5. Multi-family and multi-lot residential and recreational developments should provide public access to the shoreline and joint-use community recreational facilities.
 6. New residential development should be located and designed so that future shoreline stabilization is not required.

3.2.5 High Intensity

- A. **Purpose.** The purpose of the "High Intensity" environment is to provide for high-intensity commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.
- B. **Designation Criteria.** A "High Intensity" environment designation will be assigned to shorelands designated for commercial or industrial use if they currently support or are suitable and planned for high-intensity commercial, industrial, or institutional uses that either include, or do not detract from, the potential for water-oriented uses, shoreline restoration, and/or public access.
- C. **Management Policies.** Development within the "High Intensity" environment shall be consistent with the following policies:
1. In the High Intensity environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non-water-oriented uses should not be allowed except as part of mixed-use developments. Non-water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline, ~~but only if identified in shoreline use analysis or through special area planning as described in WAC 173-26-201(3)(d)(ix).~~
 2. Developments in the High Intensity environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
 3. Where feasible, visual and physical public access should be required ~~as provided for in Section 4.4 of this SMP.~~
 4. Aesthetic objectives should be actively implemented in development proposals and should be in compliance with sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
 5. No net loss of shoreline ecological functions shall occur as a result of new development. ~~Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.~~
 6. Full utilization of existing urban areas should be achieved before considering expanding this environment designation through future SMP amendments. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "high-intensity." During an analysis of shoreline uses, consideration should be given to the potential for displacement of non-water-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas. In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas is encouraged.

3.2.6 Aquatic

- A. **Purpose.** The purpose of the "Aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.
- B. **Designation Criteria.** An "Aquatic" environment designation will be assigned to shoreline areas waterward of the OHWM.
- C. **Management Policies.** Development within the "Aquatic" environment shall be consistent with the following policies:
 - 1. New over-water structures should be prohibited except for water-dependent uses, public access, necessary shoreline crossings, or ecological restoration.
 - 2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
 - 3. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
 - 4. 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 fish and wildlife, particularly those species dependent on migration.
 - 5. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in Section 4.2, Ecological Protection and Critical Areas.
 - 6. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

3.2.73 ~~Use Matrix and Development Standards~~

This section contains the Use Matrix which outlines all uses within the shoreline jurisdiction as permitted, conditional or prohibited. Where there is a conflict between the Use Matrix and the written provisions of this SMP, the written provisions shall apply.

The following provisions apply to the Use Matrix, Table 1:

- A. ~~Table 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 and SMP ~~Provisions~~ regulations as their primary use. ~~Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.~~
- B. An accessory use shall not be established on a property prior to the establishment of its primary use.
- C. 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.
- D. ~~Any use, development or modification not classified in the Shoreline Master Program or listed below shall require a Conditional Use Permit except if a similar use is when found consistent with the policies of the applicable Shoreline Master Program policies.~~

D.

E. Uses and modifications identified as "SD/E" require either a Shoreline Substantial Development Permit or may be exempt if consistent with Section 7.6. Exempted uses and modifications shall be consistent with the

~~applicable policies and regulations of this SMP and may require a letter of exemption from the Shoreline Administrator prior to commencing an exempt activity. If any part of a proposed development is not eligible for exemption, then a Substantial Development Permit is required for the entire proposed project. 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 the definition of *Substantial Development* included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.~~

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

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

~~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, lot frontage, side setbacks, and height are provided in Table 2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes~~

~~When a development is proposed that does not comply with the shoreline buffer, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development can only be authorized by approval of a Variance. In addition, a variance from the maximum height limit shall be subject to approval of a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.~~

~~G.E. — Except as otherwise stated, in addition to this SMP, the City’s comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline ecological functions and processes shall prevail.~~

~~H.F. — Where a use or modification may occur in the Aquatic shoreline environment designation, the adjacent shoreland environment requires a Conditional Use or prohibits the use, then the more restrictive permit process or prohibition applies to the Aquatic shoreline environment designation. For example, a boat launch may be permitted in the Aquatic shoreline environment designation, but would require a Shoreline Conditional Use Permit if the immediately upland shoreline environment designation is Shoreline Residential; therefore, the boat launch would require a Shoreline Conditional Use Permit. Where a use or modification may occur in the Aquatic environment as indicated in Table 1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.~~

~~G. — When a development or use is authorized in the Aquatic designation, associated uses and structures may occur on the adjacent shorelands.~~

~~H. — 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 Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 2 indicates “SD/E.” However, if “CU” is listed for the use or modification, that use or modification is not eligible for an exemption. Non-conforming structures and uses are addressed in Chapter 6.~~

Table 1. Shoreline Use and Modification Matrix.

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapter 4 & 5; otherwise prohibited	Urban Parks	Shoreline Residential	High Intensity	Aquatic
Agriculture	X	CU	CU	X
Agricultural-Commercial	X	X	X	X
Aquaculture–Non Commercial	CU	X	CU	CU
Boating Facilities: Marinas and Boat Launches				
Community docks/piers	X	X	X	X
Marinas and commercial docks/piers	X	X	X	X
Public boat launch facility	SD/E	CU	SD/E	SD/E
Breakwaters/jetties/rock weirs/groins	CU	CU	CU	CU ¹
Commercial Uses				
Water-dependent uses	CU	X	SD/E	CU
Water-related uses	CU	SD/E X	SD/E	X
Water-enjoyment uses	CU	SD/E CU ⊕	SD/E	X
Non-water-oriented uses	X	X	SD/E(-)	X
Mixed use	CU	X	SD/E(-)	X
Dredging and dredge materials disposal				
Dredging	X	X	X	SD/E(-)
In-water disposal	X	X	X	CU
Upland disposal outside of CMZ/ floodplain	CU	SD/E	SD/E	X
Upland disposal inside of CMZ/ floodplain	CU	CU	CU	X
Fill (in-water fill)				
Upland <u>O</u> outside of CMZ/ floodplain	SD/E	SD/E	SD/E	X
Upland <u>I</u> inside of CMZ/ floodplain	CU	CU	CU	X CU
In-water restoration	X	X	CU	X
In-water non-restoration	X	X	X	X

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The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapter 4 & 5; otherwise prohibited	Urban Parks	Shoreline Residential	High Intensity	Aquatic
Forest Practices	CU	X	X	X
Industrial Uses				
Water-dependent uses	X	X	SD/E CU	CU
Water-related uses	X	X	SD/E CU	X
Nonwater-oriented uses	X	X	SD/E CU(-)	X
Institutional²				
Water-oriented	CU SD/ E	CU	CU SD/E	CU
Nonwater-oriented	CU(-)	CU(-)	CU(-)	X
In-Water Structures (not otherwise listed), Major	X	CU	CU	CU
In-Water Structures, Minor	SD/E	SD/E	SD/E	SD/E
<u>Mining</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Mining				
Upland mining outside of CMZ	X	X	X	X
Upland mining inside of CMZ	X	X	X	X
In-water mining (commercial)		X	X	CU
In-water mining (recreational)	X	X	X	SD/E(-)
Private Moorage Facilities (docks, launches)	X	X	X	X
Recreational Uses²				
Water-dependent	SD/E	SD/E	SD/E	SD/E
Water-related	SD/E	SD/E	SD/E	SD/E
Water-enjoyment	SD/E	SD/E	SD/E	SD/E
Nonwater-oriented	CU	CU	CU	X
Residential Uses				
Single-family/Duplex/ <u>Accessory Dwelling Unit</u>	X	SD/E	SD/E	X
Multi-family	X	SD/E	SD/E	X

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapter 4 & 5; otherwise prohibited	Urban Parks	Shoreline Residential	High Intensity	Aquatic
Over-water/ Floating/ Liveboards	X	X	X	X
Shoreline habitat and natural systems enhancement <u>or</u> <u>restoration</u> projects	SD/E	SD/E	SD/E	SD/E
Shoreline Stabilization				
Hard structural shoreline stabilization	CU	CU	CU	CU
Soft structural shoreline stabilization/ Bioengineering	SD/E	SD/E	SD/E	SD/E
Dikes, levees	CU	CU	CU	X
Transportation and Parking				
Local	SD/E(-)	SD/E(-)	SD/E(-)	CU SD/ E
Regional	CU	CU	CU	CU
Utilities				
Small	SD/E	SD/E	SD/E	CU SD/ E
Large	CU	CU	CU	CU

¹ Those structures installed to protect or restore ecological functions, such as woody debris installed in streams, may be processed as a Substantial Development Permit.

² When the use is also commercial, it is also subject to Commercial use standards and matrix allowances

3.4 Environment Designation Buffers and Development Standards

Table 2. Shoreline Development Standards Matrix ~~for the City of Leavenworth.~~

Standard	Urban Park	Shoreline Residential	High Intensity	Aquatic
Note: All dimensions are in feet. n/a = not applicable				
Shoreline Buffer ^{**} —All Uses	See Section 4.5 of this SMP.			
<u>Standard Buffer</u>	<u>150</u>	<u>80</u>	<u>60</u>	<u>n/a</u>

City of Leavenworth Shoreline Master Program

<u>Reduced Buffer</u>	<u>112.5</u>	<u>60</u>	<u>40</u>	<u>n/a</u>
Shoreline Lot Frontage Minimum – Residential	n/a NA	60	0	n/a
Side Yard Setback Minimum – Residential	NA	5	0	n/a
Height Limit Maximum	35	35	35 (50*)	35

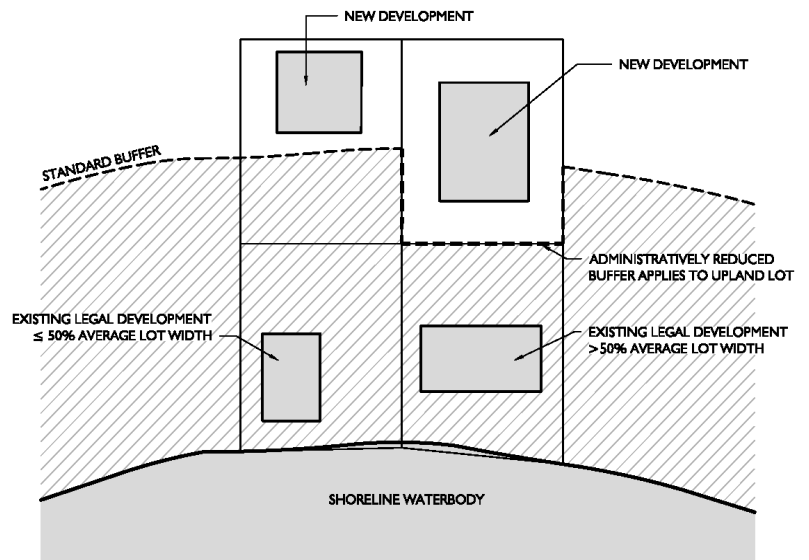
* 50 with view analysis;

** water-dependent uses are exempt from buffer requirements when meeting the standards of this SMP; when environment designations are parallel, the buffer of the waterward environment extends only to the upland edge of that environment. The buffer for the landward environment would apply to development in the upland environment.

~~3.2.8 — The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and ordinary high water mark determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using the jurisdiction’s FEMA maps (February, 1981). In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction (e.g., is more than 200 feet from the OHWM or floodway, is no longer in floodplain as documented by a Letter of Map Revision from FEMA, and does not contain associated wetlands) shall not be subject to the requirements of this SMP. Revisions to the Official Shoreline Maps may be made as outlined in this Section E without an SMP amendment.~~

3.4.1 Administrative Buffer Reductions Options

- A. Roads and Railways. Where a legally established road or railway crosses a shoreline or critical area buffer, the Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the legally established improved road or railway.
- B. Existing Developments. Other Developments. Where a legally established pre-existing development occupies more than 50 percent of the width of the waterward lot, the Shoreline Administrator may approve a modification of the buffer width to the upland edge of the waterward legal lot as illustrated on the following diagram if a study submitted by the applicant and prepared by a qualified professional demonstrates that the part of the buffer on the upland legal lot sought to be reduced:
 1. Does not provide additional protection of the shoreline waterbody or stream; and
 2. Provides insignificant biological, geological or hydrological buffer functions relating to the waterward portion of the buffer adjacent to the shoreline waterbody or stream.



Establishment of a reduced buffer on the upland lot at the waterward edge of that parcel does not preclude the owner of the waterfront parcel from seeking and obtaining buffer modifications under other provisions of this SMP.

- C. Buffer Reduction (25%). Reductions of up to twenty-five (25) percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that:
1. A mitigation plan indicates that enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at an equal level than the existing standard buffer; or
 2. Conditions unique to the site, including legally existing uses or developments, or naturally existing topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the subject upland property to the waterbody.

3.4.2 Administrative Modification of Height

Modification of height standards. The City may allow an increase in height above applicable SMP height standards when the site utilizes the standard buffer (without reduction) and if that action is consistent with underlying zoning regulations.

3.2-95 Interpretation of Environment Designation Boundaries

- A. ~~A.~~—If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:
- Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
 - In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be re-designated through an SMP amendment.
 - Boundaries indicated as approximately following roads or railways shall be respectively construed to follow the nearest right-of-way edge.
 - Boundaries indicated as approximately parallel to or extensions of features indicated in (1), (2), or (3) above shall be so construed.
- B. ~~B.~~—In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in term of the correct environment designation to apply to a property, the Shoreline Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Section 7.13 and City of Leavenworth’s appeal procedures. If the use environment criteria were misapplied, but the map does not show an unintentional error, a SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.16.
- C. ~~C.~~—All shoreline areas waterward of the OHWM shall be designated Aquatic.
- D. ~~D.~~—Upland environment designations shall apply to shorelands.
- E. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map (for example: “boundary is 100 feet upland from the OHWM”). ~~Application of parallel designation’s buffer features are explained in section 4.5.2.~~

~~3.3 — Shoreline Use Preferences~~

~~This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:~~

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

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

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

~~When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:~~

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

~~Reserve shoreline areas for water-dependent and associated water related uses ... Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.~~

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

~~Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.~~

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

3.4.6 Shorelines of Statewide Significance

In the City of Leavenworth, the Wenatchee River is a Shoreline of Statewide Significance. ~~In addition, Chumstick Creek is a shoreline of the State.~~

3.4.1 Designation Criteria

~~Shorelines of Statewide Significance are subject to additional use preference policies In the City of Leavenworth, shorelines of statewide significance include those lakes, whether natural, artificial, or a combination thereof, with a surface area greater than or equal to 1,000 acres measured from the OHWM, and natural rivers or segments thereof downstream of a point where the annual flow is measured at two hundred (200) cubic feet per second or more, or those portions of rivers downstream from the first three hundred (300) square miles of drainage area, whichever is longer.~~

3.4.2 Use Preferences

~~In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all shorelines of statewide significance in Chelan County and Leavenworth, as defined in RCW 90.58.030(2)(e) and listed in this SMP. Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses in the following order of preference that are consistent with the statewide interest in such shorelines. These are uses that:~~

- ~~(1) Recognize and protect the statewide interest over local interest;~~
- ~~(2) Preserve the natural character of the shoreline;~~
- ~~(3) Result in long term over short term benefit;~~
- ~~(4) Protect the resources and ecology of the shoreline;~~
- ~~(5) Increase public access to publicly owned areas of the shorelines;~~
- ~~(6) Increase recreational opportunities for the public in the shoreline;~~
- ~~(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (WAC 173-26-251(2))~~

~~Uses that are not consistent with these preferences should not be permitted on shorelines of statewide significance.~~

~~3.4.3 Policies~~

Consistent with the use preferences, ~~the for shorelines of statewide significance contained in RCW 90.58.020 and identified in Section 3.4.2, City of Leavenworth~~ Shoreline Administrator will base decisions administering this SMP on the following policies in order of decreasing priority: ~~(WAC 173-26-251(3)(a-e) and WAC 173-26-251(2))~~

- A. Recognize and protect the state-wide interest over local interest.
 - 1. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating amendments to the Master Program, and any proposed amendments affecting Shorelines of Statewide Significance, to state agencies, affected Tribes, adjacent local governments' land areas, citizen's advisory committees and local officials, and state-wide interest groups.
 - 2. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.
 - 3. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.
- B. Preserve the natural character of the shoreline.
 - 1. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of human intrusions on shorelines.
 - 2. Restore, enhance, and/or redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.
 - 3. Protect and restore existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.
 - 4. Protect and restore habitats for State-listed "priority species."
- C. Support actions that result in long-term benefits over short-term benefits.
 - 1. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
 - 2. Preserve resources and values of shorelines of statewide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
 - 3. Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, and unique environments.
- D. Protect the resources and ecology of the shoreline.
 - 1. All shoreline development should be located, designed, constructed and managed consistent with mitigation sequencing provisions outlined in Section 4.2.2 to minimize adverse impacts to regionally important wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes and result in no net loss of shoreline ecosystems and ecosystem-wide processes.
 - 2. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.
- E. Increase public access to publicly owned areas of the shoreline.

1. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines, especially those trail corridors that would be a regional recreational and transportation resource.
 2. Locate development landward of the OHWM so that access is enhanced and opportunities for access are not precluded.
 3. Increase public access opportunities for those with disabilities consistent with the Americans with Disabilities Act.
 4. Provide incentives to landowners that provide shoreline public access, such as development incentives, tax reductions, or other measures.
- F. Increase recreational opportunities for the public on the shoreline.
1. Plan for and encourage development of facilities for public recreational use of the shoreline, including facilities for boating, swimming, fishing, and other water-oriented activities.
 2. Reserve areas for lodging and related facilities on uplands with provisions for appropriate public access to the shoreline.

4 GENERAL POLICIES AND REGULATIONS

Chapter 4 presents general policies and regulations that apply to any developments, uses, or activities in any environment designation in order to protect environmental and cultural resources, reduce likelihood of harm to life or property from hazardous conditions, and promote access to shorelines.

Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

4.1 Archaeological and Historic Resources

4.1.1 Policies

- A. Preservation, Restoration, Education. Whenever possible, archeological or historic sites should be permanently preserved for scientific study and public observation. In areas known to contain significant archaeological and historic data, a condition should be placed on shoreline permits which would allow for site inspection and evaluation by a professional archaeologist in coordination with affected ~~Indian~~ ~~Tribe~~s to ensure proper salvage of such data. ~~(1975 SMP Policy 16.a)~~
- B. Impact Avoidance. Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected ~~Indian~~ ~~Tribe~~s and the Washington State Department of Archaeology and Historic Preservation, or that have been inadvertently uncovered.
- ~~B.C.~~ Any proposed site development and/or associated site demolition work should be planned and carried out so as to avoid impacts to the cultural resource or to provide appropriate mitigation. ~~(Recommended by DAHP)~~
- ~~C.D.~~ Consultation. Consultation with professional archaeologists and historians is encouraged to identify areas containing potentially valuable archaeological data, and to establish procedures for salvaging data. Appropriate agencies to consult include, but are not limited to, the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Colville Reservation, and the Washington State Department of Archaeology and Historic Preservation (DAHP). ~~(1975 SMP Policy 16.b)~~
- ~~D.E.~~ Adjacent Cultural Site. If development or demolition is proposed abutting an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site. ~~(Recommended by DAHP)~~

4.1.2 Regulations

- A. Known Archaeological Resources. ~~City of Leavenworth shall require that p~~Permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected ~~Indian~~ ~~Tribe~~s. ~~(WAC 173-26-221(1)(e))~~
- B. Uncovered Archaeological Resources. Developers and property owners shall immediately stop work and notify City of Leavenworth, the Washington State Department of Archaeology and Historic Preservation, and affected ~~Indian~~ ~~Tribe~~s if archaeological resources are uncovered during excavation. ~~(WAC 173-26-221(1)(e))~~
- C. Historic Resources. Where a professional archaeologist or historian, recognized by the State of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state or local historical registers, City of Leavenworth may require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws. Archaeological sites located both in and outside shoreline

jurisdiction are subject to chapter 27.44 RCW (~~Indian-Tribe~~ graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC, ~~as well as the provisions of this Master Program. (Based on 1975 SMP Section 27.1 and WAC 173-26-221(1))~~

4.2 Ecological Protection and Critical Areas

4.2.1 Policies (~~based on WAC 173-26-201(2)(c) and 173-26-221(2)~~)

- A. No net loss of ecological functions. Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts, both on site and to the extent that impacts may propagate up- or downstream, so that the resulting ecological condition does not become worse than the current condition. For each development, this means assuring no net loss of ecological functions and processes relative to the existing condition, protecting critical areas designated in Appendix B of this SMP, and protecting additional established shoreline buffers in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. ~~Shoreline ecological functions that should be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.~~
- B. Evaluating potential for adverse impacts. In assessing the potential for new uses and developments to cause adverse impacts on ecological functions or processes, ~~City of Leavenworth~~[the Shoreline Administrator](#) should take into account all of the following:
1. Effects on ecological functions and ecosystem processes; and
 2. Effects that occur on-site and effects that may occur off-site; and
 3. Immediate effects and long-term effects; and
 4. Direct effects of the project and indirect effects; and
 5. Individual effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and
 6. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.
- C. ~~C.~~Development standards should protect functions. Development standards for density, frontage, buffers, impervious surface, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. During permit review, the Shoreline Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

4.2.2 Regulations (~~based on WAC 173-26-201(2)(c and e) and 173-26-221(2)~~)

- A. Applicability. The provisions of this Section and Appendix B, Critical Areas Regulations, shall apply to any use, alteration or development within shoreline jurisdiction, whether or not a shoreline permit or written letter of exemption is required.
- B. Mitigation sequencing. 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 and redevelopment in shorelines in the following sequence of steps listed in prioritized order: (~~WAC 173-26-201(2)(e)(i)~~)
1. Avoiding the impact altogether by not taking a certain action or parts of an action;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing 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.

- C. Mitigation required for impacts. Mitigation shall be required for all projects within shoreline jurisdiction that have adverse impacts resulting in net loss of ecological functions, including those waterward of the OHWM. As part of the analysis of potential impacts, the applicant shall also evaluate whether the project may adversely affect existing hydrologic connections between streams and/or wetlands, and either modify the project or mitigate any impacts as needed. Mitigation must be designed to result in no net loss of ecological functions to the extent feasible. Except where mitigation ratios are otherwise identified for specific critical areas impacts in Appendix B, mitigation for adverse impacts to shoreline ecological functions shall be required at a ratio greater than 1:1 to compensate for temporal losses, uncertainty of performance, and differences in functions and values. ~~of one unit of mitigation for one unit of impact by area (1 sq. foot of impact:1sq foot mitigation). However, depending on the nature and extent of adverse impacts and proposed mitigation, a reduction in the ratio may be allowed to meet the no net loss of ecological functions standard if justified in a critical areas report per Appendix B or a habitat management plan per Section E below submitted to City of Leavenworth. (WAC 173-26-201(2)(e))~~

D. Cumulative effects.

1. In review of applications for Shoreline. ~~Use and development proposals, City of Leavenworth~~The Shoreline Administrator shall consider the cumulative impacts of individual uses and developments, including preferred uses and uses that are exempt from permit requirements, when determining whether a proposed use or development could cause a net loss of ecological functions. The geographic scope of the analysis shall include the shoreline waterbody potentially affected by the proposal within the bounds of City of Leavenworth's geographic authority, unless the Shoreline Administrator determines that a larger or smaller area of analysis is appropriate.
2. ~~City of Leavenworth~~The Shoreline Administrator shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.
3. Proponents of shoreline use and development shall take the following factors into account when assessing cumulative impacts:
 - a. Current ecological functions and human factors influencing shoreline natural processes; and
 - b. Reasonably foreseeable future use and development of the shoreline; and

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- c. Beneficial effects of any established regulatory programs under other local, state, and federal laws; and
 - d. Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.
4. ~~City of Leavenworth shall~~ The Shoreline Administrator may add conditions as needed based on the findings ~~of H.1 H.3 above~~ to address any adverse cumulative effects, and may prohibit any use or development that would result in unmitigated adverse cumulative impacts.
- E. Restoration is not required. Developments shall not be required to provide mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological functions and will not have a significant adverse impact on other shoreline functions fostered by the policy of the Act.
 - F. Alternative design and mitigation. For any development proposal, applicants shall comply with relevant design and mitigation standards found in this SMP. Provided, applicants may submit a habitat management plan that demonstrates how an alternative design or mitigation approach meets the no net loss of ecological functions standard. At a minimum, habitat management plans must contain information about existing and anticipated post-project conditions with a discussion of how the alternative design or mitigation approach is consistent with the SMA and this SMP.
 - G. Location of mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed [~~e.g., area defined by the Watershed Planning Act and named as Water Resource Inventory Areas 40a (Stemilt/Colockum), 45 (Wenatchee), 46 (Entiat), and 47 (Chelan)] that addresses limiting factors or identified critical needs for shoreline resource conservation based on the Shoreline Restoration Plan, or WRIA or comprehensive resource management plans applicable to the area of impact may be authorized if it would have a greater positive impact on ecological function. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions. (WAC 173-26-201(2)(e)(ii)(B))~~
 - H. Protection of critical areas and buffers. Any critical areas found within shoreline jurisdiction, such as wetlands, frequently flooded areas, geologically hazardous areas, fish and wildlife habitat conservation areas (which include shoreline buffers), and critical aquifer recharge areas, shall be regulated by Appendix B, Critical Areas Regulations. Unless otherwise stated, critical area buffers and shoreline buffers located within shoreline jurisdiction shall be protected and/or enhanced pursuant to Section 4.5, Vegetation Conservation and Shoreline Buffers, applicable provisions of Appendix B, Critical Areas Regulations, and all other applicable provisions of this SMP. Critical areas and - their buffers located outside of shoreline jurisdiction are not regulated by this SMP-they shall be regulated under the City's GMA critical area ordinance. See Appendix B for information about City-specific treatment and regulation of shoreline buffers.

4.3 Flood Hazard Reduction

The following provisions apply ~~only in shoreline jurisdiction~~ to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards, within the shoreline jurisdiction. Flood hazard reduction measures may consist of nonstructural measures, such as shoreline buffers, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and storm water management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

Although some flood hazard reduction measures may serve a dual function as shoreline stabilization, their primary purpose is to control the location of flood waters directly. Alternatively, the primary purpose of shoreline stabilization measures is to prevent erosion of land from currents and waves originating in the shoreline waterbody (rather than upland sources of erosion), which is a more indirect control of the location of flood and non-flood water. Shoreline stabilization is addressed in Section 5.18.

~~The City of Leavenworth implements flood hazard reduction through the following means:~~

~~Plans and Policies: Growth Management Act comprehensive plans, Multi-Jurisdiction Natural Hazard Mitigation Plan, watershed plans, and channel migration zone plans have been developed by Chelan County, Leavenworth's, and other agencies and address flood hazard reduction policies, programs, restoration actions, and other capital improvements.~~

~~Regulations: critical area, floodplain and stormwater regulations.~~

4.3.1 Policies

- A. Implement flood hazard plans and regulations. ~~The City of Leavenworth should ensure~~Ensure public and private development applications site and design flood control measures consistent with appropriate engineering principles, including guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, and ~~adopted LMC Chapter 16.08~~this SMP, in order to prevent flood damage, maintain the natural hydraulic capacity of floodways, and conserve limited resources such as fish habitat, water, and soil. ~~(WAC 173-26-221(3)(b)(ii) and (iii))~~
- B. No net loss of ecological functions. Flood protection measures should result in no net loss of ecological functions and ecosystem-wide processes associated with rivers, streams and lakes. Cumulative impacts associated with flood protection measures should be considered. ~~(WAC 173-26-221(3)(b)(iv))~~
- C. Non-structural methods preferred. Where feasible, non-structural methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural flood control works. Non-structural methods may include, but are not limited to, shoreline buffers, land use controls, use relocation, wetland restoration, dike removal, biotechnical measures, stormwater management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs. ~~(WAC 173-26-221(3)(b)(i) and (vi))~~
- D. Avoid structural flood control works. New or expanding development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood control works, such as dikes, levees, revetments, floodwalls, channel realignment, gabions or rip-rap, within a river, channel migration zone, floodway, or lake should not be allowed. ~~(WAC 173-26-221(3)(e)(i))~~
- E. When non-structural flood control is infeasible. New structural flood control works should only be allowed in shoreline jurisdiction when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development – that impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, that appropriate vegetation conservation actions are undertaken, and where non-structural flood hazard reduction measures are infeasible. ~~(WAC 173-26-221(3)(e)(ii))~~
- F. Bioengineered flood control works. ~~The City of Leavenworth should f~~Facilitate returning river and stream corridors to more natural hydrological conditions. Unless otherwise determined infeasible by federal or state agencies with permit authority or by the Shoreline Administrator, flood control works should be bioengineered to enhance ecological functions, create a more natural appearance, improve

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- ecological processes, and provide more flexibility for long-term shoreline management. ~~(WAC 173-26-221(3)(b)(v) and (vii))~~
- G. Avoid damage to other properties. ~~Flood control works and shoreline uses, development, and modifications should be~~ located, designed, constructed and maintained flood controls and development so their resultant effects on geo-hydraulic shoreline processes will not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained. ~~(WAC 173-26-221(3)(b)(v))~~
- H. Utilize SEPA, ~~the this~~ SMP, flood hazard reduction, and critical areas policies and regulations should be utilized to ensure protection of the natural environment and critical resources. ~~(Comprehensive Plan Natural Systems and Critical Areas, Goal 1, Policy 1)~~
- I. Discourage ~~d~~Development in natural hazard areas such as those susceptible to landslide, flood, avalanche, unstable soils, and excessive slopes ~~should be discouraged~~. ~~(Comprehensive Plan Natural Systems and Critical Areas, Goal 1, Policy 2)~~
- J. Encourage ~~The~~ development of floodplains should be regulated in order to help to mitigate the loss of floodplain storage capacity. ~~(Comprehensive Plan Natural Systems and Critical Areas, Goal 1, Policy 2)~~
- K. Prioritize ~~Flood hazard protection should, where feasible, give preference to~~ nonstructural flood hazard reduction measures over structural measures.
- ~~L. Flood hazard protection measures should not result in a net loss of ecological functions associated with the rivers and streams. (WAC 173-26-221(3)(b)(iv))~~
- M.L. Development proposals and restoration projects should evaluate alternative flood control measures, and are encouraged to:
1. Plan for and facilitate returning river and stream corridors to more natural hydrological conditions, ~~(WAC 173-26-221(3)(b)(v))~~
 2. Recognize that seasonal flooding is an essential natural process, and ~~(WAC 173-26-221(3)(b)(v))~~
 3. Consider removal or relocation of structures in flood prone areas. ~~(WAC 173-26-221(3)(b)(vi))~~

4.3.2 Regulations

- A. Avoid increase in flood hazards. Development in floodplains ~~shall be~~, consistent with applicable flood hazard plans and regulations, avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with all the City of Leavenworth regulations including, but not limited to, critical areas regulations (SMP Appendix B), stormwater regulations (Section 4.6 of this SMP), in-water structure regulations (Section 5.12 of this SMP), as well as guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, and City of Leavenworth's comprehensive flood hazard management plan and/or Multi-Jurisdiction Natural Hazard Mitigation Plan. ~~(WAC 173-26-221(3)(c)(i))~~
- B. Channel migration zone (CMZ) Maps.
1. Channel migration zone maps prepared consistent with WAC 173-26-221(3)(b) are included in Appendix ~~F-E~~ of this SMP. These ~~maps provide complete coverage of shoreline waterbodies in Chelan County that have~~ map the potential for channel migration within shoreline jurisdiction. ~~City of Leavenworth shall utilize these maps in shoreline application reviews.~~
 2. Applicants for shoreline development or modification may submit a site-specific channel migration zone study if they do not agree with the mapping in Appendix ~~FE~~.

- C. Documentation. Documentation of alternate channel migration zone boundaries must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. ~~(based on WAC 173-26-221(3)(b)) and comments by U.S. Fish and Wildlife Service~~
- D. Uses and activities authorized in floodway or CMZ. The following uses and activities may be authorized in shoreline jurisdiction where appropriate and/or necessary within the channel migration zone (CMZ) or floodway: ~~(WAC 173-26-221(3)(e)(i))~~
1. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.
 2. ~~Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.~~
 3. Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.
 4. ~~Mining when conducted in a manner consistent with Section 5.13 Mining, and the shoreline environment designation.~~
 5. Bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs and the long-term maintenance or repair costs are not significantly different between options inside or outside of the floodway or channel migration zone. For the purposes of this section “unreasonable and disproportionate” means that locations outside of the floodway or channel migration zone would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the Shoreline Administrator. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline. New transportation facilities shall be designed so that no significant loss of floodway capacity or measurable increase in predictable flood levels will result based on studies submitted by applicants as required by Appendix B, critical areas regulations for frequently flooded areas.
 6. Repair and maintenance of an existing legally established use or structure, provided that channel migration is not further limited, or flood hazards to other uses increased, and provided that such actions do not cause significant ecological impacts.
 7. New development ~~in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A-RCW~~, located upland of existing structures that prevent active channel movement and flooding.
 8. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and provided that such actions do not cause significant ecological impacts.
 9. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of impacts to ecological functions associated with the river or stream.
- E. Structural flood hazard reduction measures. New structural flood hazard reduction measures in shoreline jurisdiction shall be allowed only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are

undertaken consistent with SMP Section 4.5, Vegetation Conservation and Shoreline Buffers. ~~(WAC 173-26-221(3)(e)(ii)) Structural flood hazard reduction measures shall be consistent with City of Leavenworth's comprehensive flood hazard management plan and/or Multi-Jurisdiction Natural Hazard Mitigation Plan.~~

- F. Placement of structural flood hazard reduction measures. New structural flood hazard reduction measures in shoreline jurisdiction shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis. ~~(WAC 173-26-221(3)(e)(iii))~~
- G. Public access. See Section 4.4.2. ~~(WAC 173-26-221(3)(e)(iv))~~
- H. Gravel removal. The removal of gravel for flood management purposes shall be consistent with Section 5.8, Dredging and Dredge Material Disposal ~~and Section 5.13, Mining~~, and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution. ~~(WAC 173-26-221(3)(e)(v))~~
- I. New development and subdivisions. New development or subdivisions in shoreline jurisdiction shall only be approved when it can be reasonably foreseeable that the development or use would not require structural flood hazard reduction measures - within the channel migration zone or floodway during the life of the development or use, consistent with the following: ~~(WAC 173-26-221(3)(e)(i))~~
 - 1. Floodway: New development and subdivisions shall be subject to applicable floodway regulations in Appendix B.
 - 2. Channel Migration Zone: New development ~~and subdivision in shoreline jurisdiction~~ on lots containing channel migration zones shall ~~also be subject to Appendix B, Critical Areas Regulations for geologically hazardous areas, and Appendix F, Channel Migration Zone Maps~~ be consistent with the following standards and this SMP.

~~New development in the channel migration zone within shoreline jurisdiction is allowed subject to:~~

J. Structures are located on an existing legal lot created prior to adoption of this SMP;

- 1) A feasible alternative location outside of the channel migration zone is not available on-site, if is demonstrated that the structure is certified as safe as designed by a qualified engineer or geologist, licensed in the state of Washington and the structure will not increase the hazard risk.
- 2) To the extent feasible, the structure and supporting infrastructure is located the farthest distance from the OHWM, unless the applicant can demonstrate that an alternative location is the least subject to risk.

K. New subdivisions within the channel migration zone are not permitted.

~~A.~~

~~New subdivisions, within shoreline jurisdiction, of lots on which a channel migration zone has been mapped may be approved subject to the following design standards:~~

~~Each lot created within the subdivision shall contain five thousand square feet or more of buildable land either outside of the channel migration zone or inside the channel migration zone but outside of areas that might require new structural flood hazard protection measures; for the purposes of this section, buildable means capable of supporting a dwelling and necessary associated accessory structures and~~

~~improvements such as access and septic facilities. Channel migration zone areas can be included in total lot area required by zoning provided the buildable area meets the criteria specified above.~~

~~(a) — Open Space Lots or Tracts: Open space lots or tracts are not subject to the minimum lot size in Section (1) above.~~

~~(b) — Boundary Line Adjustments: Boundary line adjustments in a channel migration zone shall not result in a lot, tract or parcel smaller than the minimum size required by the zoning and subdivision code and this SMP; provided that whenever any one or more lots involved in the proposed adjustment are smaller than the allowable minimum size and the division does not create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site, unless that lot, tract or parcel is dedicated as open space, the change may be approved so long as the adjustment does not increase the existing nonconformity in consideration of applicable regulations and standards.~~

~~Access to all lots that must cross the channel migration zone in shoreline jurisdiction shall be consolidated in a single location, and shall be accomplished using measures that have the least adverse impact on channel migration, such as a bridge; and~~

~~All other infrastructure is located outside the channel migration zone except that an on-site septic system is allowed in the channel migration zone if (except as allowed by LMC): approved by the Chelan Douglas Health Department for County jurisdiction and UGA areas; a feasible alternative location is not available on-site; and to the maximum extent practical, the septic system is located the farthest distance from the OHWM. Accessory utility development within Leavenworth's jurisdiction must comply with 4.6.2(E).~~

4.4 Public Access

4.4.1 Policies

~~A. — Types of public access.~~ Public access includes both physical and visual approaches to shorelines. Scattered, small access points with low levels of alteration are preferred by some recreators for certain uses (e.g., fishing), but not others (e.g., RV camping, swim beaches, picnicking, event facilities). [The following policies provide guidance for decisions.](#)

- A. ~~B. —~~ Increase public access where appropriate. ~~The City of Leavenworth should seek to increase~~[Promote](#) the amount and diversity of public access to shorelines consistent with shoreline public access plans, the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.
- B. ~~C. —~~ Priorities. Public access should be maintained, enhanced, and increased in accordance with the following priorities unless found infeasible or unconstitutional:
1. Maintain existing public access sites and facilities, rights of way, and easements.
 2. Provide new or enhance existing public access opportunities on existing public lands and easements.
 3. Acquire property or easements to add public access opportunities to implement adopted public access plans and/or to recognize opportunities to protect areas that hold unique value for public enjoyment.
 4. Encourage public access to shorelines as part of shoreline development activities.

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C. ~~D.~~ Findings. ~~City of Leavenworth should require~~Promote public access in private development projects ~~where City of Leavenworth can that~~ demonstrate nexus, proportionality and reasonable necessity for the public access requirement.

~~D. E~~ Public access planning standards.

~~E.D.~~ 1. ~~The City of Leavenworth should, in p~~Partnership with other federal, state, special district, and municipal agencies, aim for a shoreline public access system that results in:

1. ~~a.~~ More than 90% of resident population within 15 miles of regional boating, fishing, trails, parks, and open space facilities.
2. ~~b.~~ More than 50% of resident population within 1.5 miles of local/community shoreline parks and trails.

See Appendix ~~G-F~~ for current and future levels of service.

~~2. Cities should implement planning standards that are consistent with their adopted parks and recreation plans as identified in Appendix G.~~

~~F.E.~~ F. Implementation. ~~The City of Leavenworth should implement their~~Support shoreline public access plans, contained in Appendix ~~G-F~~ to meet growing resident and tourist populations. ~~Implementation strategies should address public access and recreation standards and a capital improvement program. The City of Leavenworth should periodically review the shoreline public access plans, at a minimum every eight years. (RCW 90.58.080)~~

~~G.F.~~ G. Public access exceptions. Public access should not be required where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

~~H.G.~~ H. Willing property owners. Local governments and other agencies should seek willing property owners to participate in public access projects, such as through voluntary agreements such as conservation easements and trail easements. ~~Where purchase of property is negotiated, local governments, agencies, or private parties seeking off site mitigation areas are obligated to pay fair market value for private properties included in public access projects.~~

~~H.H.I.~~ I. Respect private property. ~~Public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access.~~ The ~~d~~Design of public access should minimize potential impacts to private property and individual privacy. This may include providing a physical separation to reinforce the distinction between public and private space, and may be achieved by providing signage, adequate space, and/or through screening with landscape planting or fences.

~~J.I.~~ J. Safety and environment. Public access should be designed consistent with public safety objectives. Public access design should also conserve or protect natural amenities. Where public access is determined to be incompatible due to reasons of safety, security, or impact to the shoreline, the proponent should consider alternate methods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design and restricting hours of public access. Off-site public access improvements may be allowed if such improvements would provide a greater public benefit and reduce safety and environmental impacts.

~~K.J.K.~~ K. Visual access. Views to shorelines contribute to the ~~City and County's~~ quality of life, tourism economy, and property values. ~~City of Leavenworth~~The Shoreline Administrator should consider the following sub-policies when considering new development:

1. ~~1.~~ Views from Public Properties ~~and Significant Numbers of Single Family Dwellings:~~ Flexible development standards, such as height, bulk, scale, setbacks, lighting, and view corridors, should be established to assure preservation of unique, fragile, and scenic elements and to protect existing views from public property or large numbers of residences, particularly where development would exceed ~~three stories~~ 35 feet in height.
2. ~~2.~~ Private views of the shoreline although considered during the shoreline permit review process, are not expressly protected, particularly when development is less than 35 feet in height. Property owners concerned with the protection of views from private properties are encouraged to obtain view easements, purchase intervening property, or seek other means of minimizing view obstruction.

~~L.K.~~ L. — Roads, streets, and alleys abutting bodies of water. Roads, streets, and alleys abutting bodies of water should be preserved, maintained, consolidated enhanced, and/or created for public access. Vacations of roads, streets, and alleys should be discouraged and only ~~allowed in strict compliance~~ permitted consistent with RCW 35.79.035 (Streets and Alleys) ~~or RCW 36.87.130 (County Roads).~~

~~M.L.~~ M. — Fishing easements. Encourage use and development of existing ~~In consultation with the Washington Department of Fish and Wildlife, The City of Leavenworth should review fishing easements on the Wenatchee River, Entiat River, and other shoreline waterbodies. Chelan County should work in partnership with the Washington Department of Fish and Wildlife, Chelan County Public Utility District, Cities, land trusts, and others to improve public access to the fishing easements. Actions may include adding identifiable signage, improving access on unused sites, consolidating access points for maintenance purposes, or land surplus, exchanges or purchases, etc.~~

~~N.M.~~ Accessibility. Public access should be provided ~~to the water's edge without causing significant ecological impacts,~~ Conserve ~~conserve~~ open space and encourage open space considerations in future development. ~~(Land Use Element, Open Space/Recreation, Goal 1)~~

1. Enhance public recreational opportunities by providing a variety of year-round active and passive recreational activities for both residents and visitors. ~~(Land Use Element, Open Space/Recreation, Goal 2)~~
2. Develop and maintain parks and recreational facilities capable of serving the anticipated needs of Leavenworth, including the urban growth area. ~~(Capital Facilities Element, General Goal 3)~~
3. Where appropriate for recreation or open space purposes, ~~the City of Leavenworth should encourage recreational use of derelict land, easements, tax delinquent land, surplus roadway/highway rights of way, and other land not presently in productive use where such land can be used for~~ land exchange, purchase, development of, or long-term leases for recreation purposes. ~~(Parks and Recreation Comprehensive Plan Policy 1, bullet 2)~~
4. ~~The City of Leavenworth should e~~Encourage the planning, development and full utilization of trails and recreation facilities. ~~(Parks and Recreation Comprehensive Plan Policy 3)~~
5. Facilitate the development of an interconnecting trail system for the Upper Valley of Chelan County, consisting of sidewalks, bike lanes, and non-motorized shared-use paths for variety of trail users including bicyclists, equestrians, cross-country skiers, and pedestrians of all ages and skill levels. ~~(Connectivity: 2009 Upper Valley Regional Trails Plan)~~
6. Increase access to local and regional recreational opportunities for people of all ages and levels of mobility. Provide a variety of trail experiences by locating trails of varying lengths and difficulty through diverse terrain, scenery, and points of attraction to draw users and maintain their interest. ~~(Recreational Opportunities: 2009 Upper Valley Regional Trails Plan)~~

4.4.2 Regulations

- A. Review developments ~~The City's shoreline public access plan provides~~ for a connected network of parks and open space and required connections ~~connected~~ by trails, when practicable, especially, those identified in ~~The City's public access planning process provided in Appendix G provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A). The City shall review shoreline developments for consistency with the Shoreline Public Access Plan in Appendix G-F.~~
- B. Public and recreation shoreline uses and activities. Shoreline public access shall be required for the following public and recreation shoreline uses and activities:
1. Shoreline recreation pursuant to Section 5.15; ~~(WAC 173-26-241(3)(i))~~
 2. New structural public flood hazard reduction measures, such as dikes and levees; ~~(WAC 173-26-221(3)(e)-(iv))~~
 3. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and ~~(WAC 173-26-221(4)(d)(ii))~~
- C. Where commercial use is proposed on land in public ownership.
- D. Private development. Shoreline development along designated trail routes per Appendix ~~G-F~~ shall be located and designed to the standards and specifications ~~within the 2011 City of Leavenworth Park and Recreation Plan and 2009 Upper Valley Regional Trails Plan, as amended~~ of the City.
- E. Exceptions: Public access is not required for subdivisions of land consisting of less than five lots. All other commercial and public development shall provide public access unless ~~shall not be required if~~ an applicant/proponent demonstrates at least one of the following criteria ~~"a" through "g"~~ are met and that alternatives have been considered per criteria ~~"h."~~ 6. ~~(based on WAC 173-26-221(4)(d)(iii))~~
- ~~1.~~ ~~The development consists of less than five lots;~~
 - ~~2.~~ 1. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
 - ~~3.~~ 2. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - ~~4.~~ 3. Significant environmental impacts will result from the public access that cannot be mitigated;
 - ~~5.~~ 4. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
 - ~~6.~~ 5. The subject site is separated from the shoreline waterbody by developed intervening public or private ownership;
 - ~~7.~~ ~~Based on the shoreline public access plan in Appendix G, adequate public access has been installed in the Gap areas since the effective date of the SMP already exists along the subject shoreline, the proposed development is outside the Gap areas identified, in adopted local government shoreline public access plans and there are no gaps or enhancements required to be addressed;~~
 - ~~8.~~ 8. In making a ~~making an~~ exception determination, the Shoreline Administrator shall determine if except in the case of 4a and 4g, all feasible alternatives have been exhausted, including, but not limited to:
 - a. ~~where physical access is not feasible, p~~ Providing for visual access instead when physical access is not feasible;

- b. ~~regulating~~ Regulating access by such means as limiting hours of use to daylight hours;
- c. ~~designing~~ Designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
- d. ~~provision~~ Providing of an off-site public access ~~or a fee in lieu pursuant to Subsection 5 that allows public access~~ at a site physically separated from, but capable of serving the proposal.

Off-site Public Access ~~or Fee in Lieu.~~

F.

1. Off-site public access may be permitted ~~by the City~~ where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with ~~the 2011 City of Leavenworth Park and Recreation Plan and 2009 Upper Valley Regional Trails Plan~~ adopted plans, as amended; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.
2. ~~Instead of on site or off site public access improvements, the City may require or an applicant may propose a fee in lieu. A fee in lieu may be assessed through the SEPA process or RCW 82.02.020, where appropriate, such as where the off site improvement is best accomplished by the City at a later date or better implements the City's Shoreline Public Access Plan in Appendix G. The cost of providing the off site public access shall be proportionate to the total long term cost of the proposed development. The fee in lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance. (based on WAC 173-26-221(4)(d)(iii))~~
3. ~~Design Standards. Trail widths shall be in conformance with the 2009 Upper Valley Trails Plan~~ City standards -except as may be modified due to geographic limitations.
4. Buffering Private Property. Public access facilities shall be compatible with adjacent private properties through the use of buffering or other techniques to define the separation between public and private space, including by not limited to: natural elements such as logs, vegetation, and elevation separations.
5. Connectivity. Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way, consistent with design and safety standards.
6. ~~Roads, Streets, and Alleys. The City may not vacate any platted road, street, or alley abutting a body of water except as provided under RCW 35.79.035.~~
7. Environmental Protection. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required. ~~(WAC 173-26-221(4)(d)(iv))~~
8. Conditions of Approval. The ~~City~~ Shoreline Administrator may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix ~~G~~ F, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and compatibility with adjacent properties. Conditions may include but are not limited to the following:
 - a. Use materials appropriate to the character and environmental condition;

- b. Include barrier free designs to meet Americans with Disabilities Act or Forest Service Trail Accessibility Guidelines/ Forest Service Outdoor Recreation Accessibility Guidelines;
- c. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities;
- d. Provide landscaping;
- e. Provide signage with the appropriate State, County or City logo and hours of access as allowed by LMC;
- f. Establish operation and maintenance responsibilities;
- g. Identify dedication and recording requirements;
- h. Determine timing of public access installation in relation to the construction of the proposal; and
- i. Determine ongoing availability to the public or community for which it is designed.

G. View Corridors. The City Shoreline Administrator may condition shoreline development to avoid impacts to view corridors. ~~See Section 5.1 of this SMP.~~ Developments proposing to exceed height limits are subject to a conditional use permit, and a view corridor analysis, ~~and demonstration of criteria per Section 7.7.~~

4.5 Vegetation Conservation and Shoreline Buffers

4.5.1 Policies

- A. Conserve shoreline vegetation. Where new developments, uses and/or redevelopments are proposed, shoreline vegetation, both upland and waterward of the OHWM, should be conserved to maintain shoreline ecological functions and processes. -Vegetation conservation and restoration should be used to mitigate the direct, indirect and cumulative impacts of shoreline development, wherever feasible. Important functions of shoreline vegetation include, but are not limited to:
- 1. Providing shade necessary to maintain water temperatures required by salmonids and other organisms that require cool water for all or a portion of their life cycles.
 - 2. Regulating microclimate in riparian and nearshore areas.
 - 3. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.
 - 4. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence and severity of landslides.
 - 5. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
 - 6. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
 - 7. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase structural diversity for salmonids and other species.
 - 8. Providing habitat elements for riparian-associated and aquatic species, including downed wood, snags, migratory corridors, breeding and rearing sites, food, and/or cover. ~~(list based on WAC 173-26-221(5)(b))~~
- B. Shoreline buffers. ~~Regulations for s~~Shoreline buffers should ~~be developed~~ be maintained ~~for the County and each City consistent with SMA objectives~~ to protect existing ecological functions, accommodate water-oriented and preferred uses, recognize existing development patterns, and minimize creation of non-confirming uses and developments.

- C. Native plant list. ~~The City of Leavenworth with Chelan County maintains a list of suggested n~~Native plants shouldto be utilized in restoration or mitigation plantings. Property owners are encouraged to use ~~may choose species from this list when native plants are desired or required, or may use other~~ native species identified by the Washington Native Plant Society, Washington Department of Natural Resources Natural Heritage Program, Washington Department of Fish and Wildlife, or other agency or entity ~~that has~~with expertise.
- D. Noxious and invasive weeds. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality. Use of mechanical, non-toxic or natural controls is preferred. ~~(WAC 173-26-221(5)(e)(i))~~

4.5.2 Regulations ~~(based on extensive “Principles” [WAC 173-26-221(5)(b)] and “Standards” [WAC 173-26-221(5)(c)])~~

- A. Conserve vegetation. ~~—Shoreline developments shall address conservation and maintenance of vegetation through compliance with this Section, the critical area standards in Appendix B, and Vegetation Conservation and Shoreline Buffers sections found in this SMP. Uses and modifications must be designed and located to ensure that the development will not result in a net loss of shoreline ecological functions or have significant adverse impacts to shoreline uses, resources, and values provided for in RCW 90.58.020.~~
- ~~B. Existing uses may continue. Vegetation conservation standards shall not apply retroactively to existing, legally established uses and developments. Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. In the absence of a development proposal, existing, lawfully established landscaping and gardens within shoreline jurisdiction may be maintained in their existing condition including but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this SMP, provided this does not apply to areas previously established as native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants.~~
- ~~C. Adverse impacts on vegetation. Actions that result in an adverse impact are not permitted unless mitigated for through an approved permit. Adverse impacts to shoreline vegetation are considered to occur when vegetation is removed within the buffers that would reduce the performance of any of the shoreline functions~~Adverse impacts to shoreline vegetation are considered to occur when vegetation is removed that would reduce the performance of any of the functions listed in SMP Section 4.5.1.A.~~
 - ~~1. For example, the following actions would be considered an adverse impact:
 - ~~a. Removal or alteration of native plant communities in shoreline jurisdiction, except when the alteration is part of an approved restoration plan;~~
 - ~~b. Removal of native or non-native trees that overhang the stream, river or lake shoreline waterbody;~~
 - ~~c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion; or~~
 - ~~d. Removal of vegetation, followed by supplemental grading and alteration of existing drainage patterns.~~~~
 - ~~2. For example, the following vegetation alteration actions would not be considered an adverse impact when they occur outside of a shoreline buffer as established in this SMP:~~~~

- ~~a. Removal of existing lawn, landscaping or other non native vegetation associated with existing residential, commercial, industrial or other regulated uses provided that any impervious surfaces that may replace removed vegetation are infiltrated, treated, and/or detained as necessary to control potential adverse impacts to water quality or quantity;~~
- ~~b. Removal of native shrub or groundcover vegetation on lots upland of an improved road, railroad or other development that prevents vegetation on the subject property from providing functions identified in SMP Section 4.5.2.A, provided that the development is sited to minimize native vegetation removal and that new impervious surfaces that may replace removed vegetation are infiltrated, treated, and/or detained as necessary to control potential adverse impacts to water quality or quantity; or~~
- ~~c. Removal of invasive or noxious plant species, if replaced with species that provide similar ecological functions such as soil retention and water quality improvement.~~

~~D.B.~~ Tree Pruning and Removal for Safety and Development.

1. Selective pruning of trees for safety is allowed if consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas; and Appendix B, Critical Areas Regulations.
2. Where trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional, they may be removed if the hazard cannot be removed by topping or other technique that maintains some habitat function. Stumps should be retained in the ground to provide soil stabilization unless another soil stabilization technique, which may trigger additional review by regulatory agencies, is utilized immediately after stump removal.
3. All other tree removal in shoreline jurisdiction proposed as part of an approved use or development shall be minimized through site design, and mitigated if the tree removal has an adverse impact as outlined in SMP Section 4.5.2.C. ~~When required, tree replacement shall occur minimally at a 1:1 ratio, with native trees replaced with a similar native tree. Non native trees may be replaced with a native tree or another non native tree, provided that no invasive or noxious trees are allowed.~~

~~E. Buffers. Table 3 establishes buffers to be measured landward in a horizontal direction perpendicular to the OHWM of the shoreline waterbody.~~

~~Table 3. Shoreline Buffers by Environment Designation.~~

Environment Designation	E. Standard Buffer	F. Standard Reduced Buffer	G. Maximum Reduced Buffer
Urban Park	H. 150'	I. 112.5'	J. 75'
Shoreline Residential	K. 80'	L. 60'	M. 40'
High Intensity	N. 60'	O. 40'	P. 25'

~~Note: When environment designations are parallel, the buffer of the waterward environment extends only to the upland edge of that environment. The buffer for the landward environment would apply to uses and modifications in that upland environment. See 1-3 below for criteria guiding buffer reductions.~~

~~F. Filling, clearing and grading. Filling, clearing and grading in shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development and shall also be in conformance with the provisions of Section 5.9, Fill; in addition to Section 4.2, Ecological Protection and Critical Areas; and Appendix B, Critical Areas Regulations. All earth altering activities shall utilize best management practices to minimize and control erosion.~~

~~G. — Mitigation required. The following standards apply specifically to projects that may adversely impact ecological functions provided by vegetation. See also the requirements of Section 4.2 of this SMP, which more generally address mitigation requirements for impacts to all ecological functions.~~

~~1. — Where adverse impacts to shoreline ecological functions provided by vegetation are proposed, and after mitigation sequencing has been applied as outlined in Section 4.2.2.A, new developments or site alterations shall be required to develop and implement a mitigation plan.~~

~~2. — When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant mitigation plan requirements of the appropriate responsible government in Appendix B, including a three year monitoring plan, or other monitoring timeframe specified by local, state or federal permitting agencies, and scaled drawings of existing and proposed conditions.~~

~~3. — Mitigation plans shall describe actions that will ensure no net loss of ecological functions to the maximum extent practicable at the site scale, and shall describe the functions impacted per the list of potential functions provided in SMP Section 4.5.1.A above, and how the mitigation plan addresses those specific functions. For example, if vegetation removal results in loss of overhanging vegetation that provides shade, detritus and insects, the mitigation plan shall include supplemental overhanging vegetation where feasible. If the vegetation removal could destabilize a slope and increase erosion, the mitigation plan shall include re-vegetation in combination with erosion control measures to protect water quality and include other measures that help stabilize slopes.~~

~~4. — Mitigation plans shall include a performance standard of 100 percent survival for the first year of growth post installation, with no less than 80 percent survival at the end of the third year.~~

~~5. — Mitigation measures specified in the mitigation plan shall be maintained over the life of the use and/or development and recorded on appropriate document which can be passed to future owners.~~

~~Q.C. H. — Unauthorized vegetation removal. Vegetation removal within shoreline jurisdiction that is conducted ~~not allowed under this Section and is conducted~~ without the appropriate review and approvals is prohibited, and subject to corrective action ~~is subject to enforcement provisions in Section 7.15. Corrective action~~ and requires the submittal and approval of a restoration plan prepared by a qualified professional, ~~and shall be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations.~~ The restoration plan shall utilize only native vegetation, and shall be designed to compensate for ~~temporal~~ temporary loss of function and address the specific functions adversely impacted by the unauthorized vegetation removal.~~

~~D. I. — Non-native vegetation. With the exception of hand removal or spot-spraying of invasive or noxious weeds, the determination of whether non-native vegetation removal may be allowed ~~permitted~~ in a shoreline buffer or critical area buffer shall be made by the Shoreline Administrator ~~must be evaluated in conformance with Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations.~~ Such removal of noxious weeds and/or invasive species shall be incorporated in mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants.~~

~~R.E. — Non-native vegetation removal outside of shoreline buffers or critical area buffers does not require mitigation, except as noted under Subsections B and E above, but must incorporate necessary erosion control measures, as necessary, to prevent erosion.~~

~~S. J. — New structures or developments prohibited. New structures or developments, including, but not limited to, pools, decks, patios, residence additions, sheds, fences, or other residential appurtenances, are not permitted in shoreline buffers except as specifically allowed in this section, or as determined in the Nonconforming Uses and Development Standards sections of this Master Program ~~addressed in this SMP.~~~~

~~T.F. K.~~ Water-dependent uses. Consistent with the use allowances for each environment designation, water-dependent uses and activities may be located at the water's edge, or as prescribed by conditions added to a permit. Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced shoreline buffer unless at least one of the following is met:

1. A location in the buffer is necessary for operation of the water-dependent use or activity (e.g., a road to a boat launch facility);
2. In parks or on other public lands that are already legally established and whose use is primarily related to access to, enjoyment and use of the water, they do not conflict with or limit opportunities for other water-oriented uses; or
3. The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer ~~and should also be consistent with Section 4.2, Ecological Protection and Critical Areas and Section 4.4, Public Access. All other accessory uses, developments and activities proposed to be located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this section or in this SMP. Applicants are encouraged to consider the options of buffer averaging or buffer reduction and optimally implement mitigation sequencing prior to applying for a Shoreline Variance.~~

~~U.G. L.~~ Essential Public facilities. Consistent with the use allowances for each environment designation, other essential public facilities as defined by RCW 36.70A.200, pre-existing public access and pre-existing recreation facilities and their accessory uses and developments may be located and minimally expanded in the shoreline buffer if the use or activity cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline buffer. ~~Essential public facilities must demonstrate that alternative sites are not available. These uses and modifications must be designed and located to minimize intrusion into the buffer and should also be consistent with Section 4.2, Ecological Protection and Critical Areas and Section 4.4, Public Access.~~

~~V. M.~~ ~~Modifications Necessary for Agency Compliance or Court Compliance: Modifications to existing development that are necessary to comply with environmental requirements of any State or Federal agency or court, when otherwise consistent with the Shoreline Master Program, may be located in and expanded in the shoreline buffer if the use or activity cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline buffer provided that the reviewing official determines that:~~

~~The facility cannot meet the dimensional standard and accomplish the state, federal or court ordered modification necessary to bring it into compliance;~~

~~The facility's modification are located, designed, and constructed to meet specified required modification standards necessary while complying with mitigation sequencing, and minimizing damage to ecological function and values of critical area and or shoreline; and~~

~~The modification follows necessary provisions for non-conforming development and uses.~~

~~W.H. N.~~ Passive allowed activities. Education, scientific research, and passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, snowshoe or cross-country skiing, swimming, canoeing, and bicycling, are allowed within shoreline jurisdiction and within established shoreline and critical area buffers without a shoreline permit, provided the activity does not include elements that meet the definition of "development." For example, hiking through the woods or along a shoreline is allowed outright and does not require a

permit; however, construction of a new trail ~~on which to hike would constitute a development that must be permitted and may be allowed~~ is subject to ~~all the provisions of~~ this SMP.

~~X.I.O.~~ I.O. Site investigation allowed. Site investigative work necessary for land use application submittals such as surveys, soil logs, drainage tests and other related activities, may occur within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. In every case, buffer impacts should be avoided and/or minimized and disturbed areas shall be immediately restored.

~~Y.~~ J. P. ~~Siting of roads. Where other options are available and feasible, new roads or road expansions shall not be built within shoreline jurisdiction. Crossings, where necessary, shall cross shoreline and critical area buffers as near perpendicular as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands or geologically hazardous areas. If no alternative exists to placing a roadway in shoreline jurisdiction, a mitigation plan prepared by a qualified professional must be submitted, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations.~~

~~A.~~ Q. Utilities. Where no other practical alternative exists to the excavation for and placement of wells, tunnels, utilities, or on-site septic systems in a shoreline and critical area buffer, these uses may be permitted if also allowed under Section 5.20, Utilities. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B.

~~R.~~ Trails. Trails and associated facilities may be permitted in shoreline buffers, but should conform to design guidelines found in Public Access sections of this SMP. A mitigation plan must be prepared by a qualified professional, and must be consistent with ~~the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B, Critical Areas Regulations.~~ this SMP. Stairs associated with a public use trail, may be permitted in the shoreline buffer with a shoreline conditional use permit.

~~S.~~ Shoreline Buffer Width Reduction.

~~Standard Buffer Reduction. Reductions of up to twenty five (25) percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that:~~

~~Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved and either criteria 1.b or 1.c is applicable.~~

~~A mitigation plan pursuant to Subsection A.4 indicates that enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer; or~~

~~Conditions unique to the site, including legally existing uses, developments (established prior to the effective date of this SMP), or naturally existing topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the subject upland property to the waterbody.~~

~~2. Maximum Buffer Reduction. If the applicant can demonstrate that a use cannot be accommodated or accomplished outside of the standard or standard reduced buffer, a reduction in the buffer width not exceeding fifty (50) percent may be approved administratively. The applicant must demonstrate need for any buffer reduction greater than 25 percent by submitting the following:~~

~~A site plan showing clearly the boundaries of the parcel, shoreline jurisdiction, the standard buffer, the standard reduced buffer, and the proposed reduced buffer side yard setbacks, and road setbacks.~~

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~~A narrative description of the design alternatives considered as part of each mitigation sequencing step outlined in Section 4.2.2.A, and how the applicant’s proposal incorporates mitigation sequencing to the maximum extent practicable.~~

~~A narrative description of the spatial needs of the proposed use. Adequate space for a single family residence and associated yard is considered to be available when the buildable lot depth after application of either the standard buffer or standard reduced buffer and after front yard setbacks are maximally reduced is seventy fifty (50)feet or greater. For other uses, the Shoreline Administrator will decide what the minimum space requirements are based on the information provided by the applicant. A mitigation plan as outlined in Section A.4 below.~~

~~The Shoreline Administrator may approve a maximum buffer reduction according to the following review criteria:~~

~~(1) Modification of building height or setback standards pursuant to Subsection A.3 including reduction LMC road setbacks would not allow the standard buffer to be achieved.~~

~~(2) The applicant has demonstrated a hardship whereby the proposed use could not be accommodated without a reduced buffer, and the approved buffer reduction is no more than that necessary to accommodate the proposed shoreline use.~~

~~(3) The applicant’s mitigation plan demonstrates that the selected mitigation options in Subsection A.4 achieve an equal or greater protection of ecological functions than the standard buffer.~~

~~3. Modification of height or other setback standards. The City may allow an increase in height above applicable SMP height standards (as allowed by Section 5.1.2.E) or property setback standards if those actions will reduce or eliminate the need for the buffer reduction. These modifications of standards may be approved without a Shoreline Conditional Use Permit or a Shoreline Variance if the modification is consistent with underlying zoning regulations and is not anticipated to have adverse impacts on adjacent properties.~~

~~4. Mitigation Plan. For use of either the standard reduced buffer or the maximum reduced buffer, the applicant must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of either reduction mechanism. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Leavenworth critical areas regulations (see Appendix B). Plan elements may include one or more of the mitigation options provided in the chart below to achieve an equal or greater protection of ecological functions:~~

Shoreline Setback Reduction Options		Reduction Allowance
Water Related Conditions or Actions		
	Presence of non structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 75 percent of the linear shoreline frontage of the subject property. This can include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and substrate composition. This option cannot be used in conjunction with Option 2 below.	35 percent
	Presence of non structural or soft structural shoreline stabilization measures	20

Shoreline Setback Reduction Options		Reduction Allowance
	located at, below, or within 5 feet landward of the OHWM along at least 25 percent of the linear shoreline frontage of the subject property. This may include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow water habitat, beach/substrate composition. This option cannot be used in conjunction with Option 1 above.	percent
	Opening of previously piped on-site watercourse to allow potential rearing opportunities for native fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least 10 feet wide on both side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner. A qualified professional must design opened watercourses. The opened watercourse shall be exempt from the buffer requirements and standards of Appendix B.	15 percent
	Existing hard structural shoreline stabilization measures are setback from the OHWM more than five (5) feet and/are sloped at a maximum 3 vertical (v): 1 horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore habitat.	20 percent
	Install large woody debris (minimum three pieces), plant and maintain aquatic emergent vegetation (minimum 25 ft²), or restore aquatic substrate (minimum 250 ft²) depending on the site's particular ecological condition and needs.	10 percent
	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent
Upland Related Conditions or Actions		
	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge to the shoreline waterbody, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70% of the annual volume of runoff water from the subject property, for sites with poor soils, or 99% of the annual volume of runoff water from the subject property, for sites with well draining soils. This mechanism shall apply to sites where the total new or replaced impervious surface is less than or equal to 5,000 square feet. The mechanisms shall be designed to meet the requirements of Ecology's <i>Stormwater Management Manual for Eastern Washington</i>.	20 percent
	Installation of pervious material for 50 percent of all new pollution generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions.	15 percent
	Restoring at least 20 percent of the total lot area outside of the reduced setback and any critical areas and their associated buffers as native vegetation.	10 percent

Shoreline Setback Reduction Options		Reduction Allowance
	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent

~~a. The City shall accept previous actions that meet the provisions established in the setback reduction option chart as satisfying the requirements of this section, provided the previous action was not otherwise a requirement of the City either through specific regulation or as mitigation and that all other provisions are completed, including, but not limited to, the agreement noted in c. below. The reduction allowance for previously completed reduction actions may only be applied once on the subject property.~~

~~b. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.~~

~~c. Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City and recorded with the County Auditor.~~

~~d. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to a fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found in Appendix C of this SMP shall be considered first.~~

~~5. The design of uses or activities under Subsection 4.5.A. shall avoid existing vegetation to the maximum extent practicable, and any impacts to existing vegetation or ecological functions must be mitigated as outlined in Section 4.2 and Appendix B.~~

~~6. These provisions do not apply to those portions of water dependent or direct shoreline public access development that require improvements or uses adjacent to the water's edge, such as, haul out areas for retail establishments providing boat and motor repair and service, boat launch ramps for boat launches, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for water dependent or public access uses.~~

~~Additional Standards:~~

~~Landscape Standard for New Development, or Expansion. Sites that are currently undeveloped, or expanding existing impervious footprints by more than 10 percent of the existing site's impervious footprint, the development must provide a native landscape plan that meets the following criteria:~~

~~The applicant shall plant native vegetation, as necessary, along at least 75 percent of the shoreline frontage located along the water's edge. The nearshore riparian area shall be planted with an average fifty (50) percent of the width of the standard buffer or the same area required under the standard buffer in the approved reduced buffer, as measured from the OHWM. When the expansion footprint totals less than 500 square feet, the maximum linear feet of shoreline frontage required to be planted is 125 feet.~~

~~Restoration of native vegetation shall consist of a mixture of trees and shrubs typical of a native undisturbed riparian community in composition and structure, and be designed to improve habitat~~

~~functions. At least eight (8) trees per 100 linear feet of shoreline must be included in the plan, and at least 80 percent of the restoration plan area shall be vegetated with trees or shrubs. The remaining 20 percent of the restoration plan area may be vegetated with groundcover. Plant materials must be native to Chelan County and the local watershed, and appropriate for the site's particular soil, exposure, and hydrologic conditions.~~

~~Restoration plan elements, including monitoring and maintenance, shall also be included in the plan consistent with mitigation plan requirements outlined in the City of Leavenworth critical areas regulations (see Appendix B).~~

~~Alternative Compliance with Landscape Standard. Vegetation required by this subsection shall be installed unless the applicant demonstrates one of the following and provides an alternative vegetation plan:~~

~~The vegetation will not provide shoreline ecological function due to existing levees, dikes or dams extend landward of the required shoreline buffer from the OHWM; or~~

~~It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, or minimum spacing requirements for the vegetation to be planted; or~~

~~The required vegetation placement will obstruct existing views to the river, at the time of planting or upon future growth, which cannot otherwise be mitigated through selection placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the river.~~

~~The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining and improving shoreline ecological functions and processes.~~

~~Requests to use alternative measures shall be reviewed by the Shoreline Administrator who may approve, approve with conditions, or deny the request.~~

~~If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.~~

~~These provisions do not apply to those portions of public recreational water oriented uses and water-dependent uses that require improvements adjacent to the water's edge, including, but not limited to, haul out areas for retail establishments providing boat and motor repair and service, boat launch ramps for boat launching, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for public recreational water oriented uses and water dependent uses. Any impacts to ecological functions must be mitigated.~~

~~C. — Private physical shoreline access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide. Trails serving as community shoreline access paths may be no greater than six (6) feet in width. Community access trails shall placed in the outer (landward side) 25% of the required buffer, to the greatest extent feasible. Access paths down to the shoreline are limited to the areas identified in the site drawing as shoreline access paths/trails and may pass, through the shoreline buffer. Impervious materials may be used only as needed to construct a safe, tiered pathway down a slope. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible.~~

~~Mitigation. All mitigation areas shall be permanently identified and protected by means of a conservation easement or similar legal instrument recorded with the County Auditor.~~

~~Tree Retention. To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained as follows:~~

~~Within shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views. Tree removal activities would include direct or indirect actions, including, but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.~~

~~Within any shoreline buffer, significant trees shall be retained to the maximum extent possible, except where the tree is dead, diseased, dying or hazardous as determined by a qualified professional. The applicant shall be encouraged to retain viable trees in other areas on site.~~

~~If removal of a non-hazard significant tree in the shoreline buffer area is approved, a two-for-one replacement is required. For hazard trees, a one-for-one replacement is required. The required minimum size of the replacement tree(s) shall be five (5) feet tall for a conifer and one and three-quarters inches (1 ¾) caliper for deciduous or broad-leaf evergreen tree.~~

~~For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline buffer must be native species.~~

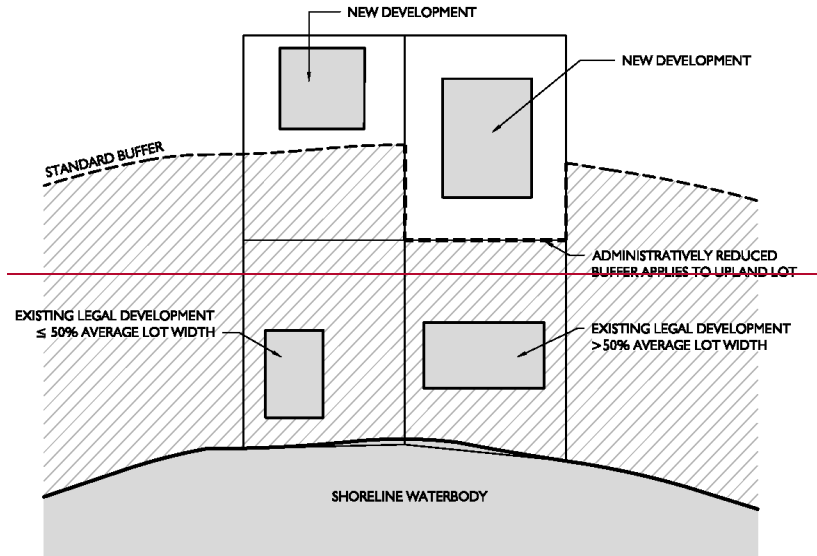
~~In addition to City of Leavenworth specific buffer reduction and/or averaging provisions above, buffers may be administratively modified as outlined below:~~

~~Roads and Railways. Where a legally established road or railway crosses a shoreline or critical area buffer, the Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the legally established improved road or railway as of the effective date of this SMP.~~

~~Other Developments. Where a legally established pre-existing development occupies more than 50 percent of the average width of the waterward lot, the Shoreline Administrator may approve a modification of the minimum required buffer width to the upland edge of the waterward legal lot as illustrated on the following diagram if a study submitted by the applicant and prepared by a qualified professional demonstrates that the part of the buffer on the upland legal lot sought to be reduced:~~

~~Does not provide additional protection of the shoreline waterbody or stream; and~~

~~Provides insignificant biological, geological or hydrological buffer functions relating to the waterward portion of the buffer adjacent to the shoreline waterbody or stream.~~



Establishment of a reduced buffer on the upland lot at the waterward edge of that parcel does not preclude the owner of the waterfront parcel from seeking and obtaining buffer modifications under other provisions of this SMP.

New Development:

New development in shoreline jurisdiction on undeveloped or redevelopment of sites shall be sited to minimize removal of existing significant trees and native vegetation. Removal of significant trees shall be compensated as outlined in Subsection E below and removal of other native vegetation must be compensated minimally at a 1:1 ratio with supplemental native shrub and groundcover plantings in the buffer, mature tree and shrub removal shall be addressed in the mitigation plan and may require a greater replacement ratio to account for temporal loss. When the buffer would not benefit from enhancement (when the buffer has a fully functioning vegetated riparian area), compensatory plantings may be installed in a corridor perpendicular to the OHWM and extending upland of the buffer outside of the development footprint. There should be an emphasis on connectivity of vegetative corridors when this option is chosen.

In the Shoreline Park/Public environment (this allowance is not applicable to Blackbird Island), new or expanded nonwater oriented development must comply with the shoreline buffer identified in Table 4.5.1. In recognition of the existing condition of current and planned City shoreline parks and recreation facilities located in the Shoreline Park/Public environment designation, the following standards shall guide new development and redevelopment of water oriented public access and recreation facilities. Applicants shall submit a management plan that addresses compliance with each of the following applicable standards and principles. The City may review and condition the project to more fully implement the principles below:

Design Element	Design and Management Standards
1. Category of Use	<p>Only water dependent uses may be located immediately upland of the OHWM.</p> <p>Accessory and primary water oriented uses shall be located upland of a water dependent use except that parking for those with disabilities when no other location is feasible may be located per "3" below.</p> <p>New or expanded public water oriented recreational development shall avoid existing riparian areas and comply with vegetation management</p>

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Design Element	Design and Management Standards
	<p>requirements below.</p> <p>Existing primary nonwater-oriented uses may only expand if they are located upland of water-oriented uses and if the expansion does not displace water-oriented uses.</p> <p>Water enjoyment recreational uses may be expanded.</p> <p>Existing water-oriented uses may not be converted to a nonwater-oriented use except when the existing water-oriented use is separated from the OHWM by a levee or another property.</p>
<p>i. Impervious Surface and Stormwater Management</p>	<p>New and expanded pollution-generating impervious surfaces (e.g., surfaces used predominantly by vehicles, such as parking areas, roads, or boat launches) must provide water quality treatment before discharging stormwater, through use of oil water separators, bioswales, or other approved technique.</p> <p>Treated runoff from pollution-generating impervious surfaces and runoff from non-pollution-generating impervious surfaces shall be infiltrated if feasible.</p> <p>New or expanded pollution-generating impervious surfaces within 50 feet of the OHWM or within already disturbed areas shall be limited to those necessary to provide vehicle access to boat launches, to improve existing informal parking areas, to expand existing parking, or to provide ADA parking as outlined below under ii. Parking.</p> <p>New or expanded trail systems shall avoid existing riparian areas and comply with vegetation management requirements below. Existing trail systems may only be expanded in response to increased demand, and shall be expanded in the following order of preference, with number 1 being the most preferred: 1) upland outside buffers found in Table 4.5.2, 2) landward of existing trail and 3) laterally.</p>
<p>ii. Parking</p>	<p>New parking accessory to shoreline parks shall be at least 70 feet upland of the OHWM, except where a minimum number of parking spaces are provided closer than 70 feet to accommodate those with disabilities or where parking is provided in existing impervious surfaces.</p> <p>Existing parking closer than 70 feet upland of the OHWM may only be expanded in response to increased demand. Expanded parking shall be expanded in the following order of preference, with 1) being the most preferred: 1) upland, 2) landward of existing parking and 3) laterally of the existing parking, if it is serving a previously existing authorized use and is located on existing impervious surface. Parking shall not be located closer than 50 feet upland of the OHWM unless the proposed expansion area is already an impervious surface or is necessary to accommodate those with disabilities.</p>
<p>iii. Vegetation Management</p>	<p>New and expanded uses in shoreline jurisdiction shall be located to avoid and minimize intrusion into riparian areas, as well as avoid tree and shrub removal.</p> <p>Significant tree removal in the shoreline buffer shall be mitigated at a 2:1</p>

Design Element	Design and Management Standards
	<p>ratio and as otherwise consistent with SMP Section 4.4.5.E.</p> <p>Other trees and shrubs in the shoreline buffer shall also be replaced at a 2:1 ratio using the same preference for location established for significant trees.</p> <p>Landscape designs for new and modified recreation facilities in the shoreline jurisdiction shall incorporate the following.</p> <p>Select species that are suitable to the local climate, having minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers. Native species shall comprise 50 percent of the landscaped area, not counting lawn area. Redevelopment of lawn areas shall be no closer than 20 from the OHWM. Native grasses may be used within the first 20 feet landward of the OHWM. If lawn areas are not currently established within buffers required in Table 4.5-1, the existing riparian vegetation within the buffer shall be maintained, unless a mitigation management plan demonstrates ecological lift.</p> <p>Preserve existing soil and vegetation (especially trees) where possible. Amend disturbed soils with compost. Mulch existing and proposed landscapes regularly with wood chips, coarse bark, leaves or compost.</p> <p>Group plants by water need, use more efficient irrigation methods like drip and soakers under mulch, and design and maintain irrigation systems to reduce waste.</p> <p>Place vegetation to maximize the following benefits:</p> <p>development or supplementation of a native vegetated wildlife corridor;</p> <p>development or supplementation of riparian vegetation adjacent to the water's edge;</p> <p>screening parking areas from views from the water or the park, and/or discouragement of wildlife that may directly or indirectly interfere with park use or human health (e.g., geese);</p> <p>While a specified buffer is not required for public park areas, recreational improvement projects shall place an emphasis on shoreline restoration/enhancement inside of those buffers found in Table 4.5-1. This emphasis shall not require the removal of existing lawn areas, but should place an emphasis on incorporation of riparian plantings if the public access area is underutilized or public access would not be impaired by the plantings.</p>
<p>iv. ——— Chemical Applications</p>	<p>A lawn and landscape management strategy for any allowed uses in the shoreline buffer shall be developed that incorporates the following:</p> <p>A site specific plan for use of integrated pest management technique, if applicable.</p> <p>A detailed plan identifying anticipated use of fertilizers, herbicides and pesticides, to include method of application that ensures these materials will not enter the water. Phosphorus containing fertilizer treatments shall</p>

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Design Element	Design and Management Standards
	<p>not be applied to turf or landscaping within 50 feet of the OHWM. Natural applications and hand removal are preferred over synthetic applications.</p>
<p>6. Pools</p>	<p>Pools and other upland recreational uses that utilize chemically treated water must either be connected to a sewer system or must collect the water for later discharge into a sewer system.</p> <p>Pools and other upland recreational uses that utilize chemically treated water shall be located 75 feet upland of the OHWM.</p>
<p>7. Lighting</p>	<p>Outdoor lighting fixtures and accent lighting must be shielded and aimed downward, and shall be installed at the minimum height necessary. The shield must mask the direct horizontal surface of the light source. The light must be aimed to ensure that the illumination is only pointing downward onto the ground surface, with no escaping direct light permitted to contribute to light pollution by shining upward into the sky.</p> <p>Outdoor lighting fixtures and accent lighting shall not directly illuminate the stream or river, unless it is a navigational light subject to state or federal regulations.</p>

~~Public/Park development or redevelopment application requirements:~~

~~Existing drawings of park facilities which provides a narrative to include area (sq. feet or sq. meters) description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas) upland vegetation and lawn areas.~~

~~Proposed Drawings of park facilities which provides a narrative to include area (sq. feet or sq. meters) description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas) upland vegetation and lawn areas.~~

~~Any increases in impervious surfaces (trail size, parking facilities, recreational facilities, etc.) shall be accompanied by a needs analysis that addressed the requirement for increased public facilities, what size facilities are needed citizens and where these facilities are or are not provided nearby.~~

~~Expansion of public/park facilities shall be accompanied by a mitigation management plan that addresses the design elements and the design and management standards above, address critical area impacts, and addresses the incorporation of applicable SMP restoration goals that have been accomplished by the development and demonstrates an ecological lift to shoreline functions.~~

~~Existing Development:~~

~~Landward of Standard Buffer. Existing development located landward of the standard buffer may redevelop or expand to the edge of the standard buffer consistent with the following:~~

~~i. Where such redevelopment results in removal of native vegetation, minimally an equivalent area of native vegetation shall be planted in the buffer, mature tree and shrub removal shall be addressed in the mitigation plan and may require a greater replacement ratio to account for temporal loss.~~

~~ii. Where such redevelopment results in removal of significant trees, compensation shall be provided as outlined in Subsection E below.~~

~~Inside the Standard Buffer. Existing development located inside the standard buffer may expand vertically or landward of the development. Expansions waterward are prohibited except when the reduced buffer is consistent with D.4 below. All other expansions within the buffer must obtain a Shoreline Variance. Expansions within the standard buffer laterally toward the side lot lines may be allowed provided any impacts to vegetation are mitigated consistent with this Section, and any new impervious surfaces are infiltrated or treated prior to discharge into a waterbody.~~

~~F. Conflicts with flood hazard reduction measures. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing licensed or certified flood hazard reduction measures, the requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this section and this SMP that are not strictly prohibited by certifying or licensing agencies.~~

4.6 Water Quality, Stormwater and Nonpoint Pollution

4.6.1 Policies

- A. Do not degrade waters. The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and groundwater over the long term.
- B. Assess and mitigate stormwater impacts. New developments or expansions or retrofits of existing developments should assess the effects of additional stormwater runoff volumes and velocities, and mitigate potential adverse affects on shorelines through design and implementation of appropriate stormwater management measures.
- C. Low impact development. Use of low impact development (LID) techniques for minimization of impervious surfaces and management of stormwater runoff is encouraged.
- D. Minimize need for synthetic chemical applications. Shoreline use and development, including invasive or noxious weed control, should minimize the need for synthetic chemical fertilizers, pesticides or other similar synthetic chemical treatments to prevent contamination of surface and ground water and/or soils and adverse effects on shoreline ecological functions and values. Use of natural and non-synthetic applications are encouraged when treatment is necessary.
- E. Provide and maintain buffers. Appropriate buffers along all wetlands, streams, and lakes should be provided and maintained for new development in a manner that avoids the need for chemical treatment for vegetation management and be consistent with critical areas ordinances and best management practices.
- F. Existing development. For existing development, implementation of management plans that minimize or avoid the need for chemical treatments of vegetation in shoreline buffers is encouraged. When lands owned by the City of Leavenworth are leased to private parties, a vegetation management plan should be negotiated during lease renewal.
- G. Low Impact Development (LID) techniques should be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.

4.6.2 - Regulations

- A. ~~A.~~—Do not degrade waters.—Shoreline use and development shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws. ~~(WAC 173-26-221(6)(b)(i))~~
- B. ~~B.~~—Requirements for new development.—New development shall manage stormwater to avoid and minimize ~~potential adverse affects~~adverse effects on shoreline ecological functions through the use of best management practices and/or through compliance with the current Stormwater Management Manual for Eastern Washington in effect at the time if applicable to the project. When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan. Additionally, new development is encouraged to implement low impact development techniques. ~~(WAC 173-26-221(6)(b)(ii))~~
- C. ~~C.~~—Maintain storm drainage facilities.—Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and/or improvement plans.
- D. ~~D.~~—Use BMPs.—Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shoreline jurisdiction through an approved temporary erosion and sediment control (TESC) plan, identified in the Stormwater Management Manual for Eastern Washington, as amended or the most recent adopted stormwater manual, or administrative conditions, in accordance with the current federal, state, and/or local stormwater management standards in effect at the time.

E.—All new development shall require connection to City sewer system, except recreational facilities may utilize alternatives when sewer extension is not feasible. Sewage management. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards, in addition to requirements outlined below. (WAC 173-26-221(6)(b)(ii))

- ~~A. 1.—Development within city limits that are within 200 feet of the City sewer system shall connect to city wastewater system.~~
- ~~2.—For those developments proposed in County Jurisdiction, Urban Growth Areas (UGAs) or in areas where city sewer connection is not within 200 feet, proposals shall be subject to one of the following:~~

~~On-site wastewater treatment systems serving allowed uses in conformance with this Master Program shall be subject to regulations administered by the Chelan-Douglas Health District.~~

~~Large On-site Sewage Systems (LOSS) shall be subject to regulations administered by the Washington State Department of Ecology or Department of Health as required by rule adopted under RCW 70.118B.020. Such sewage treatment systems shall be located to prevent or minimize entry of nutrients, including phosphorus and nitrogen, or other pollutants, into ground and surface water within shoreline jurisdiction.~~

~~All individual and community on-site wastewater treatment systems, also called sewage treatment systems, including septic tanks and drainfields or alternative systems approved and inspected by the Chelan-Douglas Health District, the Washington Department of Ecology, or Washington Department of Health, shall be located landward of designated shoreline buffers.~~

~~The Chelan Douglas Health District requires a standard horizontal separation of on-site sewage treatment systems from surface waters of 100 feet from the OHWM. In instances where shoreline buffers are less than 100 feet in width, an approval from the Chelan Douglas Health District is required to locate sewage system components closer than 100 feet to the OHWM. Buffer reductions shall be the minimum necessary and shall be based on feasibility, lot size, or lot configuration. Where residential structures are permitted within 100 feet of the OHWM, tightlines from structures or septic tanks may be located within 100 feet from the OHWM.~~

~~Whenever feasible while meeting Chelan Douglas Health District or Washington Department of Health standards, all components of on-site sewage treatment systems, including subsurface soil absorption systems, shall be located landward of the residential structures they serve.~~

- E. Materials requirements. All materials that may come in contact with water shall be constructed of materials, such as untreated or approved treated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. ~~Materials used for decking or other structural components shall be approved by applicable state or federal agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff.~~ Wood treated with creosote or pentachlorophenol is prohibited in shoreline waterbodies and other waters. ~~(WAC 173-26-221(6)(b)(i-ii))~~
- F. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.
- G. Existing public stormwater management systems and facilities shall be retrofitted and improved to incorporate LID techniques whenever feasible.

5 SHORELINE MODIFICATIONS AND USES

Chapter 5 presents specific policies and regulations that apply to particular developments, uses, or activities in any environment designation.

~~Each section includes policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.~~

~~The Use Matrix and Development Standards sections found in Chapters 4, 9 through 14 as well as Appendices A, B, F and H are considered part of the regulations.~~

~~Shoreline application requirements are found in Section 7.4 of this SMP. Chapters 4 & 5 may contain specific submittal requirements for a particular use or modification beyond those stated in Section 7.4. Chapter 5 also contains performance standards for shoreline modifications and uses. Further, the Shoreline Administrator may condition a proposal in order to comply with the Act or this SMP consistent with the provisions in Section 7.5.3, 7.7.3, 7.8.3, and 7.9.~~

5.1 ~~General~~ Upland Shoreline Modification and Use Regulations

This section provides policies and standards addressing preferred layouts of shoreline development and appropriate signage serving the intended use and recognizing shoreline locations.

5.1.1 Policies

- A. Designs Avoid Sensitive Areas. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation, both upland and aquatic; minimize impervious surfaces and runoff; protect riparian, nearshore, aquatic and wetland habitats; protect wildlife and habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values. (Proposed based on principles described in Chapter 4)
- B. Location of Nonwater-Oriented Accessory Uses. Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments. When sited within shoreline jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs, and materials storage should be located landward of shoreline, riparian and/or wetland buffers and landward of water-oriented developments and/or other approved uses. ~~(based on use preferences in RCW 90.58.020, WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii) and 173-26-211(3)(b))~~
- C. Minimize Impacts on Shoreline and Upland Uses. Development should be located, designed, and managed to minimize impacts on shoreline or upland uses through bulk and scale restrictions, setbacks, buffers, light shielding, noise attenuation, and other measures. ~~(WAC 173-26-211(4)(a)(iv))~~
- D. Vistas and Viewpoints. Vistas and viewpoints from public properties and rights of way should not be degraded and visual access to the water from such vistas should not be impaired by the placement of signs. ~~(1975 SMP Policy 7c)~~

5.1.2 Regulations

- A. Design features for compatibility. Shoreline use and development activities shall be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible, including: ~~(WAC 173-26-211(4)(a)(iv) and 221(4)(d)(iv))~~
 1. Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be

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incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.

2. Outdoor storage shall be screened from public view through techniques such as landscaping, berming, fencing and/or other equivalent measures.
 3. Property screening in the form of fences or berms shall be subject to Section 5.1.2.E below.
- B. ~~B.~~—Preference for water-oriented facility location. Shoreline developments shall locate the water-oriented portions of their developments along the shoreline and place all other facilities landward or outside shoreline jurisdiction. ~~(Based on use preferences in RCW 90.58.020, WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b))~~
- C. ~~C.~~—Minimize changes to topography. To the extent feasible, design of structures, and motorized and nonmotorized vehicular improvements, shall conform to natural contours and minimize disturbance to soils and native vegetation and natural features while meeting applicable government standards. ~~(Based on 1975 SMP Policy 15d as well as principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), low impact development principles, and example SMPs)~~
- D. ~~D.~~—Soil disturbance. All disturbed areas shall be restored and protected from erosion using vegetation and other means.
- E. ~~E.~~—View corridors.
1. Heights Greater than 35 Feet: ~~Per WAC 173-27-180, a~~ Applicants for structures exceeding 35 feet in height shall provide a depiction of the impacts to views from substantial numbers of residences and public areas. To mitigate impacts, site design shall provide for view corridors between buildings through the use of building separation, setbacks, upper story setbacks, pitched roofs, and other mitigation.

~~City of Leavenworth~~ Shoreline Administrator shall review shoreline public access plans (Appendix G), location of Federal- or State-designated scenic highways, government-prepared view studies, SEPA documents, or applicant-prepared studies. The maximum width of a view corridor shall be 25% of the lot width of the lot frontage; where the view corridor requires vegetation removal, the view corridor may be limited to 25% or 25 feet, whichever is less. ~~(WAC 173-26-221(4)(d)(iv))~~

2. Height Adjustments: In order to allow for public access pursuant to Sections 4.4, and/or to allow for buffer accommodations pursuant to Sections 4.5, building height may be increased when consistent with the criteria in 3a to 3b below.
3. View Analysis Standards: In the case of heights proposed above 35 feet (limited to 50 feet) in Subsection E.1 or when adjusted per E.2, the following view analysis standards and procedures apply:
 - a. The applicant shall prepare a view analysis conducted consistent with Section 7.4. The analysis shall address such considerations as cumulative view obstruction within a 1,000-foot radius, within the City limits, with implementation of the proposed development combined with those of other developments that exceed 35-feet in height. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained. For phased developments, the view analysis shall be prepared in the first phase and include all proposed buildings.
 - b. Applicants proposing building or structure heights above 35 feet, but consistent with this SMP and underlying zoning allowances, may be approved as part of a Substantial Development Permit if the following criteria are affirmatively met:

- (1) The building or structure will not impact a substantial number of residences. The applicant shall review residences involved on or in an area adjoining the project area.
- (2) The development will not cause an obstruction of view from public properties or substantial number of residences. The applicant shall demonstrate through photographs, videos, photo-based simulations, and/or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.

~~e.—Proposals for building heights above 35 or 50 feet (as applicable), but inconsistent with this SMP and underlying zoning allowances, require authorization via a Shoreline Variance Permit pursuant to Section 7.8 of this Shoreline Master Program.~~

- F. ~~F.~~—Lighting. Interior and exterior lighting shall be designed and operated to avoid illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas; and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening. Lighting shall be directed away from critical areas, unless necessary for public health and safety. ~~(WAC 173-26-211(4)(a)(iv))~~
- G. ~~G.~~—Sign regulations. [See Appendix G.](#)

~~Sign Size, Location, and Lighting Standards: Signs are allowed subject to the standards of the LMC and the following:~~

~~The maximum area of individual sign faces shall be consistent with standards in LMC.~~

~~Signs required by law shall not be subject to limitations with respect to the number, location, and/or size, provided that they are the minimum necessary to achieve the intended purpose. Signs required by law include, but are not limited to, official or legal notices issued and posted by any public agency or court, or traffic directional or warning signs.~~

~~Any signs or other devices which flash, blink, flutter, rotate, oscillate, or otherwise purposely fluctuate in lighting or position, in order to attract attention through their distractive character are prohibited in shoreline jurisdiction.~~

~~Freestanding signs authorized by this SMP are subject to the shoreline and critical area buffers and vegetation conservation standards in Section 4.5 and Appendix B. Building mounted signs are subject to shoreline buffers and other setbacks applicable to buildings. Height of wall signs shall be measured in accordance with LMC standards.~~

~~Views: Signs shall not significantly obstruct visual access to the water or scenic vistas nor impair driver vision. Signs shall be subject to the review of Section 5.1.2.E.~~

~~Natural Features: Signs shall not be posted or painted on natural features such as trees, rocks, and hillsides, etc., not including Numeral Mountain which has traditionally been painted by graduating seniors at a local high school, within shoreline jurisdiction. (based on 1975 SMP Sections 18.1 and 18.2)~~

~~Moved Signs: Signs that are moved, replaced, or substantially altered shall conform with SMP requirements and the City of Leavenworth regulations. (based on 1975 SMP Sections 18.1 and 18.2) For the purposes of this section, “substantial alterations” includes modifying structural elements of the sign.~~

-5.2 General Aquatic Shoreline Modification and Use Regulations

These policies and regulations apply to all modifications and uses taking place waterward of the OHWM, whether or not a shoreline permit or written statement of exemption is required.

5.2.1 Policies

- A. Protect beneficial uses, including ecological functions and water-dependent uses. Shoreline modifications and uses should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Modifications should not be permitted where they would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely impact other habitat conservation areas, or interfere with navigation or other water-dependent uses.
- B. Minimize and mitigate unavoidable impacts. All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible and then mitigated.
- C. Protect water quality and hydrograph. Shoreline modifications and uses should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

5.2.2 Regulations

The following regulations shall apply to in-water work, including, but not limited to, installation of new structures, repair or maintenance of existing structures, replacement projects, restoration projects, and aquatic vegetation removal:

- A. Siting and design requirements. In-water structures and activities shall be sited and designed to avoid the need for future shoreline stabilization activities and dredging, except where necessary to, giving due consideration to maintain or improve watershed functions and processes or, with special emphasis on when protecting and restoring priority habitat and species. Modifications and uses located in the Aquatic environment shall be the minimum size necessary.
- ~~B. Buffers. Water dependent in-water structures, activities and uses are not subject to the shoreline buffers established in this SMP.~~
- ~~C. Required permits. Projects involving in-water work must obtain all applicable state and federal permits or approvals, including, but not limited to, those from the U.S. Army Corps of Engineers, Ecology, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, and possibly Chelan County Public Utility District.~~
- ~~D. Timing restrictions. Projects involving in-water work shall comply with timing restrictions as set forth by state and federal project approvals.~~
- E.B. Structure removal. Removal of existing structures shall be accomplished so the structure and associated material does not re-enter the waterbody.
- F.C. Disposal of waste material. Waste material, such as construction debris, silt, excess dirt or overburden resulting from in-water structure installation, shall be deposited outside of shoreline jurisdiction in an approved upland disposal site. Proposals to temporarily store waste material or re-use waste materials within shoreline jurisdiction may be approved provided that use of best management practices is adequate to prevent erosion or water quality degradation and that an on-site location outside of shoreline jurisdiction is not available.
- G.D. Hazardous materials. Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the waterbody during in-water activities. Necessary refueling of motorized equipment, other than watercraft, shall be conducted outside of shoreline buffers and a minimum of 50 feet from the OHWM if feasible. Appropriate spill clean-up materials must be on-site at all times, and any spills must be contained and cleaned immediately after discovery.
- H.E. Over- and In-water Materials. See SMP Section 4.6.2.F.

- ~~H.F.~~ Prevent siltation of adjacent areas. In-water work shall be conducted in a manner that causes little or no siltation to adjacent areas. A sediment control curtain shall be deployed in those instances where siltation is expected. The curtain shall be maintained in a functional manner that contains suspended sediments during project installation.
- ~~J.G.~~ Below-OHWM excavations. Any trenches, depressions, or holes created below the OHWM shall be backfilled prior to inundation by high water or wave action.
- ~~K.H.~~ Concrete management. Fresh concrete or concrete by-products shall not be allowed to enter the waterbody at any time during in-water installation. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from entering the waterbody.
- ~~L.I.~~ Protection of bank and vegetation. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to perform the in-water work. All disturbed areas shall be restored and protected from erosion using vegetation or other means.
- ~~M.J.~~ Trash and unauthorized fill removal required. All trash and unauthorized fill, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, and paper, found below the OHWM at the time of project implementation shall be removed if the project includes use of equipment suited for that purpose. Where the trash or fill is visibly providing some habitat function, consultation with Washington Department of Fish and Wildlife and/or the U.S. Army Corps of Engineers should occur before removal. Disposal should occur in an approved upland disposal location, outside of shoreline jurisdiction if feasible, but at a minimum landward of the OHWM and the channel migration zone. See Sections 5.8, Dredging and Dredge Material Disposal and 5.9, Fill for potentially applicable policies and regulations regarding dredging, fill and disposal.
- ~~N.K.~~ Notification when fish harmed. If at any time, as a result of in-water work, fish are observed to be in distress or killed, immediate notification shall be made to appropriate state or federal agency(ies), including the Washington Department of Fish and Wildlife, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
- ~~O.L.~~ Notification of water quality problems. If at any time, as a result of in-water work, water quality problems develop, immediate notification shall be made to the appropriate state or federal agency(ies), including Ecology, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
- ~~P.M.~~ Retain natural features. Natural in-water features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion, higher flood stages, or a hazard to navigation or human safety.
- ~~N.~~ Floatation materials. Floatation material (floats, buoys) must be encapsulated within a commercially manufactured shell, typically polyethylene or another material specifically approved for use in aquatic environments that prevents breakup or loss of the floatation material into the water, and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated floatation material must be replaced. Tires may not be modified for use as floatation devices.
- ~~Q.O.~~ Tire use. Tires shall not be allowed as part of above-or below-water structures or where tires could potentially come in contact with the water (e.g., floatation, fenders). Existing tires used for floatation should be replaced with inert or encapsulated materials such as plastic or encased foam during maintenance or repair of the structure.
- ~~R.P.~~ Anchors. Floats, rafts, mooring buoys, and navigational aids, such as channel markers or buoys, must use helical screw anchors or other embedded anchors and midline floats or other technologies to prevent anchors or lines from dragging or scouring. Floats and rafts may also be anchored with piles as provided in SMP Sections 5.5 and 5.14.

~~T. Mitigation. All aquatic shoreline modifications and uses are subject to the mitigation sequencing requirements in Section 4.2, Ecological Protection and Critical Areas, with appropriate mitigation required for any unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of Appendix B, Critical Areas Regulations.~~

5.3 Agriculture

5.3.1 Policies

- A. Maintain Agriculturally Productive Lands. Lands well suited for agriculture may be maintained in agricultural production. ~~(1975 SMP Policy 1a)~~
- B. Encourage Vegetative Buffer. The maintenance of a buffer of permanent vegetation along the shoreline in agricultural areas should be encouraged in order to retard surface runoff, reduce siltation, and provide sanctuary for fish and other wildlife. ~~(1975 SMP Policy 1b)~~
- C. Protect Airsheds. Natural airsheds, made up of ravines, swales, tributaries, and other topographic features which direct the flow of cold air down to major streams, should be protected. Obstructions which would create frost pockets should be avoided. Adverse effects of highways, buildings, dikes, landfills, and dense plantings which may obstruct airflow and threaten existing orchards should be minimized. ~~(1975 SMP Policy 1f)~~
- D. Avoid Water Pollution. Agricultural activities should be conducted and buildings designed to avoid surface or groundwater pollution. ~~(1975 SMP Policy 1e)~~
- E. Avoid Structures in Floodplains. Agricultural structures should be located outside of the floodway. Agricultural structures should be discouraged in the 100-year floodplain unless no other suitable location is available and adequate protective measures are implemented. ~~(1975 SMP Policy 1d)~~
- F. Manage Water Resources. Water resources should be managed in accordance with federal and state laws and adopted County watershed plans. ~~(1975 SMP Policies 1g to 1j.)~~

5.3.2 Regulations

~~Existing Agriculture.~~ The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP. Agricultural uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including but not limited to SMP Sections 5.3.2

- A. Applicability. SMP provisions shall apply in the following cases:
 - 1. New agricultural activities on land not meeting the definition of agricultural land;
 - 2. Expansion of agricultural activities on non-agricultural lands ~~or conversion of non-agricultural lands to agricultural activities;~~
 - ~~3. Conversion of agricultural lands to other uses;~~
 - 4.3. Other Conversion/development on agricultural land that does not meet the definition of agricultural activities; and
- ~~B. Agricultural development and uses not specifically exempted by the Act.~~
- ~~C. C. No Net Loss of Ecological Function. Agricultural uses and development in support of agricultural uses shall be located and designed to assure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.~~

- ~~D. Development Standards. 1. — A Substantial Development Permit shall be required for all agricultural development not specifically exempt by the provisions of RCW 90.58.030(3)(a)(vi) and for activities listed in Section B.~~
- ~~E. 2. Feedlots shall comply with the following standards. (a) shall be located outside of shoreline buffers, vegetation conservation areas, and 100-year floodplains. (b) shall have a minimum of four feet between the ground surface and the upper surface of the water table. (c) shall be conditioned to meet best management practices promulgated by federal or state agencies.~~
- ~~F.B. Agricultural-Commercial Uses. Agricultural-commercial uses are allowed where specified in environment designations when consistent with Commercial use standards in Section 5.7.~~
- ~~4. Non agricultural activities on agricultural lands. New non agricultural activities proposed on agricultural lands shall be consistent with other applicable shoreline use standards in Chapters 4 and 5, for example Commercial or Industrial, and with other General Policies and Regulations.~~
- ~~5. New agricultural uses such feedlots of any size, all processing plants, other activities of a commercial nature, upland finfish facilities and other activities which require alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities and shall comply with the applicable development standards found in regulations in Chapter 4 & 5.~~
- ~~6. New Agricultural uses on non agricultural lands are allowed where specified in the Use Table and when consistent other applicable standards in Chapter 4 and 5~~
- ~~7. Upland finfish facilities requiring alteration of the contour of the shorelands by leveling or filling shall comply with Aquaculture policies and development standards.~~

5.4 Aquaculture

5.4.1 Policies

- A. Water-dependent and preferred use. Aquaculture is a water-dependent use and, when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for resident or anadromous native species, [and](#) is a preferred use of the shoreline (WAC 173-26-241(3)(b)).
- B. Recognize limited availability of suitable locations. Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection and navigation.
- C. Recognize and facilitate non-commercial aquaculture. Aquaculture can be commercial or non-commercial. Non-commercial aquaculture is used for the purpose of enhancement and restoration of fish and wildlife resources. The goals and objectives of non-commercial aquaculture include, but are not limited to, supplementation, conservation, restoration, supplementation, mitigation, recreation, education, reintroduction, research, and harvest. Non-commercial aquaculture is location dependent because of the requirement for [natal-native](#) waters. Permitting should be streamlined for facilities that support propagation and acclimation of desirable salmonid species, particularly those covered by the Upper Columbia Salmon Recovery Plan.
- D. Preference for lower-impact methods. Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts, and lesser impacts to native plant and animal species. In general, projects that require either no structures or submerged structures are preferred over those that involve substantial floating structures. Projects that involve little or no substrate modification are preferred over those that involve substantial modification. Projects that involve little or no supplemental food sources, pesticides, herbicides or antibiotic application are preferred over those that involve such practices.

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- E. Protect ecological functions. Aquaculture activities should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Aquaculture should not be permitted where it would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely impact other habitat conservation areas, or interfere with navigation or other water-dependent uses.
- F. Prevent cumulative adverse effects. Aquaculture that involves risk of cumulative adverse effects on water quality, sediment quality, benthic and other aquatic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, escapement of non-native species, or other adverse effects on ESA-listed species should not be permitted unless the potential benefits outweigh the potential risks as determined by the appropriate state or federal agencies.-
- G. Consult with stakeholders. The local government should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State, Tribal and local agencies and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by a proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.
- H. Coordinate with Tribes. The rights of treaty tribes to aquatic resources within their usual and accustomed areas should be addressed through the permit review process. Direct coordination between the applicant and the tribe should be encouraged.
- I. Consider beneficial and adverse impacts. Consideration should be given to both the potential beneficial impacts and potential adverse impacts that aquaculture development might have on the physical environment; on other existing and approved land and water uses, including navigation; and on the aesthetic qualities of a project area.
- J. Restrictions on experimental aquaculture. Experimental aquaculture means an aquaculture activity that uses methods or technologies that are unprecedented or unproven in the State of Washington. The technology associated with some forms of aquaculture is still experimental and in formative stages. Therefore, some latitude should be given when implementing the regulations of this section in the development of this use. However, experimental aquaculture projects in waterbodies should be limited in scale and should be approved for a limited period of time, as specified by the regulatory agency.
- K. Protect existing aquaculture. Legally established aquaculture enterprises, including authorized experimental projects, should be protected from incompatible uses that may seek to locate nearby. Uses or developments that have a high probability of damaging or destroying an existing aquaculture operation are not consistent with these policies.

5.4.2 Regulations

- A. Location.
 - 1. Water-dependent portions of commercial and non-commercial aquaculture facilities and their necessary accessories may be located waterward of the OHWM or in the shoreline buffer. Water intakes and discharge structures, water and power conveyances, and fish collection and discharge structures are all considered water-dependent or accessory to water-dependent.
 - 2. All other elements of commercial and non-commercial facilities shall be located outside the shoreline buffer, unless those facilities are deemed to be water-related and proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose.
 - 3. Sites shall be selected to avoid and minimize the need for and degree of floodplain or floodway alteration, channel migration zone alteration, shoreline stabilization, native vegetation removal, and/or wetland alteration. Aquaculture operations may be required to submit a site alternatives

analysis. Recognizing the limited number of sites that are suitable for aquaculture, applicants for - aquaculture operations shall - be required to demonstrate that the location of the proposed facilities on the available site avoids and minimizes impacts to any on-site critical areas and habitats to the maximum extent feasible. Aquaculture facilities shall be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

4. To the extent that a location in channel migration zones, floodplains or floodways, or wetlands is necessary for non-commercial aquaculture facilities, low-intensity, moderate-intensity and high-intensity aquaculture is preferred in that order as defined in Chapter 8.
- B. Substrate modification. Aquaculture that involves substantial aquatic substrate modification or sedimentation through dredging, trenching, digging, or other similar mechanisms, shall not be permitted in areas where the proposal would have long-term adverse impacts on important fish or wildlife habitats. If substrate modification will not have long-term adverse impacts or the adverse impacts will be short-term, the applicant shall further demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.
- C. Mitigation sequencing. New aquaculture proposals shall document compliance ~~y~~ with mitigation sequencing requirements ~~as outlined in Section 4.2.2(A). New aquaculture facilities shall comply with general standards in Chapter 4 and applicable standards in Appendix B.~~ Aquaculture activities that would have a significant adverse impact on natural, dynamic shoreline processes, or that would result in a net loss of shoreline ecological functions, shall be prohibited. Aquaculture practices shall be designed to minimize use of artificial substances and shall use chemical compounds that are least persistent and have the least impact on plants, animals and water quality.
- ~~D. D. Agency review. All aquaculture projects shall be reviewed by local, State and Federal agencies, and as applicable by FERC licensed hydro projects review authorities.~~
- E.D. New aquatic species. New aquatic species that were not previously found or cultivated in Chelan County shall not be introduced into fresh waters without prior written approval of the Director of the Washington Department of Fish and Wildlife and the Director of the Washington Department of Health.
- F.E. Fish kill. In the event of a fish kill at the site of a net pen facility, the aquaculture operator shall immediately report to the Chelan-Douglas Health District and Washington Department of Fish and Wildlife stating the cause of death and shall detail remedial action(s) to be implemented to prevent reoccurrence.
- G.F. U.S. Coast Guard requirements. All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.
- H.G. ~~H. Coordination with Tribes. The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the applicant and the affected tribe(s) during the permit review process.~~ Submerged and floating structures. The installation of submerged structures and floating structures shall be allowed only when the applicant demonstrates that no alternative method of operation is feasible.
- I.H. Potential impacts. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all experimental aquaculture activities, baseline and periodic operational monitoring by a qualified professional may be required, at the applicant's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts. Aquaculture operators may submit monitoring reports prepared by qualified professional as part of monitoring required by other state or federal agencies. Permits for such activities shall include specific performance measures and provisions for adjustment or

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termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

~~J.I.~~ Over-water structures. For water-dependent portions of aquaculture projects - which may require over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than 3 feet in height, as measured from the water surface ~~of the raft or dock; provided that, in locations where the visual impact of the proposed aquaculture structures will be minimal, City of Leavenworth may authorize storage containers of greater height. In such cases, the burden of proof that the container is the minimum size necessary and the visual impact is minimal shall be on the applicant.~~ Materials that are not necessary for the immediate and regular operation of the facility shall be stored outside of the shoreline buffer.

~~K.J.~~ Permanent instream facilities. Permanent water-dependent instream facilities must be properly anchored or keyed to prevent the channel from migrating around it and causing erosion or creating a safety hazard, and must evaluate and mitigate any potential adverse effects on adjacent properties upstream and downstream.

~~L.K.~~ Product processing. No processing of any aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be subject to the policies and regulations of Section 5.7, Commercial Development and/or Section 5.11, Industry, when located within shoreline jurisdiction, in addition to the policies and regulations in this section.

~~M.L.~~ Waste disposal. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including, but not limited to, the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48).

~~N.M.~~ Construction, maintenance and bonding. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and/or equipment shall be removed or repaired promptly by the owner. ~~Where any structure might constitute a potential hazard to the public in the future, City of Leavenworth may require the posting of a bond commensurate with the cost of removal or repair.~~ The local government may abate an abandoned or unsafe structure, following notice to the owner, if the owner fails to respond in thirty (30) days and may impose a lien on the related shoreline property or other assets in an amount equal to the cost of the abatement. Bonding requirements shall not duplicate requirements of other agencies.

~~O.~~ Application Requirements for Aquaculture projects shall include all information necessary to conduct a thorough evaluation of the proposed aquaculture activity, including but not limited to the following:

~~P.~~ A site plan map including:

~~Q.~~ The perimeter of the proposed aquaculture operations area.

~~R.~~ Existing bathymetry depths based on the Ordinary High Water Mark (OHWM).

~~S.~~ Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other modifications. If there are shore stabilization structures, provide the beach elevation at the toe of the structure and the top of the structure (OHWM datum).

~~T.~~ Areas where specific substrate modification will take place or structures will be constructed or installed.

~~U.~~ Access provisions.

~~V.~~ Location of storage or processing structures or facilities.

~~W.~~ A baseline description of existing conditions, including best available information on:

- ~~X. Water quality~~
- ~~Y. Prevailing storm wind conditions~~
- ~~Z. Current flows~~
- ~~AA. Flushing rates~~
- ~~BB. Areas of differing substrate composition.~~
- ~~CC. Areas of aquatic and upland vegetation complexes.~~
- ~~DD. Existing shoreline or water uses and structures.~~
- ~~EE. Aquatic and benthic organisms.~~
- ~~FF. Assessment of aquatic species, and spawning and other lifecycle use of, or adjacent to, the site. Further baseline studies including surveys and sampling may be required depending upon the adequacy of available information, existing conditions, and the nature of the proposal.~~
- ~~GG. A detailed description of the project proposal including:~~
- ~~HH. Species to be reared.~~
- ~~II. Substrate modification or vegetation removal.~~
- ~~JJ. Planting, harvest and processing location, method and timing, including work proposal and construction techniques proposed (list all hand tools, machinery used (such as track hoes, trucks or barges), type of work, frequency, and duration.~~
- ~~KK. Anticipated use of any feed, pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals, and an assessment of predicted impacts. No such materials shall be used until approval is obtained from all appropriate State and Federal agencies, including but not limited to the U.S. Food and Drug Administration, and the Washington State departments of Ecology, Fish and Wildlife, and Agriculture, as required, and proof thereof is submitted to the local government with jurisdiction. Compounds with the least persistence shall be used. An annual report of antibiotic use shall be submitted to the Chelan County Health District. The report shall indicate the type and amount of antibiotics used during the previous calendar year. Actual usage data for all chemicals and antibiotics shall be maintained for review by Health District staff at all times.~~
- ~~LL. Number of employees/workers necessary for the project, including average and peak employment.~~
- ~~MM. Methods of waste disposal and predator control.~~
- ~~NN. Methods to address pollutant loading, including biological oxygen demand (BOD), suspended solids and fecal coliform.~~
- ~~OO. Assessment of potential impacts on shoreline ecological functions and processes addressing the baseline conditions identified in the Shoreline Characterization, including but not limited to watershed-level, indirect and cumulative effects.~~
- ~~PP. For floating culture facilities or other structures, the local government with jurisdiction may require a visual impact analysis. (See the Department of Ecology's "Aquaculture Siting Study" 1986 for general approach.) Depending on the size and complexity of the proposal, such analysis may be prepared by the applicant without professional assistance, provided that it includes an adequate assessment of impacts.~~
- ~~QQ. Information demonstrating that the site has natural potential for the type(s) of aquaculture proposed, due to necessary substrate or other conditions, as well as water quality suitable for the type(s) of aquaculture proposed.~~
- ~~RR. Information demonstrating that the proposed aquaculture activities will not result in a net loss of~~

~~shoreline ecological functions or processes or adversely affect Critical Areas.~~

~~SS. Information demonstrating that the proposed aquaculture activities will not substantially and materially conflict with areas devoted to established uses of the aquatic environment. Such uses include but are not limited to navigation, moorage, sport or commercial fishing, underwater utilities, and scientific research. Existing public opportunities for gathering wild stock aquatic resources on public lands shall be addressed in any application for aquaculture on public bedlands. Compensation for loss of public access to public aquatic resources may be required.~~

~~TT. Other pertinent information deemed necessary by the Administrator. Applications for aquaculture activities must demonstrate that the proposed activity will be compatible with surrounding existing and planned uses.~~

UU.N. Aquaculture activities shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated and maintained to minimize odor and noise.

VV.O. Aquaculture activities shall be restricted to reasonable hours and/or days of operation when necessary to minimize substantial, adverse impacts from noise, light, and/or glare on nearby residents, other sensitive uses or critical habitat.

WW.P. Aquaculture facilities shall not introduce incompatible visual elements or substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated and maintained to blend into their surroundings through the use of appropriate colors and materials.

5.5 Boating Facilities

Public boating facilities, including public docks/piers, mooring buoys, swim floats, fishing docks, and boat launch facilities, shall be subject to the policies and regulations of this Section. ~~Buoys associated with these facilities are also subject to these policies and regulations, as well as the general location. Buoys associated with these facilities are also subject to these policies and regulations, as well as the general location and design standards found in Section 5.14.2.E. See the Shoreline Use and Modification Chart Section 3. All boating facilities that extend onto State owned aquatic lands must also comply with Washington Department of Natural Resources standards and regulations~~

5.5.1 Policies

- A. Boating facilities are water-dependent uses. When facilitating public access or providing an opportunity for substantial numbers of people to enjoy the shoreline, these uses should be given priority for shoreline location. Shorelines particularly suitable for public boat launch facilities are limited and should be identified and reserved to prevent irreversible commitment for other uses having less stringent site requirements.
- B. Plan and coordinate boat launch regionally. Regional needs for boat launch facilities should be carefully considered in reviewing new proposals as well as in allocating shorelines for such development. Such facilities should be coordinated with park and recreation plans and, where feasible, collocated with other compatible water-dependent uses. Review of such facilities should be coordinated with recreation providers, including other local governments, adjacent counties, the Washington State Parks and Recreation Commission, and the Washington State Department of Natural Resources, to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes. ~~(consistent with principles in WAC 173-26-231(2)(b, d))~~

- C. Minimize modifications. Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred. ~~(consistent with principles in WAC 173-26-231(2)(b, d))~~
- D. Balance public access and ecological functions. New ~~marinas~~ boating facilities should provide public shoreline access, ~~particularly where water enjoyment uses are associated with the marina,~~ to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use. ~~(WAC 173-26-241(3)(e)(iv))~~
- E. Location. Boating facilities and any associated accessory uses should be designed in a manner that limits impacts to surrounding uses, existing environmental conditions and future adverse impacts such as noise, light, and glare.
- ~~E. Limitations on accessory uses. Accessory uses at boating facilities should be limited to water-oriented uses, or uses that provide physical and/or visual shoreline access for substantial numbers of the general public. Nonwater dependent accessory uses should be located outside of shoreline jurisdiction or outside of the shoreline buffer whenever possible.~~
- ~~F. Protect other water dependent uses. Boating facilities should be located, designed and operated so that other appropriate water dependent uses are not adversely affected.~~
- ~~G. Minimize impacts to adjacent uses and users. Boating facilities should be located, designed, constructed and maintained to avoid adverse impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; and impacts to public visual access to the shoreline.~~
- ~~H. Site facilities appropriately. New boating facilities should be located only at sites where suitable environmental conditions, shoreline configuration, access, and compatible or similar uses are present. (WAC 173-26-241(3)(e)(i))~~
- ~~I. No net loss of ecological functions. Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features. (WAC 173-26-241(3)(e)(vi))~~
- J.F. Consider navigation and other recreation opportunities. Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing.

5.5.2 Regulations

- A. Location Standards. ~~(based on WAC 173-26-241(3)(e)(i, ii, iv))~~
 - 1. Boating facilities shall not be permitted within the following shoreline habitats ~~because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project results in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this SMP:~~
 - a. Native aquatic vegetation or wetlands with emergent vegetation (marsh type areas), or
 - b. Spawning and holding areas for priority anadromous or priority resident fish.
 - c. Projects located in these habitats must obtain a Shoreline Conditional Use Permit.
 - 2. New boating facilities shall not be permitted in ~~channel migration zones, or~~ areas where dredging will be required to create or maintain the new facility, where a flood hazard will be created, or where impacts to shoreline ecological functions and processes cannot be mitigated. To the extent feasible, expansions of existing boating facilities should be designed to minimize the need for new or maintenance dredging.

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3. New or expanded boating facilities shall be designed such that any moored boats will be located in water depths which prevent prop scour, unless the applicant can demonstrate that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads.
 4. Boating facilities shall be located and designed in a manner that ~~eliminates~~ minimizes the need for shoreline stabilization. ~~When the need for stabilization is unavoidable, as indicated by a study prepared consistent with SMP Section 5.18, only the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms shall be permitted.~~
 5. Boating facilities ~~shall not be located~~ within 200 feet of beaches commonly used for public swimming, valuable public fishing areas, aquaculture facilities, or commercial navigation areas ~~unless no alternative location exists and~~ shall use appropriate measures ~~are installed~~ or best management practices ~~are implemented~~ to minimize impacts to such areas and protect the public health, safety and welfare. For example, clearly delineating swimming, fishing or boating areas through upland signage, wake limit buoys, and/or floating swim area marker ropes.
 6. Launch ramps shall be located where 1) there is adequate water mixing and flushing; 2) they will not adversely affect flood channel capacity or otherwise create a flood hazard; 3) water depths are adequate to eliminate or minimize the need for dredging or filling; 4) critical areas, active channel migration areas, and salmonid spawning habitat is not present.
 7. Boating facilities shall be located only where adequate utility services that are necessary to meet applicable health, safety and welfare requirements, such as water, power and/or wastewater collection and treatment, are available or where they can be provided concurrent with the development.
- ~~B. 8. Long term boat storage located landward of the OHWM is regulated as a nonwater oriented commercial use under Section 5.7, Commercial Development of this SMP, unless it is equipped with a boat launch facility (either launch ramp, crane, hoist or similar device). If the storage use is equipped with a boat launch facility, it is regulated as a water related commercial use. The dry boat storage portion shall be located landward of the shoreline buffers, unless there are site constraints that prevent the boats from being moved inland. In all cases, boat storage shall comply with applicable height restrictions.~~
- C.B. Facility Design. The public boating facilities shall be designed to avoid and minimize adverse impacts to the shoreline and critical areas; sized to accommodate anticipated demand; and constructed using best management methods/technology.
- ~~D. 1. Consistent with requirements for mitigation sequencing in Section 4.2, Ecological Protection and Critical Areas and provisions in Section 5.2, General Aquatic Shoreline Modification and Use Regulations of this SMP, all boating facilities shall be designed and located to avoid and then minimize potential adverse impacts to critical areas. All unavoidable adverse impacts to critical areas must be mitigated, and a mitigation plan submitted consistent with Subsection F, Submittal Requirements, below.~~
- ~~E. 2. All boating facilities shall be no larger than the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater coverage, the size and number of in water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized. Specific sizing of all boating facility components shall be based on the results of the analyses conducted under Subsection F, Submittal Requirements, below, with the following limitations for specific boating facilities:~~

- ~~F. a. — New boating facilities with overwater structures shall be located in water sufficiently deep to prevent the structure from grounding at the lowest low water, or stoppers must be installed to prevent grounding.~~
- ~~G. 3. — Launch ramps 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 outlined in the submittal requirements in F below. At a minimum, they shall minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.~~
- ~~H. 4. — New over water residences, including floating homes, are not a preferred use and shall be prohibited.~~
- ~~I. 5~~ Replacement or repair or maintenance of Existing Boating Facilities. Proposals involving replacement of the entire existing over-water facility ~~or 75 percent or more of dock support piles, when applicable, or 75 percent or more of an existing boat launch~~ are considered a new boating facility; replacement or repair or maintenance of less than 75 percent can be reviewed and approved by the Shoreline Administrator, when compliant with a Shoreline Exemption. ~~and must be designed consistent with any dimensional, materials and mitigation standards for new boating facilities as outlined above in Sections 5.5.2.A and B.1 4, except the Shoreline Administrator may approve an alternative design without a Shoreline Variance if it meets all of the following criteria:~~
- ~~J. a. — All appropriate Federal agencies have already approved the proposal; and~~
- ~~K.C. b. — The total square footage of the replacement facility is no larger than the existing facility.~~
- ~~L. 6~~ Additions to Boating Facilities. Proposals involving the modification and/or enlargement of existing boating facilities shall be reviewed as new boating facilities. ~~must comply with the following measures:~~
- ~~M. a. — The applicant must demonstrate to the satisfaction of City of Leavenworth that there is a need for the enlargement of an existing boating facility. Proposals that demonstrate an enlargement is necessary due to increased or changed use or demand, safety concerns, or inadequate depth of water will be considered.~~
- ~~N.D. b. — Enlarged portions of boating facilities must comply with applicable dimensional, design, materials and mitigation standards for new boating facilities as described in Sections 5.5.2.A and B.1 4.~~
- ~~O. 7~~ Repair of Existing Boating Facility.
- ~~1. Repair proposals which replace 75 percent or greater of the existing dock support piles or boat launch area within 5 years are considered replacements and must comply with requirements for replacement facilities.~~
 - ~~2. Other repairs to existing legally established boating facilities are permitted consistent with all other applicable codes and regulations and provided that materials standards for new facilities are followed.~~
- ~~P.E. C~~ Site Design and Operation.
1. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed nor made dangerous. ~~(WAC 173-26-241(3)(e)(i, iv))~~
 2. ~~Covered moorage, including watercraft lift canopies, is prohibited. (consistent with WAC 173-26-231(2)(b) and WAC 173-26-241(3)(e)(vi))~~
 3. Accessory uses at boating facilities shall be limited to water-oriented uses or uses that support physical or visual shoreline access the public. Accessory development may include, but is not

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limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.

~~Q.F. D. — Parking and Vehicle Access. (WAC 173-26-241(3)(e)(i)) Public boat launch facilities shall include parking spaces, for boat trailers and vehicles, commensurate with projected demand and located outside of the shoreline buffer when feasible. All boating facilities shall provide parking facilities commensurate with projected demand and consistent with Section 5.19 of this SMP and local zoning standards.~~

~~R.G. E. — Waste Disposal. (WAC 173-26-241(3)(e)(ii, vi))~~

1. Discharge of solid waste or sewage into a waterbody is prohibited. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users.
2. Commercial disposal or discarding of fish-cleaning wastes, scrap fish, viscera, or unused bait into water or in other than designated garbage receptacles is prohibited. Private recreational fish waste disposal is allowed.
3. Fueling is prohibited within the shoreline jurisdiction. Compliance with Federal or State law may fulfill this requirement. Handling of fuels, chemicals or other toxic materials must be in compliance with all applicable Federal and State water quality laws as well as health, safety and engineering requirements. Rules for spill prevention and response, including reporting requirements, shall be posted on-site.

~~F. — Submittal Requirements.~~

~~1. — Applicants shall provide an assessment of demand for new or expanded boating facilities, including, but not limited to, the following: (consistent with WAC 173-26-231(2)(b) and (3)(b))~~

~~a. — The total amount of moorage proposed (except for boat launch facility proposals);~~

~~b. — For new or expanded facilities proposing permanent or temporary moorage, the existing supply of temporary or permanent moorage spaces within the service range of the proposed facility, including vacancies or waiting lists at existing facilities. The service range is a site specific determination made by the applicant considering the proposed facility location and proximity to other locations within either boating or driving distance;~~

~~c. — For new or expanded boat launch ramps, identification of the nearest existing boat launch facility, the expected or current level of use of the new or expanded boat launch ramp, and any other relevant factors related to the need for safe or efficient access to public waters, if that information supports justification for specific design elements;~~

~~d. — The expected service population and boat ownership characteristics of the population, if that information supports justification for specific design elements related to facility length or necessary water depth; and/or~~

~~e. — Existing approved facilities, or pending applications, within the service range of the proposed new facility.~~

~~Applicants for new or expanded boating facilities shall provide habitat surveys and critical area studies consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Critical Areas Regulations. If the project results in unavoidable adverse impacts to ecological functions or processes, a mitigation plan must be prepared using the process and standards outlined in Section 5.14.2.G, Mitigation. In addition, the mitigation plan shall discuss how the proposed project avoids and minimizes impacts consistent with the facility's sizing needs, which are to be based on the results of any habitat survey/critical area study and the demand analysis prepared under F.1 above. A slope bathymetry map may be required when deemed beneficial by the Shoreline Administrator for the review of the project proposal.~~

~~Applicants for new or expanded boating facilities shall provide an assessment of existing water dependent uses in the vicinity, including, but not limited to, navigation, fishing, hunting, pleasure boating, swimming, beach walking, picnicking and shoreline viewing, and document potential impacts and mitigating measures. City of Leavenworth will assist the applicant in identification of area water dependent uses. Potential impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts shall be imposed.~~

~~New boat launch facilities shall be approved only if they provide public access to public waters that are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity. Prior to providing boat launch facilities at a new location, documentation shall be provided demonstrating that expansion of existing launch facilities would not be adequate to meet demand. (consistent with WAC 173-26-231(2)(b))~~

~~Applicants for new or expanded boating facilities shall also comply with and submit any additional materials and/or studies required by the City of Leavenworth.~~

~~G. Aquatic lands and other agency requirements:~~

~~All boating facilities that extend onto State owned aquatic lands must also comply with Washington Department of Natural Resources standards and regulations.~~

~~All boating facilities that extend in the aquatic environment shall also comply with permit(s) issued and land use regulations controlled by state, federal and/or permit issuing authorities. (US Army Corps permit, HPAs, PUD)~~

5.6 Breakwaters, Jetties, Groins, Weirs and Barbs

Breakwaters, jetties, groins-, weirs and barbs are generally intended to protect ~~harbors, moorages,~~ navigation activity, or stream banks or bed from wave and wind action or stream flow by creating slow- or still water areas along shore. A secondary purpose is to protect shorelines from wave- or flow-caused erosion. In addition to this section, development of breakwaters, jetties, groins, weirs, and barbs is also subject to provisions in Section 5.12 (In-water structures).

5.6.1 Policies

- A. Allowed circumstances. Breakwaters, jetties, groins, weirs and barbs located waterward of the OHWM should be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. ~~(WAC 173-26-231(3)(d))~~
- B. Regional benefit and no net loss of ecological functions. Breakwaters, jetties, groins weirs and barbs should be permitted only for water-dependent uses when the benefits to the region outweigh short-term resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes. ~~(WAC 173-26-231(2)(b, d))~~
- C. Use less-impacting alternatives. Alternative structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, should be considered where physical conditions make such alternatives with less impact feasible. ~~(Consistent with WAC 173-26-231(2)(b, d))~~
- D. Shoreline Conditional Use Permit required. Breakwaters, jetties, groins, weirs, barbs and similar structures should require a Shoreline Conditional Use Permit, except for those structures installed to protect or restore ecological functions, such as woody debris, engineered log jams, or habitat-forming rock weirs installed in streams. ~~(WAC 173-26-231(3)(d))~~
- E. Protect critical areas. Breakwaters, jetties, groins, weirs and barbs should be designed to protect critical areas and should provide for mitigation according to the sequence defined in Section 4.2.2(A). ~~(WAC 173-26-231(3)(d))~~

5.6.2 Regulations

- ~~A. A. — No net loss of ecological functions. New, expanded or replacement structures shall only be permitted if it can be demonstrated that the proposed development will not result in a net loss of shoreline ecological functions and that it supports water dependent uses, public access, shoreline stabilization, or other specific public purpose. (WAC 173-26-231(2)(b, d))~~
- ~~B. — Conditional Use Permit required. Breakwaters, jetties, groins, weirs, barbs and similar structures shall require a Conditional Use Permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. (WAC 173-26-231(3)(d))~~
- A. Use less-impacting alternatives. Jetties and breakwaters are prohibited.
- B. Limitations on groins. Groins are prohibited except as a component of a professionally designed community or public beach management program that encompasses an entire reach for which alternatives are infeasible, or where installed to protect or restore shoreline ecological functions or processes. ~~(consistent with WAC 173-26-231(2)(b, d, e))~~
- C. Limit size of structures. The size of ~~breakwaters, jetties,~~ groins weirs and barbs shall be limited to the minimum necessary as determined by a qualified professional ~~(see 5.6.2.F)~~ to provide protection for the structure or use it is intended to protect.
- ~~D. (WAC 173-26-231(2)(b)) Use less impacting alternatives. Jetties and breakwaters are prohibited.~~
- E.D. — Professional design. Proposed designs for new or expanded structures shall be designed and certified by a qualified professional, including an engineer, hydrologist, or geomorphologist.
- ~~G. — State owned aquatic lands. Proposals for breakwaters shall be consistent with the Washington Department of Natural Resources Aquatic Land Management standards (WAC 332-30, RCW 79.105).~~

5.7 Commercial Development

5.7.1 Policies

- A. Encourage water-oriented uses. —Water-oriented commercial developments which provide an opportunity for substantial numbers of people to enjoy the amenities of the shorelines should be encouraged to locate near the water. Nonwater-oriented commercial development should be encouraged to locate landward or outside shoreline jurisdiction. ~~(1975 SMP policy 6a)~~
- B. Commercial use preferences. Preference should be given for water-dependent commercial uses above water-related uses. Water-related uses should have priority above water-enjoyment uses. All water-oriented commercial uses have preference over nonwater-oriented commercial uses. ~~(WAC 173-26-241(3)(d))~~
- C. Location in existing commercial areas. New commercial development should be encouraged to locate in those areas where current commercial uses exist. ~~(1975 SMP policy 6b)~~
- D. Design. New commercial development should be designed to provide economic activity meeting the needs of residents, businesses, and tourists, protect the public's health, safety, and welfare, protect shoreline ecological functions, and provide public access where feasible and consistent with constitutional limits.
- E. Encourage the expansion of general retail goods, services, recreational opportunities, and entertainment facilities for area residents ~~(Comprehensive Plan Commercial Goal 1).~~
- F. Commercial developments should be clustered to provide safe and convenient access for automobiles, pedestrians, and suppliers, and to maintain and enhance the aesthetic quality of the area. ~~(Comprehensive Plan Commercial Goal 1, Policy 2)~~

- G. Encourage landscaping which provides unity to commercial development and which screens or softens parking lots and unsightly areas, particularly in the transition areas between commercial and residential and recreational land uses. ~~(Comprehensive Plan Commercial Goal 1, Policy 4)~~
- H. Provide landscaped buffers, walls, open spaces, etc. as needed to minimize noise, screen parking and service areas, rooftop equipment, solid waste receptacles, outdoor storage areas, and other potential impacts and nuisances. ~~(Comprehensive Plan Commercial Goal 1, Policy 6)~~
- I. Encourage the development of commercial land in a manner which is complementary and compatible with adjacent land uses and the surrounding environment by providing well designed transition or buffer areas. ~~(Comprehensive Plan Commercial Goal 1, Policy 7)~~
- J. Promote appropriately buffered multi-family residential and/or office development compatible with existing and potential commercial activities to provide a transition between high intensity and low intensity uses. ~~(Comprehensive Plan Commercial Goal 1, Policy 8)~~
- K. Encourage the development of additional tourist commercial facilities. ~~(Comprehensive Plan Commercial Goal 2)~~
- L. Encourage a pattern of mixed-use development in the commercial areas with residential uses as supportive, secondary development to the primary commercial areas. ~~(Comprehensive Plan Goal 1, Policy 3)~~
- M. Refine and enhance existing design criteria for buildings and signs, which will lessen the aesthetic impacts of businesses which utilize standard logos and/or building designs. Preserve the unique character and Bavarian design of Leavenworth. ~~(Comprehensive Plan Goal 1, Policy 6)~~

5.7.2 Regulations

~~A. Commercial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.7.2~~

~~B.A.~~ B.A. Water-oriented uses allowed. Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP. Water-dependent commercial uses shall be given preference over water-related and water-enjoyment uses. The applicant shall demonstrate to the satisfaction of ~~City of Leavenworth~~ the Shoreline Administrator that proposed uses meet the definitions of water-dependent, water-related or water-enjoyment (water-oriented use). ~~(WAC 173-26-241(3)(d))~~

~~C.B.~~ B. Residential uses as part of ~~mixed use~~ mixed-use development. Nonwater-oriented uses, including but not limited to residential uses, may be located with water-oriented commercial uses provided:

1. The mixed-use project includes one or more water-dependent uses.
2. Water-dependent commercial uses as well as other water-oriented commercial uses have preferential locations along the shoreline.
3. The underlying zoning district permits residential uses together with commercial uses.
4. Public access is provided ~~for significant number of persons in accordance with Section 4.4,~~ and/or ecological restoration is provided as a public benefit.

~~Residential uses meet requirements of Section 5.16 of this SMP.~~

~~A.C.~~ Nonwater-oriented commercial uses limited. In areas designated for commercial use, nonwater-oriented commercial uses are allowed if the site is physically separated from the shoreline by another property or public right of way. On properties fronting the shoreline, new nonwater-oriented commercial development is prohibited in shoreline jurisdiction, except where such use provides a ~~significant~~ public benefit ~~with respect to the Act's objectives~~, such as providing public

access and ecological restoration and ~~meets one of the following conditions: (WAC 173-26-241(3)(d))~~

~~D. The use is part of a mixed-use project that includes water-dependent uses; or~~

~~E.C. Navigability is severely limited at the proposed site.~~

~~F.D. D. Overwater uses. Nonwater-dependent commercial uses shall not be located over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses. (WAC 173-26-241(3)(d))~~

~~G.E. E. Accessory uses to water-oriented commercial activities. Accessory commercial development that does not require a shoreline location shall be located landward of the water-oriented portions of the development and comply with shoreline buffers for nonwater-oriented uses. Accessory uses may be allowed in existing structures or where necessary in support of water-oriented uses. Accessory development includes, but is not limited to, parking, storage and service areas, and circulation. (WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii), WAC 173-26-211(3)(b), and WAC 173-26-241(3)(d))~~

~~H.F. F. Environmental protection. Commercial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features. (WAC 173-26-241(3)(d))~~

~~I.G. G. Public access. See Section 4.4 (WAC 173-26-241(3)(d))~~

5.8 Dredging and Dredge Material Disposal

As regulated in this SMP, dredging is the excavation or displacement of the bottom or shoreline of a waterbody (waterward of the OWHM) for purposes of flood control, navigation, utility installation (excluding on-site utility features serving a primary use, which are “accessory utilities” and shall be considered a part of the primary use), the construction or modification of essential public facilities and regional transportation facilities, and/or restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose). This section is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, [in-water maintenance projects](#), boat launch ramp installation, pile placement), etc. ~~These in-water substrate modifications should be conducted pursuant to regulations found in Section 5.2, General Aquatic Shoreline Modification and Use Regulations, Section 5.9, Fill and Excavation, and regulations found in sections of this Master Program governing the use or modification with which the excavation is associated, such as Section 5.5, Boating Facilities or Section 5.18, Shoreline Stabilization.~~

~~All dredging and dredge material disposal on state owned aquatic lands must also comply with Washington Department of Natural Resources standards and regulations.~~

5.8.1 Policies ~~(based on WAC 173-26-231(2) and (3)(f))~~

- A. ~~A.~~ Permitted. Dredging should be permitted for water-dependent uses and/or essential public facilities only when necessary and when alternatives are infeasible or less consistent with this SMP. Dredging as part of flood hazard abatement, ecological restoration or enhancement, beach nourishment, public access or public recreation should be permitted if consistent with this SMP.
- B. ~~B.~~ Prohibited. Dredging of bottom materials for the primary purpose of obtaining material for fill, construction, or beach nourishment should not be permitted.

- C. ~~C.~~—Disposal. Spoil disposal on land outside of shoreline jurisdiction is generally preferred over open water disposal. Disposal of dredged material on shorelands or wetlands within a river’s channel migration zone should be discouraged.
- D. ~~D.~~—Cooperative management programs. Long-term cooperative management programs that rely primarily on natural processes, and involve land owners and applicable local, State and Federal agencies and tribes, should be pursued to prevent or minimize conditions which make dredging necessary.
- E. ~~E.~~—Siting and design. New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.
- F. ~~F.~~—Ecological impacts. Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
- G. ~~G.~~—Navigation channels and basins. Dredging for the purpose of establishing, expanding, 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 locations, depths and widths.

5.8.2 Regulations (~~based on WAC 173-26-231(2) and (3)(f)~~)

- A. ~~A.~~—Siting and design. New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
- B. ~~B.~~—~~Allowed Dredging activities. Dredging~~ shall only be permitted for the following activities:
 - 1. Development of new or expanded ~~wet moorages, harbors, ports or~~ water-dependent industrial uses ~~only~~ when there are no feasible alternatives or other alternatives may have a greater ecological impact ~~and only 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.
 - 2. Development of essential public facilities when there are no feasible alternatives.
 - 3. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes. ~~City of Leavenworth may approve five year management plans addressing maintenance dredging, use of best management practices, and other measures to assure no net loss of shoreline ecological functions.~~
 - 4. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
 - 5. Trenching to allow the installation of underground utilities (excluding “accessory utilities” associated with a primary use) if no practicable alternative exists, and:
 - a. ~~a.~~—Impacts to fish and wildlife habitat are minimized to the maximum extent possible, which may require mitigation sequencing and implementation of a mitigation management plan.
 - b. ~~b.~~—The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.
 - c. ~~c.~~—Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.

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6. Establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure safe and efficient accommodation of existing navigational uses.
 7. Maintenance dredging of established navigation channels and basins, which shall be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
 8. Flood hazard reduction, including dam maintenance.
- C. ~~C.~~—Prohibited dredging activities. Dredging shall be prohibited for the primary purpose of obtaining fill material, except that permitted under Section 5.13, Mining and except when necessary for restoration of ecological functions. In the latter circumstance, the fill must be placed waterward of the OHWM. The project must be either associated with a MTCA ([Model Toxics Control Act](#)) or CERCLA habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.
- D. ~~D.~~—Maintain ecological functions and processes. ~~The physical alignment and ecological functions and processes of shoreline waterbodies shall be maintained, except to improve hydraulic function, water quality, fish or wildlife habitat, or fish passage. The Administrator may require a five-year management and monitoring plan addressing maintenance dredging, use of best management practices, and other measures to assure no-net-loss of shoreline ecological functions. Consistent with the mitigation sequencing steps outlined in Section 4.2.2, Ecological Protection and Critical Areas, dredging and dredge disposal proposals should be first designed to avoid and then minimize potential adverse impacts. Where adverse impacts are unavoidable, mitigation shall be required. When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant plan requirements of the appropriate responsible government in Appendix B, Critical Areas Regulations.~~
- E. ~~E.~~—Conditions may be applied. Limitations on dredge or disposal operation may be imposed to reduce proximity impacts, protect the public safety and assure compatibility with the interests of other shoreline users. Conditions may include limits on periods and hours of operation, type of machinery, and may require provision of landscaped buffer strips and/or fencing to address noise and visual impacts at land disposal or transfer sites.
- F. ~~F.~~—Circumstances when disposal is allowed. Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:
1. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and
- G. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.
- H. ~~G.~~—Disposal of dredge material within channel migration zone ~~discouraged~~ [is prohibited](#). ~~Disposal of dredge material on shorelands or wetlands within a river's channel migration zone is discouraged. In the limited instances where it is allowed, such disposal requires a Shoreline Conditional Use Permit. This provision is not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geohydrologic character of the channel migration zone.~~
- ~~H.~~—Circumstances when open water dredge disposal is allowed. ~~Dredge material disposal in open waters may be approved only when authorized by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and Washington State Department of Fish and Wildlife Hydraulic Project Approval (HPA); and when one of the following conditions apply:~~
- ~~d.~~—Land disposal is infeasible, less consistent with this SMP, or prohibited by law; or

~~e. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.~~

~~I. Open water dredge disposal conditions. Dredge materials approved for disposal in open waters shall comply with the following conditions:~~

- ~~1. Offshore habitat will be protected, restored, or enhanced;~~
- ~~2. Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;~~
- ~~3. Shifting and dispersal of dredge material will be minimal; and~~
- ~~4. Water quality will not be adversely affected.~~

~~J. Submittal requirements. The following information shall be required for all dredging applications:~~

- ~~1. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this SMP.~~
- ~~2. An analysis of the existing shoreline and potential adverse impacts, including the following:~~

~~f. a. A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry and have data points at a minimum of 2 foot depth increments.~~

~~g. b. A detailed description of the existing physical character, shoreline geomorphology, and biological resources provided by the area proposed to be dredged. This description should include information on the stability of bedlands adjacent to proposed dredging and spoils disposal areas.~~

- ~~c. A detailed description of potential adverse impacts to ecological functions and processes.~~
- ~~d. A mitigation plan to address any identified adverse impacts to ecological functions or processes.~~

~~3. A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed, including:~~

~~a. Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc.).~~

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

~~c. Biological analysis of material to be dredged:~~

- ~~4. A description of the method of materials removal, including facilities for settlement and movement.~~
- ~~5. Dredging procedure, including the estimated length of time it will take to complete dredging, method of dredging, and amount of materials removed.~~
- ~~6. Frequency and quantity of project maintenance dredging.~~
- ~~7. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including, but not limited to:~~

~~a. Dredge material disposal area;~~

- ~~b. Physical characteristics including location, topography, existing drainage patterns, surface and ground water;~~
- ~~e. Size and capacity of disposal site;~~
- ~~d. Means of transportation to the disposal site;~~
- ~~e. Proposed dewatering and stabilization of dredged material;~~
- ~~f. Methods of controlling erosion and sedimentation; and~~
- ~~g. Future use of the site and conformance with land use policies and regulations.~~
 - ~~8. Plan for disposal of maintenance spoils for at least a 50 year period, if applicable.~~
 - ~~9. Hydraulic modeling studies sufficient to identify existing geo hydraulic patterns and probable effects of dredging.~~

5.9 Fill and Excavation

Fill regulations in this section apply to fills anywhere in shoreline jurisdiction, in both aquatic and upland environments. ~~“Fill” is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.~~

~~Excavation regulations in this section apply to excavation anywhere in shoreline jurisdiction. “Excavation” is the disturbance or displacement of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material. In addition to upland excavation, this section is intended to cover excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement). See Section 5.8, Dredging and Dredge Material Disposal for dredging for purposes of flood control, navigation, primary utility installation, the construction of water dependent portions of essential public facilities, and/or restoration whose primary project element is removal of material waterward of the OHWM.~~

~~All fill and excavation on state owned aquatic lands must also comply with Washington Department of Natural Resources standards and regulations.~~

5.9.1 Policies ~~(based on WAC 173-26-231(2) and (3)(c))~~

- A. ~~A.~~ Minimize fill and excavation. Fill and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.
- B. ~~B.~~ Location. Fills and excavation should be located and developed so that water quality, hydrologic and runoff patterns are not altered.
- C. ~~C.~~ Shoreline stabilization. Fill should not be allowed where shoreline stabilization would be required to maintain the materials placed.
- D. ~~D.~~ Restoration. Excavation and grading may be permitted landward of the OHWM of a waterbody for projects with the primary purpose of restoring ecological functions and natural character.
- E. ~~E.~~ Creation of uplands. Fill in waterbodies, floodways, channel migration zones, and/or wetlands should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity or provides some other public benefit.
- F. ~~F.~~ Permitted Fill. Fill should be permitted in limited instances to restore uplands where recent erosion has rapidly reduced upland area where the erosion has not been caused by the landowners own

actions of vegetation removal or improper stormwater handling, to build protective berms outside required buffers and—nourish beaches for shore stabilization or recreation, to restore or enhance degraded shoreline ecological functions and processes, or to facilitate upland development outside required buffers otherwise allowed by and consistent with this SMP.

- G. ~~G.~~—Benefits and impacts. The predicted economic benefits of fills and excavation should be weighed against long-term cumulative impacts on ecological processes and functions.

5.9.2 Regulations ~~(based on WAC 173-26-231(2) and (3)(c))~~

- A. ~~A.~~—Protect ecological function. All fills and excavations shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Fill and excavation shall be minimized to the ~~maximum~~ extent practicable and necessary to accommodate approved shoreline uses and development activities that are consistent with this SMP. ~~When fill or excavation causes adverse impacts to ecological functions, a mitigation plan must be prepared and implemented consistent with Section 4.2 of this SMP.~~

- B. ~~B.~~—Permissible fill and excavation. Fill and excavation within wetlands, floodways, channel migration zones, or waterward of the OHWM ~~shall only be~~ permitted in limited instances for the following purposes ~~and when other required state or federal permits have been obtained~~, with due consideration given to specific site conditions, ~~and only along with approved shoreline use and development activities that are consistent with this SMP~~, such as:

1. Water-dependent uses, public access, and cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
- ~~2. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers (see also Section 5.8.2 of this SMP);~~
- ~~3.~~2. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
- ~~4.~~3. Ecological restoration or enhancement, including, but not limited to, beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with an approved restoration plan; or
- ~~5.~~4. Protection of cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected ~~Indian Tribes and comply with applicable provisions of Section 4.1.2 of this SMP.~~

~~All fills and excavation waterward of the OHWM not associated with ecological restoration, flood control or approved shoreline stabilization shall require a Shoreline Conditional Use Permit.~~

- ~~6.~~6. All other upland fills are permitted provided they are conducted outside required buffers and as ~~as~~ part of an approved shoreline use or modification or are necessary to provide protection to cultural or historic resources, are the minimum necessary to implement the approved use or modification, do not significantly change the topography of the landscape in a manner that affects the hydrology or increases the risk of slope failure ~~and are consistent with applicable provisions of Appendix B, particularly regulations governing floodways and 100-year floodplains.~~
- C. ~~C.~~—Shoreline stabilization. Fills or excavation shall not be located where shoreline stabilization will be necessary to protect materials placed or removed, except when part of an approved plan for protection of cultural resources.

- D. ~~D.~~—Physical and visual consistency. Fills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.
- E. ~~E.~~—Maximum slopes. Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every two feet horizontal (1:2) unless a specific engineering analysis has been provided.
- F. ~~F.~~—Erosion control. A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the Stormwater Management Manual for Eastern Washington, or the most recent Ecology revised stormwater manual, shall be provided for all proposed fill and excavation activities, and approved by the Shoreline Administrator prior to commencement of activity. Disturbed areas shall be immediately protected from erosion using weed-free straw, mulches, or similar methods and revegetated, as applicable.

5.10 Forest Practices

5.10.1 Policies

- A. Avoid Steep Slopes. Forest practices should be avoided on shorelines with slopes of such grade that large sediment runoff will result unless adequate restoration and erosion control including seeding, mulching, matting and replanting can be expeditiously accomplished. ~~(1975 SMP Policy 3a)~~
- B. Protect Waterways and Floodplains. Special attention should be directed to forest practices activities including thinning, harvest and road construction to prevent the accumulation of slash and other debris in contiguous waterways and their floodplains. ~~(1975 SMP Policy 3b)~~
- C. Visual Impacts. The visual impact of forest practices should be considered in all shoreline areas. Timber harvesting practices, including road construction and debris removal, should proceed in accord with Washington State Department of Natural Resource forest resource plan policies so that the quality of the view and viewpoints along shorelines are not degraded; for example harvest size limitation, leave tree requirements, riparian and wetland protection, forest land planning and SEPA analysis on both project and nonproject proposals. ~~(1975 SMP Policy 3e)~~
- D. Buffer Zone. The use of buffer zones along forested shorelines is encouraged in order to retard surface runoff, reduce siltation, provide shade for fish, and be aesthetically pleasing. ~~(1975 SMP Policy 3d)~~
- E. Water Quality. Timber harvesting practices on shorelines should be conducted to maintain State and Federal water quality standards as appropriate. ~~(1975 SMP Policy 3e)~~
- E.F. [A forest practice that includes activities other than timber cutting may be a development under the act and require a shoreline permit, per WAC 222-50-020. A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline Substantial Development Permit or a shoreline exemption.](#)

5.10.2 Regulations

- A. Conversion to other use. Preparatory work associated with the conversion of land to non-forestry uses and/or developments shall be consistent with the following performance standards:
 - 1. Limit the conversion to the minimum necessary to accomplish the purpose and intent of the shoreline use environment, general policies and regulations, and specific shoreline modification and use policies on the subject property. ~~(proposed based on principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), and low impact development principles)~~

2. Ensure no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access. ~~(WAC 173-26-241(3)(e)).~~

~~Forest practices shoreline permit applications shall demonstrate compliance with performance standards in this subsection.~~

- B. State and local forest practice regulations. All forest practices, including forest conversions, undertaken on shorelines shall comply with the applicable policies and provisions of the Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by City of Leavenworth. ~~(WAC 173-26-241(3)(e))~~
- C. General Tree Management. Forest management activities that minimize the potential for catastrophic wildfires and hazard tree removal are allowed consistent with any applicable state and local forest practice regulations and Section 4.5.2, Vegetation Conservation.
- D. Selective cutting – shorelines of statewide significance. Within shoreline jurisdiction along shorelines of statewide significance, only selective commercial timber cutting may be permitted so that no more than thirty percent (30%) of the merchantable timber may be harvested in any 10-year period; provided that, other timber harvesting methods may be permitted with a Conditional Use Permit in those limited instances where topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental. ~~(RCW 90.58.150)~~

~~Natural environment – limited forest practices. Within the Natural environment, timber harvesting shall be permitted only where it is necessary to:~~

- ~~1. Preserve a desired pre-climatic state of a plant succession, such as a stand of Douglas-fir, which would be eventually superseded by other species if no cutting were done;~~
- ~~2. Prevent an epidemic of insects or disease infestations in the area or to adjoining areas when no other means of epidemic control will work; or~~
- ~~3. Clean up and restore an area devastated by disaster such as extensive windfall or fire. (1975 SMP Section 14.4.1)~~

5.11 Industry

5.11.1 Policies

- A. Industrial use preference. Industries are an appropriate land use along shorelines where compatible with existing land use plans and zoning. However, first priority should be given to water-dependent industries over nonwater-dependent uses, and second priority to water-related industries over nonwater-oriented uses. ~~(1975 SMP Policy 9d)~~
- B. Industries requiring navigable water. Water-dependent industries which require frontage on navigable water should be given priority over other industrial uses. ~~(1975 SMP Policy 9e)~~
- C. Environmental limitations. Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas. ~~(WAC 173-26-241(3)(f))~~
- D. Water and wastewater facilities. Sewage treatment and potable water facilities should be located with consideration for economic operation and compatibility with surrounding uses, designed to assure no net loss of ecological functions, and designed not to have significant adverse impacts to other shoreline resources and values. ~~(1975 SMP Policy 9b)~~
- E. Cleanup and restoration. Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. ~~(WAC 173-26-241(3)(f))~~

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- F. Encourage the development of water-oriented small light industrial sites with adequate infrastructure. ~~(Comprehensive Plan Land Use Element Industrial Goal 1)~~
- G. New industrial developments should be reviewed as planned industrial developments. ~~(Comprehensive Plan Land Use Element Industrial Goal 1, Policy 1)~~

5.11.2 Regulations

~~A. Industrial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.11.2~~

~~B. Water dependent or water related uses allowed. Industrial facilities and structures that are water-dependent or water related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate to the satisfaction of City of Leavenworth that proposed uses are water dependent and/or water related. (WAC 173-26-241(3)(f))~~

~~Nonwater-oriented industrial uses limited. In areas designated for industrial use, new nonwater-oriented industrial uses are allowed only if the site is physically separated from the shoreline by another property or public right-of-way or railroad prior to adoption of this SMP.~~

~~A. On properties fronting the shoreline, new nonwater-oriented industrial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration, and meets one of the following conditions:~~

~~1. The use is part of a mixed-use project that includes water-dependent uses, or~~

~~A. 2. Navigability is severely limited at the proposed site-~~

~~A. Accessory uses to water dependent or water related industrial activities. Accessory industrial development that is not water dependent and does not require a shoreline location shall be located upland of the water-dependent or water-related portions of the development and comply with shoreline buffers.) Accessory development includes, but is not limited to, parking, warehousing, open-air storage, waste storage and treatment, and transportation corridors. (WAC 173-26-201(2)(d), WAC 173-26-241(2)(a)(iii), WAC 173-26-211(3)(b), and WAC 173-26-241(3)(f))~~

~~D. Environmental protection. Industrial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features. (WAC 173-26-241(3)(f))~~

~~B. Public access. See SMP Section 4.4. (WAC 173-26-241(3)(f))~~

C. Clean up and Restoration. Industrial development and redevelopment are encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. Federal and state requirements for hazardous materials clean up or management shall be addressed. ~~(WAC 173-26-241(3)(f))~~

5.12 In-Water Structures

~~In water structures include those placed by humans within streams, rivers and lakes for hydroelectric generation, irrigation, water supply, flood control, transportation, utilities, fish habitat enhancement, recreation, or other purpose. Structures placed waterward of the OHWM have the potential to cause water impoundment or the diversion, obstruction, or modification of water, and are therefore regulated by this section.~~

5.12.1 Policies

- A. Long-term compatibility. In-water structures should be planned and designed to be compatible with appropriate multiple uses of resources over the long-term, especially in Shorelines of Statewide Significance. Appropriate multiple uses include, but are not limited to, public access, recreation, and fish migration.
- B. Considerations. The location, design, construction and maintenance of in-water structures should give due consideration to the full range of public interests; watershed processes, including prevention of damage to other properties and other shoreline resources from alterations to geologic and hydrologic processes; and ecological functions, with special emphasis on protecting and restoring priority habitats and species.
- C. Siting and design. In-water structures shall be sited and designed consistent with appropriate engineering principles, including, but not limited to, guidelines of the Washington Department of Fish and Wildlife, Natural Resources Conservation Service, and the U.S. Army Corps of Engineers. Planning and design of in-water structures should be consistent with and incorporate elements from applicable watershed management and restoration plans and/or surface water management plans.
- D. Non-structural and non-regulatory alternatives. Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to in-water structures. Non-regulatory and non-structural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.
- E. Prohibited development and uses. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, lake, river, channel migration zone, or floodway should not be allowed.
- F. Enhance ecological function. In-water structure proposals should incorporate native vegetation to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. Such features include vegetated berms; vegetative stabilization including brush matting and buffer strips; and retention of existing trees, shrubs and grasses on stream banks, if possible.

5.12.2 Regulations

- A. Prohibited projects. Channelization projects that damage fish and wildlife resources, degrade recreation and aesthetic resources, result in a net loss of ecological functions or result in high flood stages and velocities are prohibited.
- B. Soil stabilization. Upland cut-and-fill slopes and back-filled areas resulting from installation of in-water structures shall be stabilized [in accordance with Section 5.18 Shoreline Stabilization](#). ~~with bioengineering approaches, including, but not limited to brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes. In order to ensure soil stabilization, revegetation must include native shrubs or trees and may not be limited to native grasses.~~
- ~~C.~~ Water quality. In-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. ~~City of Leavenworth shall require reasonable conditions to achieve this objective.~~
- ~~D.C.~~ ~~Prohibited structures.~~ No motor vehicles, appliances, other similar structures or parts thereof; nor structure demolition debris (except non-toxic, non-chemically contaminating, reclaimed materials); nor any other solid waste shall be used as in-water structures.

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~~E.D.~~ Natural features. Natural in water features such as snags, uprooted trees, or stumps shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation or human safety. In-stream structures shall provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

~~F.E.~~ Design. In-water structures shall be designed by a qualified professional. In-water structures shall allow for natural groundwater movement and surface runoff, and shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided channels. In-water structures shall not be a safety hazard or obstruct water navigation as determined by the Shoreline Administrator.

~~G.F.~~ Dam siting and design. The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the State of Washington. The professional design shall include a maintenance schedule. Evaluation of the suitability of the dam shall include a downstream safety analysis.

~~H.G.~~ Dam maintenance agreement and bond. For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the Ecology reservoir permit requirements, a construction bond and maintenance agreement shall be filed with City of Leavenworth prior to construction. The bond or surety shall be approved by the Shoreline Administrator and shall be in a form acceptable to City of Leavenworth. The construction bond shall be equal to at least one hundred fifty percent of the estimated cost of the improvement(s) to be performed, to be utilized by City of Leavenworth to perform any necessary work, to reimburse the local government for performing any necessary work, and to reimburse the local government for documented administrative costs associated with action on the device. To determine this value, the applicant must submit two cost estimates for the improvements to be performed. If costs incurred by the local government exceed the amount provided by the assurance device, the property owner shall reimburse the local government in full, or the local government may file a lien against the subject property for the amount of any deficit. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the State of Washington, and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

~~I. Permits. Construction of in water structures may not commence without having obtained all applicable Federal, State, and local permits and approvals.~~

~~I. Public access. Design of in water structures by public entities, including local governments, state agencies, and public utility districts, shall include access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a minimum, in water structures should not decrease public access or use potential of shorelines.~~

5.13 Mining

5.13.1 Policies

~~A. The City of Leavenworth shorelines are primarily used for recreational activities. Mining activities are considered to conflict with the recreational uses. Additionally, there are no known significant mineral resources within the shoreline jurisdiction. For these reasons, mining activities are prohibited. Ecological function.~~

~~Mining and associated activities should be designed and conducted to result in no net loss of shoreline ecological functions and processes. Mining should not be approved where it could interfere with shoreline ecological functions or processes, or cause irreparable damage to shoreline resources or features. Application of this policy shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation. The determination of whether there will be no net loss of ecological function should be based on an evaluation of the reclamation plan required for the site and shall consider impacts on ecological functions during operation. Preference should be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species. (WAC 173-26-241(3)(h)(ii)(A))~~

~~B. — Location. Mining should not be located on shorelines where unavoidable adverse impacts, such as noise, vibration, odor, dust or other effects, on other users or resources, taken together, equal or outweigh the benefits from mining. (WAC 173-26-241(3)(h)(ii)(A)) The operator may be required to implement measures such as buffers, limited hours, or other mitigating measures to minimize adverse impacts. Mining of shorelines having high value for public recreation should not be permitted.~~

~~C. — Post mining restoration. Mining, particularly surface or strip mining, should provide for timely restoration of disturbed areas to a biologically productive, attractive, semi-natural, or other useful condition through a reclamation process consistent with regulations administered by the Department of Natural Resources and other applicable local standards. (WAC 173-26-241(3)(h)(ii)(B))~~

~~D. — Where permitted. Mining should only be permitted where detailed operation plans and studies prepared pursuant to Section 4.2.2, Ecological Protection and Critical Areas, and Appendix B, Critical Areas Regulations demonstrate that:~~

- ~~1. — Fish habitat, upland habitat and water quality will not be significantly harmed; and~~
- ~~2. — The operation will not adversely affect geologic or hydrologic processes, channel alignment, nor increase bank erosion or flood damage.~~

~~E. — Minimize adverse impacts. Mining operations should be located, designed, and managed so that they do not subject other appropriate uses to substantial or unnecessary adverse impacts from of the operation. The operator may be required to implement measures such as buffers, limited hours, or other mitigating measures to minimize adverse impacts.~~

~~5.13.2 Regulations~~

~~A. — Location.~~

- ~~1. — Mining shall not be permitted within shoreline jurisdiction within a 400-foot radius of any fish or aquaculture facility, or dam.~~
- ~~2. — Mining shall be allowed in designated fish and wildlife habitat areas only as a part of an approved flood-control program or in conjunction with a habitat restoration or enhancement plan.~~
- ~~3. — Mining in shoreline jurisdiction shall only be approved when the material proposed to be extracted is only available in a shoreline location. This determination shall be based on an evaluation of geologic factors such as the distribution and availability of mineral resources; the need for such mineral resources; and economic, transportation, and land use factors. This demonstration may rely on analysis or studies prepared for purposes of comprehensive plan designations, and may be integrated with any relevant environmental review conducted under SEPA (Chapter 43.21C RCW), or otherwise be shown in a manner consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a), as amended.~~
- ~~4. — Mining location shall be consistent with the applicable SMP environment designation and local government designation of mineral resource lands.~~

~~B. — Required plans and analyses. Application for permits for mining operations shall be accompanied by operation plans, reclamation plans and analysis of environmental impacts in compliance with local ordinances and sufficient to make a determination as to whether the project will~~

~~result in net loss of shoreline ecological functions and processes during the course of mining and after reclamation. Creation, restoration, or enhancement of habitat for priority species and the future productivity of the site may be considered in determining no net loss of ecological functions. Evaluation of impacts should be appropriately integrated with relevant environmental review requirements of SEPA (RCW 43.21C) and the SEPA rules (WAC 197-11).~~

~~C. — No Net Loss. Mining operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features and habitats. Mitigation shall provide for the feature's replacement at equal value.~~

~~D. — Surface mine reclamation plans. For mining proposals that meet the definition of surface mine in RCW 78.44.031, a reclamation plan that complies with the format and detailed minimum standards of RCW 78.44, Surface mining, shall be included with any shoreline permit application. Reclamation plans proponent shall review and consider incorporating applicable portions of the Shoreline Restoration Plan as well as critical area mitigation, if any, into the applicant's proposed Reclamation Plan. In reviewing reclamation plans together with permit applications, the Shoreline Administrator shall determine whether or not the plan is also consistent with this SMP, the shoreline restoration plan and other local regulations. An inconsistent reclamation plan shall constitute sufficient grounds for denial of a shoreline permit, provided, the applicant shall be given reasonable opportunity to revise the plan.~~

~~E. — Reclaimed site use. Subsequent use of reclaimed sites shall be consistent with the provisions of this SMP.~~

~~F. — Adverse Ecological and Flood Hazard Impacts. Mining is prohibited waterward of the OHWM of the Columbia River. Mining waterward of the OHWM of other waterbodies, or in the floodplain or channel migration zone of any shoreline waterbody shall not be permitted unless:~~

~~1. — Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the system as a whole; and~~

~~2. — The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.~~

~~3. — Such uses will not divert flood flows causing channel shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in any other way threaten public or private properties.~~

~~The determinations required by Subsections F.1 and F.2 above shall be made consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a).~~

~~G. — Continuation of mining at existing site. In considering renewal, extension or reauthorization of other mining operations waterward of the OHWM in locations where they have previously been conducted, City of Leavenworth shall require compliance with Subsection F to the extent that no such review has previously been conducted. Where there has been prior review, City of Leavenworth shall review previous determinations comparable to the requirements of this section to assure compliance with Subsection H under current site conditions. (WAC 173-26-241(3)(h)(ii)(D))~~

~~H. — Channel migration zones. Any non-recreational mining in channel migration zone allowed pursuant to the City of Leavenworth's Shoreline Use and Modification Matrix in this Master Program must obtain a Conditional Use Permit, unless it is in water recreational mining conducted pursuant to the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet.~~

~~I. — Recreational dredge mining. Recreational dredge mining that strictly follows the activities and requirements of the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet is allowed; any recreation dredge mining activities that do not follow the requirements described therein are required to obtain a Conditional Use Permit.~~

~~J. Hazardous materials. The use of mercury or other hazardous substances is strictly prohibited.~~

~~K. State owned aquatic lands. Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).~~

5.14 Private Moorage Facilities

~~(Docks and private boat launch facilities are prohibited in the City of Leavenworth and its [Urban Growth Area](#).)~~

5.15 Recreational Development

5.15.1 Policies

- A. Promote recreation and public access. Developments and uses should be designed and operated to provide the public with recreational areas, facilities, and access to the shorelines. ~~(based on 1975 SMP Policy 17.a)~~
- B. Support facilities and access. Recreational areas should be supported by multi-use trails and parking to prevent undue concentration and pressure on fragile natural areas. Parking is not a preferred shoreline use, and should be located only as necessary to support an authorized use, minimizing environmental and visual impacts. ~~(1975 SMP Policy 17.b and e)~~
- C. Pedestrian-oriented. Direct access to the water should be via paths, walkways, or other pedestrian-oriented features. Vehicular traffic on beaches and fragile shorelines should be prohibited. ~~(1975 SMP Policy 17.e)~~
- D. Public acquisition. To reduce overcrowding of current facilities and avoid adverse impacts on adjacent properties, the increased public acquisition and dedication of land for shoreline parks and recreation areas are encouraged. ~~(1975 SMP Policy 17.d)~~
- E. Grounds management. The use of fertilizers, herbicides, and pesticides to maintain recreational facilities such as golf courses and playfields should be closely monitored to prevent contamination of waterbodies by runoff. ~~(1975 SMP Policy 17.e)~~—Management that utilizes organic treatments, integrated pest management, or non-synthetic chemicals is preferred where feasible and practical over management that utilizes synthetic chemicals.
- F. Prevent impact to private property. The location, design, construction and operation of recreational facilities should prevent undue adverse impacts on adjacent or nearby private properties. ~~(1975 SMP Policy 17.f)~~
- G. Scenic views and vistas. Scenic views and vistas should be preserved in the design of recreational facilities, wherever practical. ~~(1975 SMP Policy 17.g)~~
- H. State and Federal recreation use preferred to local acquisition. As an economical alternative to new acquisition by local agencies, the use of State and Federal lands for recreational facilities should be considered. Federal and state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public. ~~(1975 SMP Policy 17.i)~~
- I. Maintain and/or increase the amount of publicly owned park properties by protecting the existing facilities from land conversions. ~~(Comprehensive Plan Open Space/Recreation Goal 3, Policy 2)~~
- J. Encourage the preservation of areas that are environmentally sensitive or have historic, cultural, or scenic value. ~~(Comprehensive Plan Open Space/Recreation Goal 1, Policy 3)~~

5.15.2 Regulations

- A. Design. Recreational uses and facilities shall be designed to be primarily related to access, enjoyment and use of the water and shorelines of the state. ~~(WAC 173-26-241(3)(i))~~

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- B. Use consistency. Proposed recreation uses shall be designed, located and operated consistent with the purpose and intensity of the shoreline environment designation and environmental conditions. ~~(WAC 173-26-241(3)(i))~~
- C. Accessory uses. Accessory uses and support facilities such as maintenance facilities and parking lots shall be consolidated and located in upland areas outside shoreline, wetland and riparian buffers to the extent feasible, except for access to water-dependent facilities such as boat launches. ~~(WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii), WAC 173-26-211(3)(b), and WAC 173-26-241(3)(i))~~
- D. Public access. ~~See SMP Section 4.4.~~ Where recreation facilities for public access include overwater structures, such as public view or fishing platforms, those overwater structures should comply with relevant requirements of SMP Section 5.5, Boating Facilities. ~~(WAC 173-26-241(3)(i))~~
- E. Fertilizer and chemical management. For recreation developments such as golf courses and playfields that use fertilizers, pesticides, or other chemicals, the applicant shall submit plans demonstrating the best management practices and methods to be used to prevent these chemical applications and resultant leachate from entering adjacent waterbodies. Management that utilizes organic treatments, integrated pest management, or non-synthetic chemicals are preferred over management that utilizes synthetic chemicals where feasible and practical. ~~(Implements Policy 5.15.1.E above from 1975 SMP)~~
- F. Compatibility with adjacent private properties. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to prevent overflow onto adjacent private properties. ~~(WAC 173-26-221(4)(b))~~
- G. Adequate utilities and services. Proposals for recreational development shall include facilities for water supply, wastewater, and garbage disposal ~~in conformance with the City of Leavenworth standards.~~ Designs shall include techniques for water conservation, low-impact stormwater management and erosion control measures.

~~H. Environmental protection. Recreational development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions. (WAC 173-26-241(3)(i))~~

~~H. Management Plans. In order to simplify the review of exempt and non-exempt activities that are ongoing, City of Leavenworth shall develop and review 5 year recreation management plans addressing public recreation facility operations and maintenance, use of best management practices, and other measures to assure no net loss of shoreline ecological function.~~

~~1. New public recreational proposals or redevelopment of public recreational areas shall prepare a plan that shall minimally contain the following categories when applicable:~~

~~a. Description of in stream or in lake habitat protection measures, and commitment to implement mitigation for any new or expanded development that has adverse impacts;~~

~~b. Description of riparian and wetland protection measures, and commitment to implement mitigation for any new or expanded development that has adverse impacts;~~

~~c. Description of site appropriate water use management activities, including use of less water-dependent landscaping, maximizing the efficiency of the application system, and reducing the area irrigated;~~

~~d. Description of stormwater management practices to treat stormwater runoff to reduce both water quantity and water quality impacts, including maximizing use of infiltration, bio-filtration, and detention;~~

~~e. Description of erosion and sediment control practices that prevent off site movement of sediment for new construction, stored soils, and potential surface erosion areas; and~~

~~f. Description of chemical and nutrient use and containment practices that demonstrate minimization of overall inputs of these contaminants, restrict the type of inputs, and develop an acceptable method of application through a comprehensive management program, such as Integrated Pest Management (IPM).~~

~~2. Each category specified in I.1 above shall be comprised of one to several standards. Each standard should describe the management objective or desired outcome for habitat conditions, specific performance requirements for each standard, and corrective actions that would be implemented if the performance requirement(s) is not met.~~

I. Public Recreation Performance Standards in Lieu of Buffers: The following standards shall guide new development and redevelopment of public access and public recreation facilities ~~in lieu of a fixed-dimension buffer~~ when development is within the shoreline buffer. ~~Standards buffers are applicable on all islands within public access and public recreational developments. Applicants shall submit a management plan that addresses compliance with each of the following applicable standards and principles. City of Leavenworth shall review and condition the project to fully implement the standards below.~~

Table 4: Recreational Development

Design Element	Design and Management Standards
1. Category of Use	<p>Only water-dependent uses <u>and water-enjoyment trails, parks, viewing and other forms of public access</u>, shall be located immediately upland of the OHWM.</p> <p>Accessory and primary water-oriented uses shall be located upland of a water-dependent- use except that parking, for those with disabilities when no other location is feasible may be located per <u>design element item “3”</u> below. {City of Leavenworth may establish a setback for the nonwater-oriented use based on their own unique conditions}</p> <p>New or expanded water-oriented development shall avoid existing riparian areas and comply with vegetation management requirements below.</p> <p>Existing primary nonwater-oriented uses may only expand if they are located upland of water-oriented uses and if the expansion does not displace water-oriented uses.</p> <p>Water enjoyment recreational uses may be expanded.</p> <p>Existing water-oriented uses may not be converted to a nonwater-oriented use except when the existing water-oriented use except when the existing water-oriented use is separated from the OHWM by a levee or another property.</p>
2. Impervious Surface and Stormwater Management	<p>New and expanded pollution-generating impervious surfaces (e.g., surfaces used predominantly by vehicles, such as parking areas, roads, or boat launches) must provide water quality treatment before discharging to a waterbody, through use of oil-water separators, bioswales, or other approved technique. -Treated runoff from pollution-generating impervious surfaces and runoff from non-pollution-generating impervious surfaces shall be infiltrated or otherwise treated and discharged in accordance with water quality standards of City of Leavenworth.</p> <p>New or expanded pollution-generating impervious surfaces within 50 feet of the OHWM or within already disturbed areas shall be limited to those</p>

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Design Element	Design and Management Standards
	<p>necessary to provide vehicle access to boat launches, to improve existing informal parking areas, to expand existing parking, or to provide ADA parking as outlined below under 3. Parking.</p> <p>New or expanded trail systems shall avoid existing riparian areas and comply with vegetation management requirements below. Existing trail systems feet may only be expanded in response to increased demand, and shall be expanded in the following order of preference, with 1) being the most preferred <u>Trail design shall be proposed with the following considerations, in priority order:</u> 1) upland outside required buffers, 2) landward of existing trail and 3) laterally.</p>
3. Parking	<p>New <u>P</u> parking accessory to shoreline parks shall be at least 100 feet upland of the OHWM, except where a minimum number of parking spaces are provided closer than 100 feet to accommodate those with disabilities, where parking is provided in existing impervious surfaces or areas that are already currently used for parking or vehicular travel, or are disturbed and provide no ecological function.</p> <p>Existing parking closer than 100 feet upland of the OHWM may only be expanded in response to increased demand, and shall be expanded in the following order of preference, with 1) being the most preferred: 1) upland, 2) landward of existing parking and 3) laterally of the existing parking, if it is serving a previously existing authorized use and is located on existing impervious surface or existing vehicular travel area. Parking shall not be located closer than 100 feet upland of the OHWM unless the proposed expansion area is already an impervious surface, is disturbed and provides no ecological function, or is necessary to accommodate those with disabilities.</p>
4. Vegetation Management	<p>New and expanded uses shall be located to avoid and minimize intrusion into riparian areas, as well as avoid tree and shrub removal.</p> <p><u>Significant vegetation removal shall be mitigated to achieve no net loss for the project.</u></p> <p><u>Landscaping design shall use native species, aim to preserve existing soil and vegetation, conserve water (over the life of the project) and screen developed and residential areas.</u></p> <p><u>Public projects shall aim to enhance ecological function of the shoreline.</u></p> <p>tree removal shall be mitigated at a 2:1 ratio and as otherwise consistent with SMP Section 11.4.5.D.</p> <p>Other trees and shrubs shall also be replaced at a 2:1 ratio using the same preference for location established for significant trees.</p> <p>Landscape designs for new and expanded recreation facilities shall incorporate the following:</p> <p>Select species that are suitable to the local climate, having minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers. Native species to comprise 50 percent of the landscaped area, not counting lawn area. Redevelopment of lawn areas shall be no closer</p>

Design Element	Design and Management Standards
	<p>than 20 feet upland of the OHWM. Native grasses may be used within 20 feet upland of the OHWM and shall be managed appropriate to the species and in accordance with park management plans. If lawn areas are not currently established within buffers found in Table 4.5-1, the existing riparian vegetation within the buffer shall be maintain, unless a mitigation management plan demonstrates ecological lift through a different planting plan.</p> <p>Preserve existing soil and vegetation (especially trees) where possible. Amend disturbed soils with compost. Mulch existing and proposed landscapes regularly with wood chips, coarse bark, leaves or compost.</p> <p>Group plants by water need, use more efficient irrigation methods like drip and soakers under mulch, and design and maintain irrigation systems to reduce waste.</p> <p>Place vegetation to maximize the following benefits:</p> <p>development or supplementation of a native vegetated wildlife corridor;</p> <p>development or supplementation of riparian vegetation adjacent to the water's edge;</p> <p>screening parking areas from views from the water or the park, and/or</p> <p>discouragement of wildlife that may directly or indirectly interfere with park use or human health (e.g., geese);</p> <p>While a specified buffer is not required for public park areas, recreational improvement projects shall place an emphasis on shoreline restoration/enhancement inside of those buffers found in Table 4.5-1. This emphasis shall not require the removal of existing lawn areas, but should place an emphasis on incorporation of riparian plantings if the public access area is underutilized or public access would not be impaired by the plantings.</p>
<p>5. Chemical Applications</p>	<p>A lawn and landscape management strategy shall be developed that incorporates the following principles and practices:</p> <p>A site-specific plan for use of integrated pest management technique, if applicable.</p> <p>A detailed plan identifying anticipated use of fertilizers, herbicides and pesticides, to include method of application that ensures these materials will not enter the water.</p> <p>Phosphorus-containing fertilizer treatments shall not be applied to turf or landscaping within 50 feet of the OHWM.</p> <p>Natural applications and hand removal are preferred over synthetic applications.</p>
<p>6. Pools</p>	<p>Pools and other upland recreational uses that utilize chemically treated water must either be connected to a sewer system or must collect the water for later discharge into a sewer system.</p> <p>Pools and other upland recreational uses that utilize chemically treated</p>

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Design Element	Design and Management Standards
	<p>water shall be located 75 feet upland of the OHWM, shall not be placed within the shoreline buffer. Pools in the shoreline jurisdiction shall be connected and emptied into the City sewer system, with notification to the City.</p>
7. Lighting	<p>Outdoor lighting fixtures and accent lighting must be shielded and aimed downward, and shall be installed at the minimum height necessary. The shield must mask the direct horizontal surface of the light source. The light must be aimed to ensure that the illumination is only pointing downward onto the ground surface, with no escaping direct light permitted to contribute to light pollution by shining upward into the sky.</p> <p>Outdoor lighting fixtures and accent lighting shall not directly illuminate the lake or river, unless it is a navigational light subject to state or federal regulations.</p>

~~1. Public/Park development or redevelopment application requirements:~~

- ~~a. Existing Drawings of park facilities which provides a narrative to include area (sq. feet or sq. meters) description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas) upland vegetation and lawn areas.~~
- ~~b. Proposed Drawings of park facilities which provides a narrative to include area (sq. feet or sq. meters) description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas) upland vegetation and lawn areas.~~
- ~~c. Any increases in impervious surfaces (trail size, parking facilities, recreational facilities, etc.) shall be accompanied by a needs analysis that addressed the requirement for increased public facilities, what size facilities are needed citizens and where these facilities are or are not provided nearby.~~
- ~~d. Expansion of public/park facilities shall be accompanied by a mitigation management plan that addresses the design elements and the design and management standards above, address critical area impacts, and addresses the incorporation of applicable SMP restoration goals that have been accomplished by the development and demonstrates an ecological lift to shoreline functions.~~

5.16 Residential Development

5.16.1 Policies

- A. Compatibility with shoreline. All subdivisions and residential development should be designed at a level of site coverage and density compatible with the physical capabilities of the shoreline and water in order to minimize probabilities of damage to life, property and the environment. ~~(1975 SMP Policy 5a)~~
- B. Cluster development. Cluster development should be encouraged outside shoreline jurisdiction wherever feasible to minimize shoreline impacts by residential development, to maintain both on-site and off-site aesthetic appeal, and to minimize disruption of the natural shoreline. ~~(1975 SMP Policy 5b)~~
- C. Encourage restoration and environmental design. Ecological restoration and measures to minimize environmental impacts, such as low impact development and vegetation conservation and enhancement, should be encouraged. ~~(based on principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), low impact development principles, and example SMPs)~~

- D. Aesthetics. All subdivisions and residential development should be designed to adequately protect and/or improve the water and shoreline aesthetic qualities. ~~(1975 SMP Policy 5e)~~
- E. Overwater residential development. New over-water residential development should be prohibited. ~~(1975 SMP Policy 5d)~~
- F. Floating homes and liveaboards are prohibited. ~~(1975 SMP Policy 5h and WAC 173-26-241(3)(j))~~
- ~~G. Liveaboards prohibited (WAC 173-26-241(3)(e)(v))~~
- H.G. Adequate utilities. Residential development should have adequate provision for sanitary sewage disposal, storm drainage, and water supply which minimizes harmful effects on shorelines. ~~(1975 SMP Policy 5f)~~
- H.H. Focus residential development into areas with utilities and streets. Residential development should be encouraged upland of areas presently having such improvements as utilities and streets so as to minimize additional expenditures of public funds, maximize use of existing public facilities, and not decrease availability of open space. ~~(1975 SMP Policy 5g)~~
- J.I. Provide public access. Residential developments of 10 or more units should be encouraged to provide public access to shorelines within the development, while those with less than 5 to 9 units should provide community access to the shoreline - to minimize impacts to vegetation conservation areas and minimize impacts of vehicular use and parking upon shoreline aesthetics. ~~(1975 SMP Policy 5i)~~
- K.J. Scenic views. Residential development should be designed to avoid impacts to scenic views and vistas. ~~(based on 1975 SMP Policy 5j)~~
- L.K. Infilling compatible with surrounding neighborhoods should be encouraged on remaining buildable lands ~~within the City of Leavenworth. (Comprehensive Plan Residential Goal 1, Policy 1)~~ Encourage the infill of vacant, partially used, and underutilized land in existing residential developments located within urban growth areas.
- M.L. New residential developments ~~within the City of Leavenworth~~ should include provisions for paved streets, curbs, and gutters at the time of development and be consistent with City development standards. ~~(Comprehensive Plan Residential Goal 1, Policy 3)~~
- M. Cluster developments with density mixes should be encouraged ~~in both the City of Leavenworth and the urban growth area. (Comprehensive Plan Residential Goal 2, Policy 1)~~

5.16.2 Regulations

- ~~F. Residential uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.16.2.~~
- A. Subdivisions and plats. Subdivisions and plats shall: ~~(WAC 173-26-241(3)(j))~~
 1. Comply with all applicable subdivision, critical area, and zoning regulations.
 2. Include facilities for water supply, wastewater, stormwater, solid waste, access, utilities and other support facilities ~~in conformance with the City of Leavenworth standards and~~ which do not result in harmful effects on the shoreline or waters. ~~See Section 4.6.2.E for specific wastewater requirements.~~
 3. Be designed to prevent the need for new hard or soft shoreline stabilization or flood hazard reduction measures per Section 4.3. A note limiting shoreline stabilization shall be placed on the face of the plat at the time of subdivision.

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4. Be designed, configured and developed in a manner that assures that no net loss of ecological functions results from division of land at full build-out of all lots and throughout all phases of development.
5. Be required to cluster residential units and structures ~~where necessary and when allowed by City of Leavenworth~~ to avoid critical areas and to preserve natural features and minimize physical impacts.
6. Lots shall be configured in a way so as not to require a Shoreline Variance in the future for residential development. Lot configurations shall plan for building sites behind the required shoreline buffer. Shoreline buffer reductions shall be determined at the time of residential development; not at the time of subdivision.

~~C. Environmental protection.~~ B. Residential development including accessory uses and appurtenant structures shall: ~~(WAC 173-26-241(3)(j))~~

~~1. Meet all applicable critical area, vegetation conservation, and water quality standards of Chapter 4 and Appendix B of this SMP.~~

- ~~2~~1. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. To accomplish this, ~~City of Leavenworth shall apply critical area buffers established in Appendix B and shoreline buffers found in Vegetation Conservation sections of this SMP; the Shoreline Administrator—City of Leavenworth~~ may require ~~greater~~ larger buffers ~~than identified in the SMP~~ to protect health and safety based on a geotechnical analysis or other ~~information in the application record~~ best available science.

- ~~3~~2. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

C. Public access. See SMP Section 4.4. ~~(WAC 173-26-241(3)(j))~~

~~D. Over water residences and floating homes. Prohibited~~

~~F. Liveaboards. Prohibited~~

~~G. D.~~ D. Accessory uses. ~~Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in Vegetation Conservation standards and Appendix B. Residential accessory uses shall be prohibited over the water unless clearly water dependent. The primary use shall be established prior the accessory use, in those cases where uses or development are proposed that would normally be considered 'accessory or appurtenant uses', they shall be considered primary development. (Based on WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b))~~

~~H. E.~~ E. Underground Utilities. See Section 5.20.

5.17 Shoreline Habitat and Natural Systems Enhancement Projects

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Examples of shoreline habitat and natural systems enhancement projects include floodplain restoration projects, fish passage barrier removal or improvement, and projects to increase shoreline habitat complexity, among others. ~~Stabilization of eroding banks may be considered under this section provided that the purpose of the project is clearly restoration of the natural character and ecological functions of the shoreline, and the project uses bioengineering approaches, including limited use of rock as a stabilization only at the toe of the bank as necessary, and with primary emphasis on using native vegetation to control erosive forces. Projects that qualify as streamlined fish enhancement projects per RCW 77.55.181 will be considered under this section.~~

5.17.1 Policies ~~(based on WAC 173-26-231(3)(g))~~

- A. Design. Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
- B. Improve shoreline ecological functions. Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
- C. Pursue funding. ~~City of Leavenworth should, and private entities are encouraged to, s~~Seek funding from State, Federal, private and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP or the local watershed plans.
- D. Streamline review. ~~City of Leavenworth should develop~~Support processing guidelines that will streamline the review of restoration-only projects.
- E. Coordination. Restoration and enhancement projects should be coordinated with local public utility and conservation districts.
- F. Alternative mechanisms. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

5.17.2 Regulations ~~(based on WAC 173-26-231(3)(g))~~

- A. Approved plan. Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.
- B. Protect adjacent resources. All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
- C. Maintenance and monitoring. Long-term maintenance and monitoring (minimum of three years, but ~~preferably longer~~the City may require additional monitoring) shall be arranged by the project applicant and included in restoration or enhancement proposals.
- D. Adverse affects. ~~Shoreline restoration and enhancement may be allowed if the~~The project applicant must demonstrates that no significant change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
- ~~E. E. — Use of best information and BMPs. Shoreline restoration and enhancement projects shall be designed using the best available scientific and technical information, and implemented using best management practices.~~
- ~~F. E. —~~ F. Public use of waters. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state, as determined by the Shoreline Administrator, without appropriate mitigation. ~~For projects on state owned aquatic lands, prior to the solicitation of permits from regulatory agencies, project proponents must coordinate with the Washington Department of Natural Resources to ensure the project will be appropriately located.~~
- ~~G. G. — Permitted. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.~~

F. H.—Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with City of Leavenworth to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

5.18 Shoreline Stabilization

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include shoreline buffers or setbacks, relocation of the structure to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization.

~~Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks. The impacts of hardening any one property may be minimal, but cumulatively the impact of this shoreline modification is significant.~~

~~Shoreline hardening typically results in adverse impacts to shoreline ecological functions such as:~~

~~**Beach starvation.** Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach.~~

~~**Habitat degradation.** Vegetation that shades the upper beach or bank is eliminated, thus degrading the value of the shoreline for many ecological functions, including spawning habitat for salmonids and forage fish.~~

~~**Sediment impoundment.** As a result of shoreline hardening, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost and longshore transport is diminished. This leads to lowering of down-drift beaches, the narrowing of the high tide beach, and the coarsening of beach sediment. As beaches become more coarse, less prey for juvenile fish is produced. Sediment starvation may lead to accelerated erosion in down-drift areas.~~

~~**Exacerbation of erosion.** The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, exacerbating erosion.~~

~~**Groundwater impacts.** Erosion control structures often raise the water table on the landward side, which leads to higher pore pressures in the beach itself. In some cases, this may lead to accelerated erosion of sand-sized material from the beach.~~

~~**Hydraulic impacts.** Shoreline armoring generally increases the reflectivity of the shoreline and redirects wave energy back onto the beach. This leads to scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure of the structure.~~

~~**Loss of shoreline vegetation.** Vegetation provides important "softer" erosion control functions. Vegetation is also critical in maintaining ecological functions.~~

~~Loss of large woody debris. Changed hydraulic regimes and the loss of the upper beach, along with the prevention of natural erosion of vegetated shorelines, lead to the loss of beached organic material. This material can increase biological diversity, can serve as a stabilizing influence on natural shorelines, and is habitat for many aquatic-based organisms, which are, in turn, important prey for larger organisms.~~

~~Restriction of channel movement and creation of side channels. Hardened shorelines along rivers slow the movement of channels, which, in turn, prevents the input of larger woody debris, gravels for spawning, and the creation of side channels important for juvenile salmon rearing, and can result in increased floods and scour.~~

~~Additionally, hard structures, especially vertical walls, often create conditions that lead to failure of the structure. In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems. Failed bulkheads and walls adversely impact beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline ecological functions.~~

~~"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include: vegetation enhancement, upland drainage control, biotechnical measures, beach enhancement, anchor trees, gravel placement, rock revetments, gabions, concrete groins, retaining walls and bluff walls, and bulkheads.~~

~~Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.~~

~~Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat and shoreline corridors. Therefore, master program shoreline stabilization provisions shall also be consistent with SMP Section 4.5, Vegetation Conservation and Shoreline Buffers, and where applicable, each local government's critical areas regulations found in Appendix B.~~

~~In order to implement RCW 90.58.100(6) and avoid or mitigate adverse impacts to shoreline ecological functions where shoreline alterations are necessary to protect single-family residences and primary appurtenant structures in danger from active shoreline erosion, master programs should include standards setting forth the circumstances under which alteration of the shoreline is permitted, and for the design and type of protective measures and devices.~~

5.18.1 Policies

- A. Ecological functions and processes. Shoreline stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing stream or lake processes and the probable effects of proposed shoreline stabilization on other properties and shoreline features should be considered. Shoreline stabilization should not be developed for the purpose of filling shorelines or creating additional property.
- B. Alternatives. Structural shoreline stabilization measures should only be used when more natural, flexible, non-structural methods such as placing the development farther from the OHWM, planting vegetation, or installing on-site drainage improvements, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:
 - 1. No action. Allow the shoreline to retreat naturally, increase buffers, and relocate structures.
 - 2. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach nourishment, protective berms, large woody debris, or vegetative stabilization.
 - 3. Rigid works constructed of artificial materials such as riprap or concrete.
- C. Future stabilization. Structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require shoreline stabilization for reasonable development to occur.
- D. Protect existing structures. New or expanded structural shoreline stabilization should only be permitted where demonstrated to be necessary to protect an existing primary structure, including residences, that is in danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.
- E. Enhancement, restoration and remediation. New or expanded structural shoreline stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when non-structural measures, native vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration or remediation objectives.
- F. Site-specific design. Shoreline stabilization on streams should be located and designed to fit the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.
- G. Public access and other uses. Shoreline stabilization should not be permitted when it interferes with public access to shorelines of the state, nor with other appropriate shoreline uses including, but not limited to, navigation or private recreation.
- H. Non-regulatory methods. In addition to conformance with the regulations in this section, non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shore stabilization. Non-regulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.

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- I. Coordination. Shoreline stabilization should be developed in a coordinated manner among affected property owners and public agencies, particularly those that cross boundaries between local governments or other entities with authority over specific land or water areas, to address ecological and geo-hydraulic processes, sediment conveyance, and beach management issues. Where beach erosion threatens existing development, a comprehensive program for shoreline management should be established by the multiple affected property owners.
- J. Public or quasi-public developments. Provisions for multiple use, restoration, and/or public shoreline access should be incorporated into the location, design and maintenance of shoreline stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shoreline stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline. For the purposes of this section, a 'quasi-public development' shall mean a privately-owned development with a public mandate and/or public funding.
- K. Materials. Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shoreline features including aesthetic values, and flexibility for future uses.
- L. Adjacent properties. New development that would require shoreline stabilization which causes adverse impacts to adjacent or down-current properties and shoreline areas should not be allowed.

5.18.2 Regulations

~~A. — General. The purpose of this section is to provide standards and guidelines for the location and design of hard structural and soft structural shoreline stabilization measures that have the potential to adversely impact the shoreline natural environment. New development, however, shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Land subdivisions shall be designed to assure that future development of the created lots will not require shoreline stabilization for reasonable development to occur. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed. In all cases, the feasibility of soft structural shoreline stabilization shall be evaluated prior to hard structural stabilization. Shoreline stabilization shall be designed so that net loss of ecological functions does not occur. (WAC 173-26-231(3)(a)(iii)(A))~~

B~~A~~. New or enlarged structural shoreline stabilization. ~~New structural shoreline stabilization measures, including both hard and soft structural shoreline stabilization measures, shall include measures installed to address erosion impacts.~~ Enlargement of an existing structural shoreline stabilization shall include additions to or increases in size (such as height, width, length, or depth) to existing shoreline stabilization measures and these enlargements shall be considered new structures. New or enlarged structural stabilization measures shall not be allowed, except as follows:

- 1. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization. ~~OR (WAC 173-26-231(3)(a)(iii)(B)(I))~~
- 2. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:

- a. The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.
 - b. Nonstructural measures, such as placing the proposed development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion impacts.
 - c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis. The damage must be caused by natural processes, such as currents or waves. ~~OR (WAC 173-26-231(3)(a)(iii)(B)(II))~~
3. In support of water-dependent development when all of the conditions below apply:
- a. The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.
 - b. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.
 - c. The need to protect primary structures, including residences, from damage due to erosion is demonstrated through a geotechnical analysis. ~~OR (WAC 173-26-231(3)(a)(iii)(B)(III))~~
4. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts. ~~(WAC 173-26-231(3)(a)(iii)(B)(IV))~~
5. To protect cultural or historic resources when nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient to avoid continued degradation, disturbance or erosion of a site. Cultural resource protection projects shall be coordinated with any affected ~~Indian +~~Tribes and comply with applicable provisions of Section 4.1.2 of this SMP.

~~CB~~. Repair of existing shoreline stabilization measures. ~~This section allows repair~~Repair and maintenance of existing legally established shoreline stabilization measures ~~are~~, subject to all of the following standards. ~~Repair that includes enlargement shall be reviewed as new, see Section A above. [Note: repair of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but they are not exempt from the policies and regulations of this Section or the SMP.]~~

~~1. Maintenance and repair shall include modifications or improvements to an existing shoreline stabilization measure that are designed to ensure the continued function of the stabilization measure by preventing failure of any part of the stabilization measure.~~

~~2. Modifications or improvements that include additions to or increases in size of existing shoreline stabilization measures shall be considered new structures, and are not maintenance and/or repair.~~

~~3. Replacement of greater than 50 percent or 35 feet, whichever is smaller, of linear length of existing shoreline stabilization on a waterfront parcel is not considered a repair or maintenance for purposes of these regulations, and must be designed and reviewed as a replacement subject to the provisions contained in Subsection 5.18.2.D below. For shoreline stabilization projects, "replacement" occurs when the existing structure, including its footing or bottom course of rock, is removed prior to placement of new shoreline stabilization materials. Repairs and maintenance that involve only removal of material above the footing or bottom course of rock are not considered replacements. Replacement of existing shoreline stabilization may still qualify for an exemption from a Shoreline Substantial~~

~~Development Permit as listed in Section 7.6.3 of this SMP. Further limitations on non-conforming shoreline stabilization are located in the City of Leavenworth's Nonconforming Uses and Development Standards section of this Master Program.~~

41. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

52. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, and is not maintenance or repair.

~~D. — Replacement. The following standards apply to replacement of existing hard and soft structural shoreline stabilization measures [Note: repair of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but they are not exempt from the policies and regulations of this Section or the SMP]:~~

~~1. — For purposes of this section, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall also be considered new structures. (WAC 173-26-231(3)(a)(iii)(C))~~

~~2. — Replacement shall be treated as a new shoreline stabilization measure subject to the restrictions of Subsection 5.18.2.B. above, as well as the submittal requirements of Subsection 5.18.2. H. below, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM. (WAC 173-26-231(3)(a)(iii)(C))~~

~~3. — Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary residence was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut (attached to and waterward of) the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure. (WAC 173-26-231(3)(a)(iii)(C))~~

~~4. — Limited fill associated with hard and soft shoreline stabilization measures may be allowed waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow water habitat. (WAC 173-26-231(3)(a)(iii)(C))~~

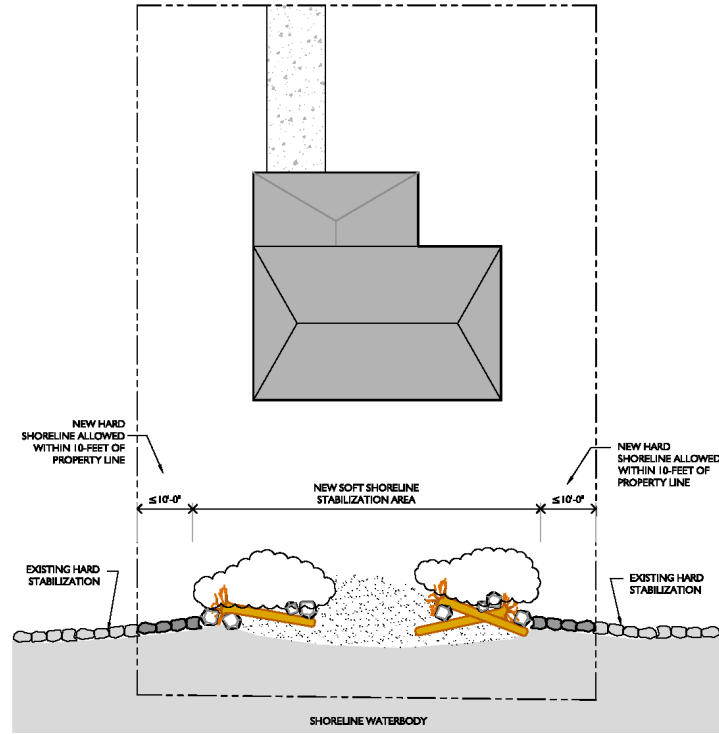
E.C. General design standards. When a hard or soft structural shoreline stabilization measure is demonstrated to be necessary, the following design standards shall be incorporated into the stabilization design:

1. Type of stabilization.

a. Soft structural shoreline stabilization measures shall be used ~~to the maximum extent practicable for new, enlarged, or replacement shoreline stabilization measures. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses. –~~

b. Hard structural shoreline stabilization shall be limited to measures to protect the portion or portions of the site where demonstrated necessary to protect primary structures, dwellings, or businesses —or where necessary to connect to existing shoreline stabilization measures on adjacent properties.

c. Transition areas between hHard and soft structural shoreline stabilization ~~transition areas between the applicant's otherwise soft shoreline measure and the adjacent hardened shoreline, when needed on the subject property~~ may be used to prevent destabilization of adjacent hardened shorelines but, should be minimized and extend into the subject property from the property line no more than 10 feet.



2. ~~For enlarged or replacement soft and hard structural shoreline stabilization measures, the following location and design standards are preferred in descending order:~~

a. ~~Conduct excavation and fill activities associated with the soft or hard structural shoreline stabilization~~ landward of the existing OHWM to the maximum extent practicable.

b. ~~Where a, above, this~~ is not practicable because of overriding safety or environmental concerns, conduct necessary excavation and fill activities waterward of the existing OHWM as needed to implement a soft structural shoreline stabilization technique or to mitigate the impacts of hard structural shoreline stabilization. Fill material waterward of the OHWM may be sand, gravel, cobble or boulders provided the placement of boulders does not effectively present a continuous wall or face to oncoming waves (also known as rip rap).

3. ~~All approved new, enlarged, repair, or replacement shoreline stabilization measures must~~ minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities, ~~consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Critical Areas Regulations.~~ Impact minimization techniques may include compliance with appropriate timing restrictions, use of best management practices to prevent water quality impacts related to upland or in-water work, and stabilization of exposed soils following construction.

4. ~~All new, enlarged, or replacement hard structural shoreline stabilization measures shall~~ minimize any long-term adverse impacts to ecological functions by incorporating the following measures into the design:

a. Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including height, depth, and mass.

b. Shifting the ~~hard structural~~ hard-structural shoreline stabilization landward and/or sloping the ~~hard structural~~ hard-structural shoreline stabilization landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.

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5. ~~Approved new and enlarged shoreline stabilization measures shall m~~Mitigate any adverse impacts to ecological functions by incorporating the following measures at a minimum into the design if appropriate for local conditions:
 - a. Restoration of appropriate substrate conditions waterward of the OHWM, to include substrate composition and gradient. The material should be sized and placed to remain stable during a two-year flood event on rivers ~~and under typical boat and wind driven wave conditions on lakes, including storm events.~~
 - b. Plant native riparian vegetation, as necessary, along at least 75 percent of the shoreline linear frontage affected by the new or enlarged stabilization, located along the water's edge. The vegetated portion of the shoreline buffer shall average 10 feet in depth from the OHWM, but may be a minimum of 5 feet wide to allow for variation in landscape bed shape and plant placement. Restoration of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least 3 trees per 100 linear feet of shoreline must be included in the plan. Plant materials must be native to the ecosystem of the project area. An alternative planting plan or mitigation measure in lieu of meeting these requirements may be allowed if approved by other State and Federal agencies.
 - c. Additional mitigation measures may be required by ~~City of Leavenworth~~[the Shoreline Administrator](#), or State or Federal agencies, depending on the level of impact.
6. ~~The shoreline stabilization measure shall be d~~Designed to not significantly interfere with normal surface and/or subsurface drainage into the adjacent waterbody.
7. ~~The shoreline stabilization measure shall be d~~Designed so as not to constitute a hazard to navigation.
8. Stairs or other water access measures may be incorporated into the shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but shall not extend waterward of the shoreline stabilization measure and the OHWM.
9. ~~The shoreline stabilization measure shall be d~~Designed to ensure that it does not restrict appropriate public access to the shoreline. When a structural shoreline stabilization measure is required at a public access site, provisions for safe access to the water shall be incorporated into the shoreline stabilization structure design (e.g., steps integrated into the bulkhead, coved area with shallow entry). Access measures should not extend farther waterward than the face of the shoreline stabilization measure and the OHWM.
10. ~~Shoreline stabilization measures shall~~Designed not to extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.
11. When ~~repair or replacement~~ shoreline stabilization measures intended to improve ecological functions shift the OHWM landward:
 - a. ~~Applicants may seek relief from the development standards under RCW 90.58.580. of the pre-modification location, any buffers from the OHWM or lot area for the purposes of calculating lot coverage shall be measured from the pre-modification location. The pre-modification OHWM shall be recorded in a form approved by City of Leavenworth and recorded at the Chelan County Auditor's Office.~~
 - ~~12. —~~b. If repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location, and result in expansion of the shoreline jurisdiction on any property other than the subject property, the plan shall not be approved until the applicant submits a copy of a statement signed by the property owners of all affected

properties, in a form approved by City of Leavenworth and recorded at the Chelan County Auditor's Office, consenting to the shoreline jurisdiction creation and/or increase on such property.

~~FD.~~ Specific ~~hard-hard~~ structural shoreline stabilization design standards. In those limited instances when ~~hard-hard~~ structural shoreline stabilization measures, such as bulkheads, are demonstrated to be necessary ~~they as outlined in H.1 below, the following standards shall be incorporated into~~ include the ~~following~~ design components:

1. ~~In those limited cases when hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is not located on adjacent properties, the construction of hard structural shoreline stabilization shall~~ Tie in with the existing contours of the adjoining properties, as feasible, such that the proposed stabilization would not cause erosion of the adjoining properties.

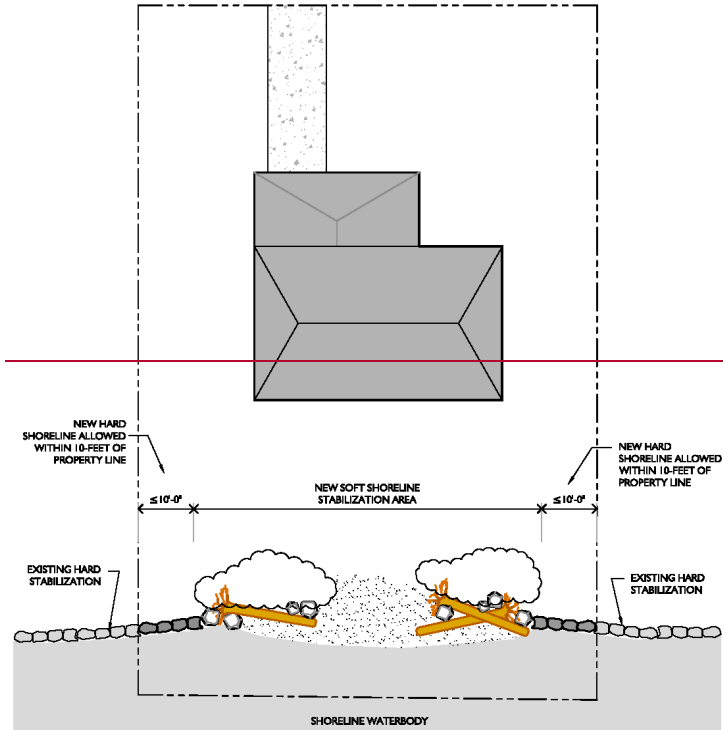
2. ~~When hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is located on adjacent properties, the proposed stabilization may~~ Tie in flush with existing stabilization measures on adjoining properties or, ~~provided that the new stabilization does not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and does not extend onto the adjacent property. In such circumstances, the remaining portion of the stabilization shall be placed landward of the existing OHWM, such that no net intrusion into the waterbody occurs nor does net creation of uplands occur. The length of hard structural shoreline stabilization transition area to adjacent properties should be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties~~ no more than 10 feet.

3. Fill behind hard structural shoreline stabilization shall be limited to 1 cubic yard per running foot of stabilization. Any filling in excess of this amount shall be considered ~~a regulated activity subject to the regulations in this Chapter pertaining to fill activities and the requirement for obtaining a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit~~ fill regulated under Section 5.9.

~~GE.~~ Specific soft structural shoreline stabilization design standards. In addition to applicable general design standards and hard structural shoreline stabilization standards above, the following standards shall be incorporated into the design:

1. ~~The soft shoreline stabilization design shall~~ provide sufficient protection of adjacent properties by tying in with the existing contours of the adjoining properties to prevent erosion at the property line, provided the stabilization measure does not extend onto the adjacent property.

2. Soft shoreline stabilization projects that include hard structural components when determined necessary by a qualified professional. ~~necessary use of hard structural shoreline stabilization measures, as indicated by the appropriate study prepared per H below, only near the property lines to tie in with adjacent properties shall be permitted as soft shoreline stabilization measures. The length of hard structural shoreline stabilization transition area to adjacent properties shall be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet (see diagram below). The hard structural shoreline stabilization transition area shall not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and shall not extend onto the adjacent property.~~



23. The soft shoreline stabilization design shall size and arrange any gravels, cobbles, logs, and boulders so that the project remains stable during a two-year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes, including storm events, and dissipates wave and current energy, without presenting extended linear faces to oncoming waves or currents.

~~H. — Submittal requirements. In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:~~

~~1. — For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical analysis prepared by a qualified professional with an engineering license. The analysis shall include the following:~~

~~a. — An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation. New hard structural shoreline stabilization measures shall not be authorized, except when an analysis confirms that that there is a significant possibility that an existing structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that analysis may still be used to justify more immediate authorization to protect against erosion using soft measures. (WAC 173-26-231(3)(a)(iii)(D))~~

~~b. — An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM. (WAC 173-26-231(3)(a)(iii)(B)(I))~~

~~e. — An assessment of alternative measures to shoreline stabilization, including:~~

~~(1) — Placing the structure farther from the OHWM.~~

~~(2) — Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.~~

~~d. — Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation. (WAC 173-26-231(3)(a)(iii)(E))~~

~~e. — Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.~~

~~2. — For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following: (WAC 173-26-231(3)(a)(iii)(C))~~

~~a. — An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary 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 structural shoreline stabilization.~~

~~e. — An assessment of alternative measures to shoreline stabilization, including:~~

~~(1) — Relocating the development farther from the OHWM.~~

~~(2) — Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.~~

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

~~e. — Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.~~

~~3. — A demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using bio-engineered soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.~~

~~4. — For all structural shoreline stabilization measures, including bio-engineered soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:~~

~~a. — Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.~~

~~b. — 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 primary structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from currents and wind or boat-driven waves;~~

~~Allow safe passage and migration of fish and wildlife; and~~

~~Minimize or eliminate juvenile salmon-predator habitat.~~

~~For projects that include native vegetation, a detailed five-year vegetation maintenance and monitoring program to include the following:~~

~~(1) — Goals and objectives of the shoreline stabilization plan;~~

~~(2) — Success criteria by which the implemented plan will be assessed;~~

~~(3) — A five year maintenance and monitoring plan, consisting of at least one site visit per year by a qualified professional, with annual progress reports submitted to the Shoreline Administrator and all other agencies with authority;~~

~~(4) — A performance standard of 100 percent survival for the first year of growth post installation, with no less than 80 percent survival at the end of the third year; and~~

~~(5) — A contingency plan and a bond in an amount and form acceptable to City of Leavenworth in case of failure.~~

5.19 Transportation and Parking

5.19.1 Policies

- A. Circulation. Public agencies and developments should provide circulation facilities including roads, streets, alleys, pedestrian, bicycle, and public transportation facilities, consistent with federal, state, or local standards and sufficient to meet adopted levels of service. ~~(WAC 173-26-241(3)(k) and Growth Management Act RCW 36.70A.070)~~
- B. Essential public facilities. Comprehensive Plans, which include the goals and policies of Shoreline Master Programs, may not preclude the siting of essential public facilities, which include state or regional transportation facilities as defined in RCW 47.06.140. If identified as an essential public facility, preclusion of siting is not allowed, these facilities are required to be in compliance with the rest of the regulations of the SMP, as well as other local land use regulations.
- C. Minimize land consumption. When transportation facilities must be located along shorelines, efforts should be made to minimize the amount of land consumed. Where feasible, such transportation facilities should be sufficiently set back so that a usable shoreline area remains. Where feasible, roads should not run parallel to shorelines. ~~(1975 SMP Policy 15a)~~
- D. Erosion and groundwater. Roads in shoreline areas should be designed and maintained to prevent erosion and to permit a natural movement of groundwater. ~~(1975 SMP Policy 15b)~~
- E. Protect shorelands. All construction should be designed to protect the adjacent shorelands from erosion, uncontrolled drainage, slides, pollution, and other factors detrimental to the environment. ~~(1975 SMP Policy 15e)~~ Transportation facilities and parking facilities should be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.
- F. Fit topography. Road locations should be planned to fit the topography so that minimum alterations of natural conditions will be necessary. ~~(1975 SMP Policy 15d)~~
- G. Scenic highways and bridges. Scenic highways and major bridge crossings should have provisions for safe pedestrian and other non-motorized travel. Also, provision should be made for sufficient viewpoints, rest areas and picnic areas along shorelines of the state, if feasible. ~~(based on 1975 SMP Policy 15e)~~
- H. Maintain old highways. Extensive loops or sections of old highways with high aesthetic quality or multi-use potential should be kept in service. ~~(based on 1975 SMP Policy 15f)~~
- I. General maintenance and reconstruction. Road maintenance and reconstruction should be allowed in accordance with best management practices adopted by City of Leavenworth and the State of Washington Department of Transportation.
- J. Trails. Multi-purpose trails should be encouraged in shoreline jurisdiction consistent with public access policies and regulations in Section 4.4.

- K. Appropriate bridges and culverts. Road design for stream crossings should consider appropriate bridge and culvert designs based on federal, state, or local standards, for example, Washington Department of Fish and Wildlife's 2003 *Design of Road Culverts for Fish Passage*. ~~(Based on 1975 SMP Policy 15g)~~
- L. Coordinate land use and transportation. Since land use and transportation facilities are so highly interrelated, the plans for each should be closely coordinated and consider shoreline goals, objectives, policies, and standards. ~~(1975 SMP Policy 15h)~~
- M. Parking. Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use. Parking facilities should be located as far inland as possible from the OHWM. ~~(1975 SMP Policy 6e)~~
- N. Maintain and improve the system of collectors, subcollectors, and local streets to serve present and future needs. ~~(Comprehensive Plan Transportation Goal 3)~~
- O. Existing City right-of-way above the minimum right-of-way requirement should be surplus and sold. ~~(Comprehensive Plan Transportation Goal 3, Policy 5)~~
- P. Bicycle, pedestrian, and cross-country ski trails should be recognized and supported for their value as part of the local transportation system. ~~(Comprehensive Plan Transportation Goal 4, Policy 6)~~

5.19.2 Regulations

- A. Roads and railroads limited in shoreline jurisdiction. Where other options are available and feasible, new roads, road expansions or railroads shall not be built within shoreline jurisdiction. If subdivisions are being proposed, new road placement shall be evaluated at the time of the plat application, or site development planning. ~~(WAC 173-26-241(3)(k))~~
- B. Criteria if roads or railroads are unavoidable. When railroads, roads or road expansions are unavoidable in the shoreline jurisdiction, proposed transportation facilities shall be planned, located, and designed to achieve the following: ~~(WAC 173-26-241(3)(k))~~
 - 1. Minimize possible adverse effects on unique or fragile shoreline features;
 - 2. Maintain no net loss of shoreline ecological functions and implement mitigation standards of Section 4.2, Ecological Protection and Critical Areas and Section 4.5, Vegetation Conservation and Shoreline Buffers;
 - 3. Avoid adverse impacts on existing or planned water-dependent uses; and
 - 4. Set back from the OHWM to the maximum feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses unless infeasible, standards for ADA accessibility and functionality cannot be met, or the cost is disproportionate to the cost of the proposal. For the purposes of this Section, disproportionate means the shoreline buffer requirement would add more than 20% to the total project cost.
- C. Visual access. Public roads, within shoreline jurisdiction, shall, where possible, provide and maintain visual access to scenic vistas. Visual access may include, but is not limited to, turn-outs, rest areas, and picnic areas. ~~(1975 SMP Section 26(d))~~
- D. Shoreline crossings. Shoreline crossings and culverts shall be designed to minimize impact to riparian and aquatic habitat and shall allow for fish passage. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands.
- E. Shoreline crossings for private property. Crossings that are to be used solely for access to private property shall be designed, located, and constructed to provide access to more than one lot or parcel of property, where feasible, to minimize the number of crossings. ~~(1975 SMP Section 26(f))~~

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- F. Floodway. See Section 4.3.
- G. Construction standards. Construction standards of the appropriate governmental agency, together with SMP standards, shall be conditions for granting shoreline permits. Seasonal work windows may be required based on federal or state requirements, or if the proposal involves crossing shorelines or altering the waterbody. ~~(1975-SMP-Section26(e)).~~
- H. Trails. See public access standards in Section 4.4.
- I. Parking facilities. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use and when minimizing environmental and visual impacts. For the purposes of this section, authorized means a use or activity included in the use matrix and associated definitions in Chapter 8. New or expanded parking areas shall: ~~(WAC 173-26-241(3)(k)).~~
1. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists; for example, where a property does not extend outside jurisdiction;
 2. Be planted or landscaped with native vegetation to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas. ~~The Shoreline Administrator may condition proposals to incorporate the following performance standards:~~
 - ~~a.—Select species that are suitable to the local climate, having minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers; and~~
 - ~~b.—Incorporate native species.~~
 3. Observe critical area and shoreline buffers. Parking shall be located outside critical area and shoreline buffers unless one of the following is met:
 - a. ADA parking requirement are not met and placing the limited number of needed ADA parking spaces within the shoreline buffer facilitates better and safer public access to the shoreline.
 - b. Parking is located on a parcel ~~a~~-landward of allowed uses and the applicant's lot/site has topographical constraints, where no other location outside the buffer yet within the proposed development is feasible (e.g., the use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

_____ In the above cases, parking shall be located as far upland from the OHWM as feasible, recognizing the limited supply of shoreline areas and parking allowed in buffer shall follow mitigation sequencing; and ~~4.~~ be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
- J. ~~J.~~—Modifications of Existing Roads and Parking Areas: Existing roads and parking areas that are of a non-paved surface (e.g. gravel) may be paved provided such facilities comply with all applicable water quality, stormwater, landscaping, and other applicable requirements of this SMP. Roadways or paved parking areas shall be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
- K. ~~K.~~—Private Driveways: A driveway for an individual ~~single-family~~single-family home is considered a residential appurtenance and is considered part of the primary use, and subject to Residential standards of this SMP. Private driveways or private roads serving more than one ~~home~~parcel are subject to the standards of Section 5.19, Transportation and Parking.
- L. ~~L.~~—Maintenance Standards for New or Expanded Road or Parking Facility: When a new or expanded roadway or new or expanded parking facility is proposed, ~~City of Leavenworth~~the Shoreline Administrator may condition the proposal to provide a maintenance plan that promotes best management practices to achieve no-net-loss of shoreline ecological function. For example,

maintenance standards may include restrictions on the use of herbicides, hazardous substances, sealants or other liquid oily substances, or de-icing practices adjacent to shoreline buffers or critical areas and their buffers. See also Section 5.21.

- M. ~~M.~~ Essential public facilities. If identified as an essential public facility, preclusion of siting is not allowed. ~~T.~~ these facilities shall be required to be in compliance with the rest of the regulations of the SMP, as well as other local land use regulations.

5.20 Utilities

Utilities provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, stormwater, 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" and shall be considered a part of the primary use. Consult standards of the primary use of the property, e.g. Residential, Commercial, Industrial, or Recreational, for any additional standards relevant to the placement of accessory activities such as utilities. Water intake and water and/or fish conveyances between a waterbody and an aquaculture facility are not considered a "utility" under this section of the SMP; consult standards for Aquaculture.

5.20.1 Policies

- A. Meet demand for utilities. Utilities should be located to meet the needs of current underserved areas or future growth. ~~(based on 1975 SMP Policy 14d)~~
- B. Use existing corridors. Intensified use of existing utility corridors should be encouraged, as opposed to the addition of new corridors. Efforts should be made to reduce the visual impact of existing utility corridors. ~~(based on 1975 SMP Policy 14e)~~
- C. Minimize visual impact. Whenever utilities must be placed in a shoreline area, the location should be chosen so as to minimize their visual impact. Whenever feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline area. ~~(1975 SMP Policy 14b)~~
- D. Upland and underwater utilities. Upland locations are recommended for utility pipelines and cables. If an underwater location becomes necessary, easements for the utility must include proper provisions to insure against substantial or irrevocable damage to the waterway or the resident aquatic ecosystems. ~~(1975 SMP Policy 14e)~~
- E. Restoration of disturbed areas. Upon completion of installation or maintenance projects on shorelines, all disturbed areas within shoreline jurisdiction should be restored to pre-project configuration where feasible, replanted with suitable plant species, and maintained until the newly planted vegetation is established consistent with Vegetation Conservation policies and standards in Section 4.5. ~~(1975 SMP Policy 14a)~~
- F. Outfalls. Site outfalls to avoid impacts to critical areas. Design outfalls to reduce impacts to aquatic vegetation and water quality.
- G. Require effective and timely coordination of all public and private utility trenching activities. ~~(Comprehensive Plan Utility Goal 1, Policy 1)~~
- H. Require the undergrounding of all new electrical distribution and communication lines where reasonably feasible and not a health threat. Encourage the undergrounding of all existing electrical distribution and communication lines where reasonably feasible and not a health threat. ~~(Comprehensive Plan Utility Goal 1, Policy 2)~~
- I. Encourage the consolidation of utility and communication facilities where reasonably feasible. ~~(Comprehensive Plan Utility Goal 1, Policy 3)~~

5.20.2 Regulations

- A. Design considerations. Utility systems are permitted provided such systems: ~~(WAC 173-26-241(3)(1))~~
1. Are designed and constructed to meet all adopted engineering standards of City of Leavenworth; ~~(based on 1975 SMP Section 25.1.10)~~
 2. Avoid paralleling the shoreline or following a down-valley course near the channel, except where located in an existing road or easement footprint; and
 3. Do not alter processes affecting the rate of channel migration or shoreline erosion; the Shoreline Administrator may require a monitoring plan and adaptive management measures prepared by a qualified professional as appropriate.
- B. Preference – existing footprints. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems. ~~(WAC 173-26-241(3)(1))~~
- C. Undergrounding. All new permanent utility systems shall be underground except where environmental or geological conditions makes undergrounding prohibitive; provided that facilities which are temporary or infeasible to underground are exempt from undergrounding, including but not limited to electric transmission lines in excess of 15kV, utilities attached to undersides of bridges, and public stormwater facilities, outfalls, and associated structures-. ~~(1975 SMP Section 25.1.2)~~
- D. Minimum clearing. Where utility systems must be located in shoreline jurisdiction areas, clearing necessary for installation or maintenance shall be kept to the minimum width necessary to prevent interference by trees and other vegetation with proposed transmission facilities. Impacts associated with removal of vegetation or clearing shall be mitigated on the property. ~~(1975 SMP Section 25.1.2)~~
- E. Restoration of disturbed areas. Upon completion of utility system installation, or any maintenance project, the disturbed area shall be regraded to compatibility with the natural terrain and replanted to prevent erosion and provide appropriate vegetative cover, ~~including meeting standards of Section 4.5, Vegetation Conservation and Shoreline Buffers and Appendix B, Critical Areas Regulations, consistent with this SMP.~~ ~~(1975 SMP Section 25.1.2)~~
- F. Underwater utilities. If an underwater location is necessary, the following performance standards apply:
1. ~~1.~~—The design, installation and operation shall minimize impacts to the waterway or the resident aquatic ecosystems. ~~(Based on 1975 SMP 25.1.2)~~
 2. ~~2.~~—Seasonal work windows may be made a condition of approval.
 3. ~~3.~~—Standards of Section 5.8, Dredging and Dredge Material Disposal; Section 4.2, Ecological Protection and Critical Areas; Section 4.5, Vegetation Conservation and Shoreline Buffers (for any aquatic vegetation impacts); and Section 5.2, General Aquatic Shoreline Modification and Use Regulations must be met.
 4. ~~4.~~—All federal or state permits must be obtained.
 5. ~~4.5.~~—A maintenance schedule and emergency repair protocol shall be prepared and recorded.
- G. Nonwater-oriented ~~processing and production facilities. Nonwater oriented utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater oriented,~~ utilities shall not be ~~allowed placed in the~~ shoreline jurisdiction ~~buffer~~ unless it can be demonstrated that no other feasible option is available. Where no other practical alternative exists, ~~to the excavation for and placement of wells, tunnels, utilities, or on-site septic systems in a shoreline and critical area buffer, while permitted~~ a mitigation plan must be prepared by a qualified

professional, and must be consistent with ~~the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B~~[this SMP](#).

- H. Outfall design principles. New and reconfigured outfalls shall be [designed by a qualified professional and](#) located to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. ~~The diffuser or discharge point(s) for new or expanded outfalls must be located offshore and at a buffer distance beyond the near shore/littoral area, to avoid impacts to those areas. The Shoreline Administrator may require a mixing zone analysis for the outfall from a qualified party to determine the diffuser or discharge point. The outfall pipe shall be subsurface within the near shore.~~

~~I.—~~

~~No net loss of ecological function. All utility system projects and maintenance shall be designed, located and installed in a manner which results in no net loss of ecological function.~~

~~5.21 Redevelopment, Repair, and Maintenance~~

~~5.21.1 Policies~~

~~A. The SMP should recognize existing legally established uses and developments in the shoreline and allow them to continue consistent with their lawfully established condition.~~

~~B. City of Leavenworth should apply relevant SMP provisions in proportion to the shoreline use or development proposed.~~

~~5.21.2 Regulations~~

~~A. SMP provisions shall not apply retroactively to existing uses and developments.~~

~~B. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair, as specified in Section 7.6.3, Exemptions, do not require shoreline permits.~~

~~C. Consistent with the Applicability provisions of Section 1.3, SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:~~

~~1. The Shoreline Administrator shall determine the extent of compliance with SMP provisions.~~

~~2. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply. If vegetation is removed beyond normal maintenance pursuant to 7.6.3.B, vegetation conservation and shoreline buffer standards may apply.~~

~~D. Maintenance or repair activities which exceed the specifications of 7.6.3.B in Exemptions or which are required for new development or re-development may be authorized through the establishment of multi-year maintenance or repair plans, as follows:~~

~~1. Five year recreation management plans consistent with Section 5.15.2.~~

~~2. Five year dredging maintenance plans consistent with Section 5.8.2.~~

~~3. Other multi year plan for other maintenance or repair activities that are used to establish best management practices or protocols to ensure no net loss of shoreline ecological function such as roadway, utility, or other facility maintenance. Other maintenance or repair management plans shall be prepared to address the following:~~

~~A. Description of proposed maintenance activities and best management practices;~~

~~B. Type, methods, and frequency of maintenance or repair activities;~~

~~C. Description of in-stream or in-lake habitat protection measures;~~

~~D. Description of riparian and wetland protection measures;~~

~~E. Description of stormwater management practices to reduce both water quantity and water quality impacts;~~

~~F. Description of erosion and sediment control practices that prevent off-site movement;~~

~~G. Description of re-vegetation or restoration activities following maintenance or repair; and~~

~~H. Description of chemical and nutrient use and containment practices such as Integrated Pest Management (IPM).~~

6 NONCONFORMING STRUCTURES AND USES ~~(WAC 173-27-080)~~

6.1 Policies

The following policies on nonconforming structures, uses, and lots are intended to guide the ~~application of the City of Leavenworth Shoreline Administrator~~ ~~nonconforming standards~~:

- ~~A. Continuation of nonconforming uses and structures.~~ Nonconforming existing legal uses and structures may continue ~~according to the City of Leavenworth standards.~~
- ~~A.~~
- ~~B. Transition to conforming uses.~~ Transitions from nonconforming structures and uses to conforming structures and uses should be encouraged.
- ~~A.B. Expansion of nonconforming structures.~~ Owners of nonconforming structures ~~that wish to~~ may expand the structure in a manner which does ~~should~~ not increase the nonconformity ~~according to the City of Leavenworth standards.~~
- ~~C.~~
- ~~B.C. No net loss of ecological function.~~ The SMP no-net-loss of ecological function objective should guide review of proposed expansions or other changes to nonconforming structures and uses and new development on nonconforming ~~vacant~~ lots. This objective may be addressed in an area-wide manner consistent with the SMP cumulative impacts analysis.
- ~~D.~~ Consider balancing
- ~~C.D. Balance historic character. The City of Leavenworth should consider balancing~~ historic character of the community with conformity to SMP rules when considering changes to nonconforming uses, structures, and lots.

6.2 Regulations

- A. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: Setbacks, buffers, or yards; area; bulk; height; or density.
- B. Redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure shall be consistent with the master program, including requirements for no net loss of shoreline ecological functions.

~~For purposes of this section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.~~
- C. Nothing in this section: (a) restricts the ability of this master program to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or (b) affects the application of other federal, state, or local government requirements to residential structures.

6.2.1 Establishment

The burden of establishing that any nonconformity is a legal nonconformity as defined herein shall, in all cases, be upon the owner of such alleged nonconformity and not upon the city. Determination of the nonconforming status of a lot, use, building or structure is an administrative function of the Shoreline Administrator. Property owners asserting existing nonconforming status shall submit such information as the ~~director~~ Administrator deems necessary to substantiate or document the claim to the existing

nonconformance. Documentation submitted by the property owner must ascertain the date the nonconformity was established and that it conformed to the applicable SMP regulations in effect at that time. Documentation may consist of such historical items as utility statements, property tax bills, real estate contracts, leases, building permits, dated photographs, newspaper clippings and other relevant documentation, when applicable. Unsubstantiated anecdotal evidence cannot be accepted for the determination of existing nonconforming status.

6.2.2 Nonconforming lots of record

In any district in which single-family dwellings are permitted, a single-family dwelling and allowed accessory buildings may be erected on nonconforming lots of record. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable to the use environment, provided all other current regulations shall apply, including, without limitation, required yards/setbacks, lot coverage, density, parking, storm drainage, landscaping, access and road improvements, variance to these standards shall not be allowed.

Nonconforming lots of record which have become more non-conforming due to subsequent action of the owner/s shall still be allowed to develop if they retain more than 75% of the area of the original "lot of record." This is intended to accommodate minor past modifications made to parcels, to allow for infill development and takes into account those adjustments made prior to the time that the City allowed construction on such parcels and owners were unaware of the ramifications that this could have on the development potential of the lot, if re-assembly is allowed. H, however no lot re-assembly which creates awkwardly shaped parcels shall be allowed.

6.2.3 Nonconforming uses, buildings, structures

A. Continuance of Nonconforming uses, buildings, and structures. A nonconforming use, building and/or structure lawfully established under this SMP and which became or becomes nonconforming by amendment to this SMP may continue as long as it remains otherwise lawful.

~~A.B.~~ B. No nonconforming use, building and/or structure (or portion of structure) shall be enlarged, increased or extended to occupy a greater area of land, nor shall it be moved in whole or in part to any other portion of the lot or parcel being occupied by such use, at the effective date of the adoption or amendment of this SMP except as provided for in this chapter.

~~B.C.~~ C. Damaged, demolished or destroyed nonconforming use. ~~The following provisions shall apply when a nonconforming use is damaged, demolished or destroyed by any means:~~

1. When a nonconforming use and associated building/structure are damaged by any means, and reconstruction costs do not exceed seventy-five percent of the value of the building/structure (as determined by using a contractor's estimate for reconstruction and the most recent assessed value as stated in the Chelan County Assessor's records, or an appraisal submitted by a licensed real estate appraiser), the nonconforming use, building, and/or structure may be replaced or rebuilt as it was immediately prior to the damage, or in a manner that is more conforming.

~~No replacement or reconstruction of a noneonforming building/structure shall be performed without issuance of a development permit(s) as appropriate. The property owner shall provide the information necessary to reasonably assure the Shoreline Administrator that the replacement or reconstruction complies with this section. The review authority may approve replacement or reconstruction in conformance with the submitted and verifiable plans or in a manner that is more conforming to the applicable provisions of this SMP and the use environment in which the building/structure is located. The proposed replacement or reconstruction cannot be completed in such a manner as to constitute an expansion of the nonconforming use, building and /or structure.~~

~~Provisions contained within this section do not supersede or relieve a property owner from compliance with the requirements of the uniform building and fire codes, and the provisions of the development regulations that are beyond the specific nonconformance addressed by this SMP.~~

~~Accessory buildings shall meet all applicable requirements set forth in this SMP, include bulk and dimensional standards.~~

D. Pre-existing Residential Structures. The following standards shall apply to legally established residential structures and appurtenant structures which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density:

1. Structures may be maintained and repaired; and,
2. Structures may be replaced, enlarged or expanded in height or behind, laterally, provided there is no increase of the nonconformity waterward (in the direction of the water); and,
3. Structures may change class of occupancy when consistent with the zoning district; and,
4. All structure modifications shall meet the standards for geological hazards, floodplain and other federal, state or local requirements.

~~CE. Single family residential dwellings lawfully permitted and established within a commercial district. Single family residential dwellings lawfully permitted and established within a commercial district prior to adoption or amendment of this chapter may be maintained, repaired or reconstructed in accordance with the provisions of this SMP, provided the dwelling meets City zoning requirements. Additionally, accessory buildings which are allowed with single family residences may be erected provided the following conditions and/or regulations are complied with:~~

~~The structure(s) shall meet the applicable provisions of LMC Chapter 18.20 and LMC Chapter 18.24; and~~

~~The single family residence has not been converted to a more conforming, nonresidential use at any previous time.~~

~~D.E. Effect of the sale or transfer of a nonconforming use or building/structure. The sale or transfer of a nonconforming use or building/structure does not alone affect the right to continue the nonconforming use or use of a nonconforming building/structure.~~

~~E.G. Abatement of buildings/structures, lots, required improvements, uses and/or developments not legally established. Buildings/structures, lots, required improvements, uses and/or developments which were not legally established or not legally existing as of the effective date of this SMP retain their illegal status and must be abated or fully conform and comply with the procedural and substantive provisions of this SMP.~~

~~F.H. "Nonconforming Use" terminology. The term "nonconforming use" refers only to the single existing use and does not include all uses which the property could have been used for under a prior zoning ordinance or zoning classification.~~

~~G.I. Normal structural repair and maintenance of nonconforming building / structure. Nothing in this chapter shall be construed to restrict normal structural repair and maintenance of a nonconforming building/structure, including the replacement of walls, fixtures, and plumbing, provided that the value of work and materials in any twelve month period does not exceed twenty-five percent of the assessed value of the building/structure, as described in Section 6.3(B)(1), prior to such work.~~

~~H.J. Limitations on expansion of nonconforming structures. Nonconforming structures may expand those portions of the structure which conforming to the required buffers and SMP regulations. Expansions of structures that are nonconforming with respect to a required yard may not encroach~~

~~any further into the required yard, and are limited to extensions adding no more than twenty five percent of the length of the original wall as it existed prior to SMP adoption, subject to other applicable requirements of City development regulations. Nothing in this section will prohibit vertical expansion in the side or rear yards up to the height allowed in the applicable use environment, provided all other applicable requirements of City development regulations are met. Nothing in this section will prohibit vertical expansion in the front yard up to the height allowed in the applicable zoning district if the portion of the nonconforming structure to be expanded is fifteen feet or greater from the property line. If the portion of the nonconforming structure to be expanded is less than fifteen feet from the front property line, that portion of the structure can be extended vertically up to twenty five percent of the existing height of the structure, provided all other applicable requirements of the City development regulations are met.~~

6.2.4 Discontinuance

If a nonconforming use has been discontinued or inactive for a period of twelve consecutive months or greater, the nonconforming status is terminated, and any future use of the land or structures shall be in conformity with the provisions of this SMP. ~~Conditions under which nonconforming use, building, and/or structure discontinued. A nonconforming use, building, and/or structure shall be discontinued when it is:~~

~~Succeeded by another use, building, and/or structure that is more conforming; or~~

~~Discontinued and not re-established within one year; or~~

~~Damaged, demolished, removed or destroyed, by any means, to the extent that replacement and/or reconstruction costs exceed seventy five percent of its value as described in Section 6.3(B)(1) and when a complete application for such replacement and/or reconstruction is not made within one year of such damage.~~

~~Nonconforming use ceases to exist when discontinued. When a nonconforming use becomes discontinued as defined above, it shall be deemed that such use has ceased to exist and thus loses its status as a legal nonconforming use. Any subsequent use shall conform to the provisions of this SMP.~~

6.2.5 Nonconforming Signs

~~Existing nonconforming signs shall be replaced with conforming signs, as defined in the SMP are permitted, but shall be removed or brought into compliance with the SMP, as amended, any time the basic design, size, color or structure of the sign is altered, unless the proposed alteration renders the sign more in compliance with the SMP and the cost of the alteration is less than 50 percent of the replacement value of the sign. Signs damaged or altered, in any manner, by more than 50 percent of their replacement value shall be replaced with a sign that meets the requirements of the SMP.~~

7 SHORELINE PERMITS, PROCEDURES AND ADMINISTRATION

7.1 Roles and Responsibilities

- A. The ~~Shoreline Master Program~~ Administrator ~~in the City of Leavenworth~~ is the City Administrator and/or designee and shall have overall administrative responsibility of the SMP. The Administrator, or his/her designee, shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act.
- B. ~~In the City of Leavenworth, the~~ The ~~Shoreline Master Program~~ Administrator shall have the authority to grant or deny Shoreline Substantial Development Permits, time extensions to shoreline permits, and minor revisions under this SMP.
- C. ~~In the City of Leavenworth, the~~ The Hearing Examiner shall have the authority to grant or deny major revisions, Shoreline Variances, and Shoreline Conditional Use Permits under this SMP. The Hearing Examiner shall also decide on appeals of administrative decisions issued by the Administrator of this SMP.
- D. The Leavenworth City Council shall maintain a policy role, adopting all amendments ~~to this SMP~~, after consideration of the recommendation of the City of Leavenworth Planning Commission.
- E. The ~~City of~~ Leavenworth Planning Commission shall make recommendations for amendments ~~of this SMP~~ to the Leavenworth City Council.

7.1.2 SEPA Official

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21C. The responsible SEPA official is designated in accordance with the City of Leavenworth's SEPA implementation ordinance.

7.1.3 Hearing Examiner

~~Where a hearing examiner system has been adopted by City of Leavenworth, the~~ The Hearing Examiner shall have the authority to:

- ~~A.~~ Decide on Shoreline Substantial Development Permits for which the Hearing Examiner is the designated decision maker, as well as decide on appeals from administrative decisions issued by the Administrator of this SMP.

A.

- ~~B.~~ Grant or deny conditional uses under this SMP not issued administratively.

B.

- C. Grant or deny variances from this SMP.

7.1.4 Planning Commission

Planning Commission ~~is, where established, are~~ vested with the responsibility to review the Master Program as part of regular SMP updates required by RCW 90.58.080 as a major element of the City of Leavenworth's planning and regulatory program, and make recommendations for amendments thereof to the ~~Board of County Commissioners or~~ City Councils.

7.1.5 City Council

The City Council is vested with authority to:

- ~~A.~~ Initiate an amendment to this SMP according to the procedures prescribed in WAC 173- 26-100.

A.

- B. Adopt all amendments to this SMP, after consideration of the recommendation of the planning commission, ~~where established~~. Amendments shall become effective immediately upon approval by Ecology.

7.2 Interpretation

The Shoreline Administrator shall provide administrative interpretations in accordance with Leavenworth Municipal Code Section 21.03.020.

7.3 Statutory Noticing Requirements

~~Noticing requirements for permits issued under the SMP in the City of Leavenworth shall be in accordance with Leavenworth Municipal Code Chapter 21.07.~~

The following subsections provide a summary of noticing days. City of Leavenworth shall consult the most current version of WAC 173-27-110 and 120 to confirm the days. In case of conflict, state statutes or rules shall control:

- A. Issuance of notice of application. Notice of application shall be provided within fourteen days after the determination of completeness of the application.
- B. Statement of public comment period. The notice of application shall state the public comment period which shall be not less than thirty days following the date of notice of application, unless otherwise specified for limited utility extensions or ~~single family~~single-family bulkheads below.
- C. Notice of application prior to hearing. If an open record pre-decision hearing, as defined in RCW 36.70B.020, is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.
- D. Limited utility extension or ~~single family~~single-family bulkhead. An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to all of the requirements of this chapter except that the following time periods and procedures shall be used:
1. The public comment period shall be twenty days. The notice provided shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;
 2. The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in subsection (2)(a) of this section; and
 3. If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

7.4 Application Requirements

- A. A complete application for a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the information listed in WAC 173-27-180. In addition, the applicant, including those applying for exemption status, shall provide the following materials:
1. An assessment of the existing ecological functions and/or processes provided by topographic, physical and vegetation characteristics of the site and any impacts to those functions and/or processes, to accompany development proposals, provided that proposals for single-family

residences, as long as they meet the exemption criteria, shall be exempt from this requirement if proposal is located outside required critical areas. When the project results in adverse impacts to ecological function and/or processes, a mitigation plan must be provided that describes how proposed mitigation compensates for the lost function or process.

2. Site plan or division of land depicting to scale the location of buildable areas, existing and proposed impervious surfaces (building(s), accessory structures, driveways), and allowed landscaping and yards (including proposed water access trails, view corridors, wildfire defensible space, if applicable), general location of utilities, well and septic system, if applicable and location of storage and staging of materials and equipment during construction. Plans shall show area calculations of each feature.
3. The location of any mapped channel migration zone (see Section 4.3.2, Flood Hazard Reduction), floodplain, and/or floodway boundary and critical Areas, if known, and respective setback/buffer areas on and within 250 ft of the vicinity of the project site and all applicable buffers.
4. Where a view analysis is required per WAC 173-27-180~~-,~~ due to location of nearby residential or public properties or designated scenic highways, it shall address the following:
 - a. The analysis shall include vacant existing parcels of record as well as existing structures. Vacant parcels of record shall be assumed to be developed with structures complying with the applicable regulations of the applicable local government and the maximum height limitation allowed under the SMP.
 - b. The view corridor analysis shall include residential buildings or public properties located outside of the shoreline jurisdiction if it can be clearly demonstrated that the subject property has significant water views.

B. Application Requirements for Aquaculture projects shall include all information necessary to conduct a thorough evaluation of the proposed aquaculture activity, including all items listed above in item A and including but not limited to the following:

1. A baseline description of existing conditions, including best available information on:
 - a. Water quality
 - b. Prevailing storm wind conditions
 - c. Current flows
 - d. Flushing rates
 - e. Areas of differing substrate composition.
 - f. Areas of aquatic and upland vegetation complexes.
 - g. Existing shoreline or water uses and structures.
 - h. Aquatic and benthic organisms.
 - i. Assessment of aquatic species, and spawning and other lifecycle use of, or adjacent to, the site. Further baseline studies including surveys and sampling may be required depending upon the adequacy of available information, existing conditions, and the nature of the proposal.
2. A detailed description of the project proposal including:
 - a. Species to be reared.
 - b. Substrate modification or vegetation removal.

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- c. Planting, harvest and processing location, method and timing, including work proposal and construction techniques proposed (list all hand tools, machinery used (such as track hoes, trucks or barges), type of work, frequency, and duration.
 3. Anticipated use of any feed, pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals, and an assessment of predicted impacts. No such materials shall be used until approval is obtained from all appropriate State and Federal agencies, including but not limited to the U.S. Food and Drug Administration, and the Washington State departments of Ecology, Fish and Wildlife, and Agriculture, as required, and proof thereof is submitted to the local government with jurisdiction. Compounds with the least persistence shall be used. An annual report of antibiotic use shall be submitted to the Chelan County Health District. The report shall indicate the type and amount of antibiotics used during the previous calendar year. Actual usage data for all chemicals and antibiotics shall be maintained for review by Health District staff at all times.
 4. Number of employees/workers necessary for the project, including average and peak employment.
 5. Methods of waste disposal and predator control.
 6. Methods to address pollutant loading, including biological oxygen demand (BOD), suspended solids and fecal coliform.
 7. Assessment of potential impacts on shoreline ecological functions and processes addressing the baseline conditions identified in the Shoreline Characterization, including but not limited to watershed-level, indirect and cumulative effects.
 8. For floating culture facilities or other structures, the local government with jurisdiction may require a visual impact analysis. (See the Department of Ecology's "Aquaculture Siting Study" 1986 for general approach.) Depending on the size and complexity of the proposal, such analysis may be prepared by the applicant without professional assistance, provided that it includes an adequate assessment of impacts.
 9. Information demonstrating that the site has natural potential for the type(s) of aquaculture proposed, due to necessary substrate or other conditions, as well as water quality suitable for the type(s) of aquaculture proposed.
 10. Information demonstrating that the proposed aquaculture activities will not result in a net loss of shoreline ecological functions or processes or adversely affect Critical Areas.
 11. Information demonstrating that the proposed aquaculture activities will not substantially and materially conflict with areas devoted to established uses of the aquatic environment. Compensation for loss of public access to public aquatic resources may be required.
- C. Application requirements for all dredging applications shall include all items listed above in item A and:
 1. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this SMP.
 2. An analysis of the existing shoreline and potential adverse impacts, including the following:
 - a. A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry and have data points at a minimum of 2-foot depth increments.
 - b. A detailed description of the existing physical character, shoreline geomorphology, and biological resources provided by the area proposed to be dredged. This description should

- include information on the stability of bedlands adjacent to proposed dredging and spoils disposal areas.
 - c. A detailed description of potential adverse impacts to ecological functions and processes.
 - d. A mitigation plan to address any identified adverse impacts to ecological functions or processes.
 - 3. A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed, including:
 - a. Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc.).
 - b. Chemical analysis of material to be dredged (volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.).
 - c. Biological analysis of material to be dredged.
 - 4. A description of the method of materials removal, including facilities for settlement and movement.
 - 5. Dredging procedure, including the estimated length of time it will take to complete dredging, method of dredging, and amount of materials removed.
 - 6. Frequency and quantity of project maintenance dredging.
 - 7. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including, but not limited to:
 - a. Dredge material disposal area;
 - b. Physical characteristics including location, topography, existing drainage patterns, surface and ground water;
 - c. Size and capacity of disposal site;
 - d. Means of transportation to the disposal site;
 - e. Proposed dewatering and stabilization of dredged material;
 - f. Methods of controlling erosion and sedimentation; and
 - g. Future use of the site and conformance with land use policies and regulations.
 - 8. Plan for disposal of maintenance spoils for at least a 50-year period, if applicable.
 - 9. Hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.
- D. Application materials for Shoreline Stabilization permits shall include all items listed above in item A and:
 - 1. A geotechnical analysis prepared by a qualified professional. The analysis shall include the following:
 - a. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation. New hard structural shoreline stabilization measures shall not be authorized, except when an analysis confirms that there is a significant possibility that an existing structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is

- immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate (within three years), that analysis may still be used to justify more immediate authorization to protect against erosion using soft measures.
- b. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM.
 - c. An assessment of alternative measures to shoreline stabilization, including:
 - i. Placing any proposed new developments farther upland of the OHWM.
 - ii. Placing structural shoreline stabilization measures upland of the OHWM.
 - iii. Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.
 - d. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.
 - e. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.
2. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:
- a. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary 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 structural shoreline stabilization.
 - c. An assessment of alternative measures to shoreline stabilization, including:
 - i. Placing any proposed new developments farther upland of the OHWM.
 - ii. Relocating the structural shoreline stabilization measures farther upland of the OHWM.
 - iii. Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.
 - d. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft structural shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.
 - e. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.
3. A demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

4. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following shall be provided:
- a. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.
 - b. 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:
 - i. Protect the primary structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from currents and wind- or boat-driven waves;
 - ii. Allow safe passage and migration of fish and wildlife; and
 - iii. Minimize or eliminate juvenile salmon predator habitat.
 - c. For projects that include native vegetation, a detailed five-year vegetation maintenance and monitoring program to include annual progress reports submitted to the Shoreline Administrator and all other agencies with authority, documenting a 90 percent survival for the first year of growth post installation, with no less than 80 percent survival at the end of the third and fifth years.

E. The Shoreline Master Program Administrator may require additional information and or bonding depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other City requirements, and the provisions of this SMP.

~~L. The Shoreline Master Program Administrator may vary or waive these additional application requirements (1-4) according to administrative application requirements on a case by case basis, but all applications for a substantial development, conditional use, or variance permit shall contain the information found in WAC 173-27-180. The Shoreline Master Program Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other County or City requirements, and the provisions of this SMP.~~

~~C. Chapter 21.05 of the Leavenworth Municipal Code provides the minimum application requirements and codifies the form upon which the application must be submitted.~~

7.5 Shoreline Substantial Development Permits (WAC 173-27-150)

7.5.1 Permit Required

A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Section 7.6.

7.5.2 Permit Review Criteria

In order for the permit to be approved, the decision maker must find that the proposal is affirmatively consistent with the following criteria:

- A. How is the proposal consistent with the policies and procedures of the Act (RCW 90.58)?
- B. How is the proposal consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures?
- C. How is the proposal consistent with this SMP?

7.5.3 Conditions of Approval

~~City of Leavenworth~~[The Shoreline Administrator](#) may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the ~~City of Leavenworth~~[Shoreline Administrator](#)'s ability to require compliance with all other applicable laws and plans.

7.6 Exemptions from Shoreline Substantial Development Permits

[Shoreline exemptions are based on State law. Any exemption must comply with all of the SMP requirements though the activity may not require a permit or exemption letter from the City. \(Section based on WAC 173-27-040; RCW 90.58.030 \(3\)\(e\), 90.58.140\(9\), 90.58.147, 90.58.355 and 90.58.515\)](#)

7.6.1 Compliance with Applicable Regulations Required

An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the Act or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the Act.

7.6.2 Interpretation of Exemptions

- A. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
- B. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline 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 SMP, such development or use can only be authorized by approval of a Shoreline Variance.
- C. The burden of proof that a development or use is exempt from the permit process is on the applicant. Local government may require the applicant to provide additional documentation to support their exemption request.
- D. If any part of a proposed development is not eligible for exemption, then a Shoreline - Permit is required for the entire proposed development project.
- E. Local government may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the ~~City of Leavenworth~~[Shoreline Administrator](#)'s ability to require compliance with all other applicable laws and plans.
- F. Except for the exemption based on fair market value in 7.6.3.A, activities consistent with the exemptions listed in 7.6.3 are exempt regardless of the value of the project, [unless specifically stated](#).

7.6.3 Exemptions

~~City of Leavenworth~~~~City of Leavenworth shall~~[The following types of development are](#) exempt from the Shoreline Substantial Development Permit requirement ~~the shoreline developments listed below~~, or as thereafter amended in WAC 173-27-040; RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515. ~~Written Letters of Exemption or other written documentation are required for exempt activities and shall be issued consistent with Section 7.6.4.~~

- A. Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~five-seven~~ thousand ~~seven hundred eighteen~~[forty-seven](#) dollars (\$~~5,718~~[7,047](#)) or dollar value as

amended by the State of Washington Office of Financial Management provided such development does not materially interfere with the normal public use of the water or shorelines of the state. [The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.](#)

- B. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means 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 adverse effects to shoreline resources or environment.
- C. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual OHWM. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.
- D. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, WAC 173-27-040, or this Shoreline Master Program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this Shoreline Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
- E. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock

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

- F. Construction or modification of navigational aids such as channel markers and anchor buoys;
- G. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having authority thereof, other than requirements imposed pursuant to chapter 90.58 RCW. See Chapter 8 for definitions of single-family residence and residential appurtenances. Construction authorized under this exemption shall be located landward of the OHWM;

H. Construction of a dock, is not permitted.

- ~~H.I.~~ Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;
- ~~H.J.~~ The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- ~~J.K.~~ Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- ~~K.L.~~ Any project with a certification from the governor pursuant to chapter 80.50 RCW, Energy Facilities -Site Locations;
- ~~L.M.~~ Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - 1. ~~1.~~—The activity does not interfere with the normal public use of the surface waters;
 - 2. ~~2.~~—The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - 3. ~~3.~~—The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - 4. ~~4.~~—A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to City of Leavenworth to ensure that the site is restored to preexisting conditions; and
 - 5. ~~5.~~—The activity is not subject to the permit requirements of RCW 90.58.550, Oil or natural gas exploration in marine waters;
- ~~M.N.~~ The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;
- ~~N.O.~~ Watershed restoration projects as defined below. City of Leavenworth shall review the projects for consistency with the Shoreline Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

1. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:
 - a. ~~a.~~—A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings; or
 - b. ~~b.~~—A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
 - c. ~~c.~~—A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.
2. "Watershed restoration plan" means a plan developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, or Transportation; a federally recognized ~~Indian~~ ~~Tribe~~ acting within and 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 chapter 43.21C RCW, the State Environmental Policy Act;

~~O.P.~~ A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

1. ~~1.~~—The project has been approved in writing by the State of Washington department of Fish and wildlife;
2. ~~2.~~—The project has received hydraulic project approval by the State of Washington Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and
3. ~~3.~~—City of Leavenworth has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs, as follows.
 - a. In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under P.3.a.i and ii of this subsection:
 - i. A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:
 - Elimination of human-made fish passage barriers, including culvert repair and replacement; or
 - Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

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- Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The department of fish and wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

- ii. A fish habitat enhancement project must be approved in one of the following ways:
 - By the department of fish and wildlife pursuant to chapter 77.95 or 77.100 RCW; or
 - By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW; or
 - By the department as a department of fish and wildlife-sponsored fish habitat enhancement or restoration project; or
 - Through the review and approval process for the jobs for the environment program; or
 - Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service; or
 - Through a formal grant program established by the legislature or the department of fish and wildlife for fish habitat enhancement or restoration; and
 - Through other formal review and approval processes established by the legislature.
- b. Fish habitat enhancement projects meeting the criteria of P.3.a of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of P.3.a of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).
- c. A hydraulic project approval permit is required for projects that meet the criteria of P.3.a of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department of fish and wildlife and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The department of fish and wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

- d. Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of this chapter.
- e. No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of P.3.a of this subsection and that are reviewed and approved according to the provisions of this section.

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

7.6.4 Letters of Exemption

Letters of exemption shall be issued by ~~City of Leavenworth~~City of Leavenworth~~the Shoreline Administrator, when required~~when required by the provisions of WAC 173-27-050.

~~When projects are exempt consistent with this SMP, the Act, and WAC 173-27-040, but do not require a letter of exemption per WAC 173-27-050, agencies may create their own documentation process for record keeping.~~

~~Agencies may provide letters of exemptions or written documentation for programmatic exempt activities such as those that occur in plans detailing operations and maintenance~~

7.6.5 Letters of Exemption – Application

~~Applicants~~Applications for proposals that meet shoreline exemptions ~~shall contain~~ shall contain, at a minimum, the information listed in WAC 173-27-180, unless waived by the Shoreline Administrator as unnecessary to determine applicability of SMP provisions to the permit exempt activity.

7.7 Shoreline Conditional Use Permits (WAC 173-27-160)

7.7.1 Purpose

This section provides procedures and criteria guiding the review of shoreline conditional use permits, which require careful review to ensure the use can be properly installed and operated in a manner that meets the goals of the Act and this Program in accordance with any needed performance standards.

7.7.2 Determinations of Conditional Use Permits

- A. Uses specifically classified or set forth in this Shoreline Master Program as conditional uses shall be subject to review and condition by the Hearing Examiner ~~of City of Leavenworth~~City of Leavenworth and by the Department of Ecology
- B. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.
- C. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

7.7.3 Review Criteria

- A. Conditional use criteria. An applicant proposing a conditional use shall affirmatively demonstrate compliance with review criteria below or as thereafter amended in WAC 173-27-160.
 - 1. How is the proposed use consistent with the policies of RCW 90.58.020 and this SMP?

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2. How will the proposed use avoid interference with the normal public use of public shorelines?
 3. How will the proposed use of the site and design of the project be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP?
 4. How will the proposed use cause no significant adverse effects to the shoreline environment in which it is to be located?
 5. How will the public interest suffer no substantial detrimental effect?
- B. Additional criteria for exceeding maximum height. Applicants proposing to exceed maximum height limits, not otherwise specifically allowed by a Substantial Development Permit in Chapter 5, shall also affirmatively comply with the following criteria:
1. Does the building or structure impact a substantial number of residences? Are the residences involved on or in an area adjoining the project area? Does the building or structure exceed 35 feet in height? Is there an obstruction of view?
 2. Has the applicant demonstrated through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences or from public properties on areas adjoining such shorelines?
 3. Has the applicant located and oriented structures on the subject property in a manner that diminishes the potential view impact? For example, side yard setbacks may need to be increased. No side yard setbacks shall be reduced to accommodate the proposed structure.
 4. Has the applicant demonstrated extraordinary circumstances?
 5. To address “overriding considerations of the public”, has the applicant prepared a cumulative impacts analysis that documents the public benefits served by issuance of a Conditional Use Permit?
- C. Consideration of cumulative impact. In the granting of all Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
1. The applicant shall prepare a cumulative impact analysis by a qualified professional for the type of application proposed: a) documenting other properties or uses on the same waterbody that are similarly situated and could request a similar conditional use permit; b) demonstrating consistency with the policies of RCW 90.58.020 (Legislative findings); and 3) demonstrating no substantial adverse effects to the shoreline environment and achievement of no-net-loss of ecological function. ~~City of Leavenworth~~[The Hearing Examiner](#) shall determine whether the additional potential for conditional use permits will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed use, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the conditional use and cumulative potential requests occur.
 2. For requests to exceed maximum heights, the analysis shall address such considerations as cumulative view obstruction results of height adjustments (within a 1,000-foot radius) of the proposed development combined with those of other developments that exceed the 35-foot height limitation, environmental benefits (enhancement or restoration), public access/open space benefits, and economic benefits. The cumulative impact analysis shall address overall

views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained.

7.7.4 Conditions of Approval

In authorizing a conditional use, special conditions may be attached to the permit by ~~City of Leavenworth~~ the Hearing Examiner and/or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City of Leavenworth's ability to require compliance with all other applicable laws, plans, and regulations.

7.8 Shoreline Variance Permits ~~(WAC 173-27-170)~~

7.8.1 Purpose and Review Process

The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Shoreline Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Shoreline Master Program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.

After a Shoreline Variance application has been approved by ~~City of Leavenworth~~ the Hearing Examiner, Ecology shall review the permit and make its final decision, in accordance with WAC 173-27-200.

7.8.2 Review Criteria

Shoreline Variances may be authorized, provided the applicant can demonstrate compliance with the following criteria or as thereafter amended in WAC 173-27-170.

- A. ~~A.~~—General provisions. Shoreline Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.
- B. ~~B.~~—Shoreline variances landward of the OHWM. Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant demonstrates affirmatively all of the following:
 - 1. ~~1.~~—How would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude or significantly interfere with reasonable use of the property?
 - 2. ~~2.~~—How is the hardship described in B.1 above specifically related to the property, and is the hardship the result of unique conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions?
 - 3. ~~3.~~—How is the design of the project compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will the project design not cause adverse impacts to the shoreline environment?
 - 4. ~~4.~~—How will the variance not constitute a grant of special privilege not enjoyed by the other properties in the area?
 - 5. ~~5.~~—How is the variance requested the minimum necessary to afford relief?
 - 6. ~~6.~~—How will the public interest suffer no substantial detrimental effect?

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- C. ~~C.~~—Shoreline variances waterward of OHWM. Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant- demonstrates affirmatively all of the following:
1. ~~1.~~—How would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude all reasonable use of the property?
 2. ~~2.~~—How is the proposal consistent with the criteria established under subsection 7.8.2.B.2 through B.6 of this section?
 3. ~~3.~~—How will the public rights of navigation and use of the shorelines not be adversely affected?
- D. ~~D.~~—Cumulative impacts. In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. The applicant shall submit a cumulative impact analysis prepared by a qualified professional for the subject of the variance:
- a) documenting other properties or uses on the same waterbody that are similarly situated and could request a similar variance;
 - b) demonstrating consistency with the policies of RCW 90.58.020; and
 - c) demonstrating no substantial adverse effects to the shoreline environment and achievement of no-net-loss of shoreline ecological function. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of the Act and shall not cause substantial adverse effects to the shoreline environment. ~~City of Leavenworth~~The Hearing Examiner shall determine whether the additional potential for variances will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed variance request, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the variance and cumulative potential requests occur.

7.8.3 Conditions of Approval

In authorizing a variance, special conditions may be attached to the Variance permit by the ~~City of Leavenworth~~Hearing Examiner and/or Ecology to prevent undesirable effects of the proposed development or activity and/or to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City of Leavenworth's ability to require compliance with all other applicable laws, plans, and regulations.

7.9 Permit Conditions

In granting, revising, or extending a shoreline permit, ~~City of Leavenworth~~the Hearing Examiner may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of the Act and this SMP, as well as the supplemental authority provided in RCW 43.21C, as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or re-evaluation to assure conformance with the Act and this SMP. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be rescinded. ~~(based on authority to attach conditions in WAC 173-27-045, 150, 160, 170 and example SMPs)~~

7.10 Duration of Permits ~~(WAC 173-27-090)~~

Time duration requirements for Shoreline Substantial Development, Shoreline Variance, and Shoreline Conditional Use Permits shall be consistent with the following provisions.

- A. General provisions. The time requirements of this section shall apply to all Shoreline Substantial Development Permits and to any development authorized pursuant to a Shoreline Conditional Use

Permit or Shoreline Variance authorized by this Chapter. Timing shall comply with WAC 173-27-090.
(4)

- B. Commencement. Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance. Commencement means taking the action on the shoreline project for which the permit was granted shall begin. For example, beginning actual construction or entering into binding agreements or contractual obligations to undertake a program of actual construction. ~~However, City of Leavenworth may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed with a complete extension application submittal before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance and to Ecology.~~
- C. Termination. Authorization to conduct development activities shall terminate five years after the effective date of a [Shoreline Exemption](#), Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance, [unless extended pursuant to subsection D.](#) ~~However, the City of Leavenworth may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance, and to Ecology.~~
- [D. Extension.](#) [The Shoreline Administrator may authorize a single one year extension based on reasonable factors, if a request for extension has been filed before the expiration date; notice of the proposed extension shall be given to parties of record and to Ecology. Time extensions authorized by RCW 90.58.143 shall require the applicant, prior to the date of termination, to be responsible for informing the Shoreline Administrator of the pendency of other permit applications filed with agencies and of any related administrative and legal actions on any permit or approval.](#)
- ~~D.E.~~ [Effective date.](#) The effective date of a ~~Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance~~ [permit](#) shall be the ~~date of receipt~~[date of filing](#) as provided in RCW 90.58.140(6)~~143~~. ~~The permit time periods in subsections B and C of this section do not include the time during which a use or activity was not actually pursued due to pending administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. The applicant shall be responsible for informing City of Leavenworth of the pendency of other permit applications filed with agencies other than City of Leavenworth and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given by the applicant to City of Leavenworth prior to the date of the last action by City of Leavenworth to grant permits and approvals necessary to authorize the development to proceed, including administrative and legal actions of City of Leavenworth, and actions under other responsible local government development regulations, the date of the last action by City of Leavenworth shall be the effective date.~~
- ~~E.F.~~ [Revisions.](#) Revisions to permits under Section 7.14 may be authorized after original permit authorization has expired, provided that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
- ~~F.G.~~ [Notification to Ecology.](#) City of Leavenworth shall notify Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

7.11 Initiation of Development ~~(WAC 173-27-190)~~

- A. Amortization to begin construction. Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, ~~issued by the City of Leavenworth~~ shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the ~~date of receipt~~date of filing with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) from the ~~date of receipt~~date of filing of the decision, except as provided in RCW 90.58.140 (5)(a) and (b). The ~~date of receipt~~date of filing for a Substantial Development Permit means that date the applicant receives written notice from Ecology that it has received the decision. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, ~~date of receipt~~date of filing means the date the City of Leavenworth or applicant receives the written decision of Ecology. (Section 36, SB 2935-2)
- B. Forms. Permits for Substantial Development, Shoreline Conditional use, or Shoreline Variance may be in any form prescribed and used by City of Leavenworth including a combined permit application form. Such forms will be supplied by City of Leavenworth.
- C. Data sheet. A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.
- D. Construction Prior to Expiration of Appeal Deadline. Construction undertaken pursuant to a permit is at the applicant's own risk until the expiration of the appeals deadline

7.12 Review Process

The application shall be reviewed by the City in accordance with Leavenworth Municipal Code Chapter 21.07.

[Special procedures for Washington State Department of Transportation projects. Permit review time for projects on a state highway, pursuant to RCW 47.01.485, shall aim to complete local review within 90 days of complete application. Option process allowing construction to commence 21 days after date of filing, pursuant to RCW 90.58.140, may be given when projects address significant public safety risks if all components of the project will achieve no net loss of shoreline ecological functions.](#)

7.13 Appeals

7.13.1 Appeals of Shoreline Administrator Determinations and Decisions

- A. Administrative review decisions by the Administrator, based on a provision of this SMP, may be the subject of an appeal to the Hearing Examiner by any aggrieved person. Such appeals shall be an open record hearing before the Hearing Examiner.
- B. Appeals of exemptions are allowed only for exemptions where a letter is required pursuant to Section 7.6.4, Letters of Exemption, of this SMP, or appealed through a LUPA appeal.
- C. Local Decision Appeal. Appeals must be submitted within of the required appeal period, as adopted, of the decision or written interpretation together with the applicable appeal fee. Appeals submitted by the applicant or aggrieved person shall contain:
 - 1. The decision or interpretation being appealed, including the file number reference and the specific objections in the decision document;
 - 2. The name and address of the appellant and his/her interest(s) in the application or proposed development;
 - 2. The specific reasons why the appellant believes the decision or interpretation to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action

ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision or interpretation is erroneous;

3. The specific relief sought by the appellant; and
4. The appeal fee established by City of Leavenworth.

D. Per WAC 173-27-120 the City of Leavenworth shall comply with special procedures for limited utility extensions and bulkheads. If there is an appeal of the decision to grant or deny the permit to the City of Leavenworth Council, the appeal shall be finally determined by the legislative authority within thirty days.

In addition, for administrative appeals, see Leavenworth Municipal Code Chapter 21.11

7.13.2 Appeals to Shorelines Hearings Board

Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within 21 days (21) days of the date of filing of the decision as defined in RCW 90.58.140(6) as provided for in RCW 90.58.140(6). (RCW 90.58.180)

7.14 Amendments to Permits ~~(WAC 173-27-100)~~

7.14.1 Revision – When Required

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, this SMP, and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

When an applicant seeks to revise a permit, the ~~City of Leavenworth~~ [Shoreline Administrator](#) shall request from the applicant detailed plans and text describing the proposed changes. Proposed changes must be within the scope and intent of the original permit, otherwise a new permit may be required, pursuant to Section 7.14.2.

7.14.2 Determination of Scope and Intent

If the ~~City of Leavenworth~~ [Shoreline Administrator](#) determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this SMP and the Act, the ~~City of Leavenworth~~ [Shoreline Administrator](#) may approve a revision.

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

- A. No additional over water construction is involved except that pier, dock, or float construction may be increased by ~~five hundred (500) square feet or~~ ten percent (10%) from the provisions of the original permit, whichever is less;
- B. Ground area coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit;
- C. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a Shoreline Variance granted as the original permit or a part thereof;
- D. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this SMP;

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- E. The use authorized pursuant to the original permit is not changed; and
- F. No adverse environmental impact will be caused by the project revision.

7.14.3 Filing of Revision

- A. The revision approval, including the revised site plans and text consistent with the provisions of Section 7.4 and 7.14 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with Ecology. ~~In addition, City of Leavenworth shall notify parties of record of their action.~~
- B. If the revision to the original permit involves a Shoreline Conditional Use Permit or Shoreline Variance, the City of Leavenworth shall submit the revision to Ecology for 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 City of Leavenworth and the applicant its final decision within fifteen (15) days of the date of Ecology's receipt of the submittal ~~from the City of Leavenworth. City of Leavenworth shall notify parties of record of Ecology's final decision.~~

7.14.4 Effective Date of Revised Permit

The revised permit is effective immediately upon final decision by the ~~City of Leavenworth~~Shoreline Administrator or, when appropriate under Subsection 7.14.3, upon final action by Ecology. Construction undertaken pursuant to a permit is at the applicant's own risk until the expiration of the appeals deadline.

7.14.5 Appeal of Revised Permit

- A. Filing. Appeals of a revised permit shall be in accordance with RCW 90.58.180 -
- B. Basis of appeals. Appeals shall be based only upon contentions of noncompliance with the provisions of Subsection 7.14.1. Appeals shall be based on the revised portion of the permit.
- C. Risk. 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.
- D. Scope of decision. 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.

7.15 Enforcement

- ~~A. City of Leavenworth~~Enforcement shall be done in compliance with apply 173-27 WAC Part II, Shoreline Management Act Enforcement, ~~to enforce the provisions of this SMP, except where otherwise outlined.~~
- ~~B. Specific violation requirements~~ in this SMP, include, but are not limited to, Section 4.5.~~2.G~~, Unauthorized vegetation removal.

7.16 Amendments to Shoreline Master Program

7.16.1 General

- A. This Shoreline Master Program carries out the policies of the Shoreline Management Act for ~~Chelan County and~~ the City of Leavenworth. It shall be reviewed and amended as appropriate in accordance with the review periods required in the Act and in order to:
 - 1. To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

2. To assure consistency of the master program with the City of Leavenworth's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.
- B. This SMP and all amendments thereto shall become effective 14-days after Ecology's approval letter~~immediately upon final approval and adoption by Ecology. (RCW 90.58.090(7))~~
- C. The SMP may be amended annually as needed pursuant to the Growth Management Act, RCW 36.70A.130(2)(a)(iii).

7.16.2 Amendment Process and Criteria

- A. ~~A.~~ Initiation. Future amendments to this Shoreline Management Plan may be initiated either by any person, resident, property owner, business owner, governmental or non-governmental agency, Shoreline Administrator, Planning Commission, or City Council ~~or Board of County Commissioners as appropriate.~~
- B. ~~B.~~ Application. Applications for shoreline master program amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made on forms specified by City of Leavenworth. Such applications shall contain information specified in City of Leavenworth's procedures for Comprehensive Plan and development regulation amendments pursuant to RCW 36.70A, the Growth Management Act, and information necessary to meet minimum public review procedures in Subsection C.
- C. ~~C.~~ Public Review Process – Minimum Requirements. The City of Leavenworth shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act, Growth Management Act, and implementing rules including, but not limited to, RCW 90.58.080, ~~WAC 173-26-100, RCW 36.70A.106 and 130, and Part Six, Chapter 365-196~~ and WAC 173-06-090.
- D. ~~D.~~ Roles and Responsibilities. Proposals for amendment of the Shoreline Management Plan shall be heard by the Planning Commission, per the provisions of Section 7.1.4. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the Shoreline Administrator per Section 7.1.1, the Planning Commission shall submit its recommendation to the City Council ~~or Board of County Commissioners~~, who shall approve or deny the proposed amendment consistent with Section 7.1.5.
- E. ~~E.~~ Finding. Prior to approval, City of Leavenworth shall make a finding that the amendment would accomplish #1 or #2, and must accomplish #3:
 1. ~~1.~~ _____ The proposed amendment would make this Program more consistent with the Act and/or any applicable Department of Ecology Guidelines;
 2. ~~2.~~ _____ The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area;
 3. ~~3.~~ _____ This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the effective date of this SMP.
- F. ~~F.~~ ~~County and City Coordination. The County applies Leavenworth's shoreline master programs in the UGAs. Where a City makes an amendment to its SMP, it shall provide the Ecology approved amendment to the County in accordance with terms of any interlocal agreements or the County's Comprehensive Plan Amendment procedures to ensure the County makes the revisions consistent with the individual city's SMP.~~
- G. ~~F.~~ G. After approval or disapproval of a Program amendment by the Department of Ecology as provided in RCW 90.58.090, City of Leavenworth shall publish a notice that the Program

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amendment has been approved or disapproved by Ecology pursuant to the notice publication requirements of RCW 36.70A.290.

8 DEFINITIONS

The terms used throughout this Shoreline Master Program shall be defined and interpreted as indicated below. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular. Definitions established by WAC 173 have been incorporated herein and should these definitions in the WAC be amended, the most current WAC definition shall apply. Except where specifically defined in this chapter, the RCW or the WAC, all words used in this Shoreline Master Program shall carry their customary meanings.

A

ACCESSORY. Any use or development incidental to and subordinate to a primary use of a shoreline use or development. See also APPURTENANCE, RESIDENTIAL. ~~(example SMPs)~~

ACT. The Washington State Shoreline Management Act, chapter 90.58 RCW. ~~(WAC 173-26-020(1))~~

ADEQUATE. Sufficient to satisfy an adopted requirement. If City of Leavenworth does not have an adopted requirement, adequate means to meet a need or demand generated by the proposed shoreline development or use as determined by the authority responsible to determine compliance with the Shoreline Master Program per Chapter 7.

ADMINISTRATOR OR SHORELINE ADMINISTRATOR. Administrator or Shoreline Administrator means the City Administrator or his/her designated representative, who is vested with the duty of administering Shoreline Master Program regulations within the City of Leavenworth’s area of authority.

ADVERSE IMPACT. An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or processes or other elements of the shoreline environment. See also SIGNIFICANT ECOLOGICAL IMPACT

AGRICULTURAL ACTIVITIES. Agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities; and maintaining agricultural lands under production or cultivation. ~~(WAC 173-26-020(3)(a))~~—See also EXISTING AND ONGOING AGRICULTURAL ACTIVITIES.

AGRICULTURAL-COMMERCIAL. The following activities are considered agricultural-commercial activities:

- A. ~~A.~~—“Agricultural tourism” refers to the act of visiting a working farm or any agricultural, horticultural or agribusiness operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation.
- B. ~~B.~~—“Nursery” means land or structures, such as greenhouses, used to raise plants, flowers and shrubs for sale.
- C. ~~C.~~—“Roadside stand” means a temporary use which is primarily engaged in the sale of fresh agricultural products, locally grown on- or off-site, but may include, incidental to fresh produce sale, the sale of limited prepackaged food products and non-food items. This use is to be seasonal in duration, open for the duration of the harvest season. For existing roadside stands see AGRICULTURAL ACTIVITIES and AGRICULTURAL EQUIPMENT and AGRICULTURAL FACILITIES.

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- D. ~~D.~~—“Value added operation” means any activity or process that allows farmers to retain ownership and that alters the original agricultural product or commodity for the purpose of gaining a marketing advantage. Value added operations may include bagging, packaging, bundling, pre-cutting, food and beverage service, etc.
- E. ~~E.~~—“Winery” means a facility where fruit or other products are processed (i.e., crushed, blended, aged, and/or bottled) and may include as incidental and/or accessory to the principal use a tasting room, food and beverage service, places of public/private assembly, and/or retail sales area.

AGRICULTURAL EQUIPMENT AND AGRICULTURAL FACILITIES. Include, but are not limited to:

- A. ~~A.~~—The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;
- B. ~~B.~~—Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
- C. ~~C.~~—Farm residences and associated equipment, lands, and facilities; and
- D. ~~D.~~—Roadside stands and on-farm markets for marketing fruit or vegetables. ~~(WAC 173-26-020(3)(e))~~

AGRICULTURAL LAND. Areas on which agricultural activities are conducted as of the date of adoption of this SMP pursuant to the State Shoreline Guidelines as evidenced by aerial photography or other documentation. After the effective date of this SMP, land converted to agricultural use is subject to compliance with the requirements herein. ~~(WAC 173-26-020(3)(d))~~

AGRICULTURAL PRODUCTS. Includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty (20) years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, poultry and poultry products, and dairy products. ~~(WAC 173-26-020(3)(b))~~

ALTERATION. Any human induced change in an existing condition of a shoreline, critical area and/or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the area.

AMENDMENT. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program or to a permit as appropriate. ~~(WAC 173-26-020(4))~~

ANADROMOUS FISH. Fish species that spend most of their lifecycle in saltwater, but return to freshwater to reproduce.

APPLICABLE. The shoreline goal, objective, policy, or standard is relevant or appropriate, or the shoreline development meets the threshold upon which a requirement is based as determined by the authority responsible to determine compliance with the Shoreline Master Program per Chapter 7.

~~APPROVAL, SHORELINE MASTER PROGRAM. An official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program. (WAC 173-26-020(5))~~

~~APPROVAL, PERMIT. Approval of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, revision, or Shoreline Variance Permit or any combination thereof.~~

APPURTENANCE, RESIDENTIAL. Improvement necessarily connected to the use and enjoyment of a single-family residence when located landward of the OHWM, the perimeter of a wetland and outside their corresponding required buffers. Appurtenances may include, but are not limited to, a garage and/or shop; driveway; utilities; water craft storage (upland); swimming pools; hot tubs; sport courts; shoreline stabilization (consistent with WAC 173-27-030(c)); retaining walls when necessary to protect the residence and associated structures from erosion; fences; yards; saunas; cabanas; antennas; decks; walkways; and installation of a septic tank and ~~drainfield~~ drain field and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM. ~~(based on WAC 173-27-040)~~

AQUATIC. Pertaining to those areas waterward of the OHWM.

AQUACULTURE. Aquaculture is defined as the propagation and rearing of aquatic organisms in controlled or selected aquatic environments for any commercial, recreational, or public purpose. The broad term “aquaculture” refers to the breeding, rearing, and harvesting of plants and animals in all types of water environments, including ponds, rivers, and lakes. Aquaculture can take place in the natural environment or in a manmade environment. Using aquacultural techniques and technologies, researchers and the aquaculture industry are “growing,” “producing,” “culturing,” “ranching”, and “farming” all types of freshwater species. Aquaculture can be classified as either commercial aquaculture or non-commercial aquaculture.

- A. ~~A.~~ Commercial Aquaculture: Commercial aquaculture is defined as the rearing of aquatic organisms, including the incidental preparation of these products for human use, with the goal of maximizing profit.
- B. ~~B.~~ Non-Commercial Aquaculture: Non-commercial aquaculture is defined as fish and wildlife activities that are not primarily for profit and are supported by a recognized federal, tribal, or state resource manager.
 - ~~1. Low Intensity Non-Commercial Aquaculture: Activities which support non-commercial aquaculture, including well and water supply development, surveys, ground disturbance of less than 10 cubic yards, no permanent structures, and minimal land clearing.~~
 - ~~2. Medium Intensity Non-Commercial Aquaculture: Activities which support non-commercial aquaculture, including well and water supply development, surveys, development of acclimation ponds or other acclimation vessels, and removable/portable structures.~~
 - ~~3. High Intensity Non-Commercial Aquaculture: Activities which support non-commercial aquaculture including well and water supply development, surveys, development of acclimation ponds, and permanent structures.~~

AQUACULTURE, MAJOR. Aquaculture activities greater than one acre in size or more than two years in duration.

AQUACULTURE, MINOR. Aquaculture activities less than one acre in size or less than two years in duration

ARCHAEOLOGICAL OBJECT. An object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains and technological by-products. ~~(State DAHP recommendations)~~

ARCHAEOLOGICAL RESOURCES/SITE. A geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state’s authority, that contains archaeological objects. ~~(State DAHP recommendations)~~

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ARCHAEOLOGICAL. Having to do with the scientific study of material remains of past human life and activities. ~~(State DAHP recommendations)~~

ARCHAEOLOGIST, PROFESSIONAL. A person who meets qualification standards promulgated by DAHP and the National Park Service and published in 36 CFR Part 61 and which define minimum education and experience required to perform identification, evaluation, registration and treatment activities for archaeological sites. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved. ~~(Based on <http://www.dahp.wa.gov/pages/EnvironmentalReview/Consultants.htm>)~~

ASSOCIATED WETLANDS. Wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Act and either influence or are influenced by such waters. ~~(WAC 173-22-030(1))~~ Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

AUTHORIZED USE. Any use allowed in shoreline jurisdiction either by appropriate shoreline permit or exemption.

AVERAGE GRADE LEVEL. The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary ~~high water~~high-water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure." ~~(WAC 173-27-030(3))~~

B

BARB. Used primarily in streams, barbs are low relief projections from a bank, angled upstream, to redirect flow away from the bank towards the center of the channel. As opposed to groins or jetties, barbs are not barrier types of structures; they function by re-directing flows that pass over the top of the structure.

BEACH. The zone of unconsolidated material that is moved by waves and wind currents, including areas both above and below the OHWM.

BEACH ENHANCEMENT/RESTORATION. Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable. See also ENHANCEMENT.

BERM. A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the OHWM. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

BEST MANAGEMENT PRACTICES. Conservation practices or systems of practices and management measures, often promulgated by state and federal agencies or City of Leavenworth, that:

- A. ~~A.~~—Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
- B. ~~B.~~—Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats;
- C. ~~C.~~—Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.

BIOENGINEERING. The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

BIOFILTRATION SYSTEM. A stormwater 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 grassy swales, retention ponds and other vegetative features.

~~**BOATHOUSE.** Any roofed and enclosed structure built over water for storage of watercraft or float planes. See also COVERED MOORAGE.~~

BOATING FACILITIES. Developments and uses that support access to shoreline waters for purposes of boating, ~~including serving more than four single family residences or multi family units~~, public piers, and community or public boat launch facilities.

BOAT LAUNCH FACILITY. Any structure or apparatus used for transferring watercraft between uplands and the water. Boat launches are typically launch ramps, but may also include other mechanisms such as a hoist or crane often used at dry storage locations. See also LAUNCH RAMP.

~~**BOAT LAUNCH FACILITY, COMMERCIAL.** Boat launch facility for profit.~~

BOAT LAUNCH FACILITY, PUBLIC. Boat launch facility operated and/or owned by the public.

~~**BOAT LAUNCH FACILITY, COMMUNITY.** Boat launch facility privately operated and/or owned which may or may not be open to the public.~~

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 aquatic structure that is generally built parallel to shore, but may be built perpendicular to the shoreline, that may or may not be connected to land, and may be floating or stationary. The primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating still water areas along shore. A secondary purpose is to protect shorelines from wave caused erosion. See also JETTIES.

BUFFER or SHORELINE BUFFER. The area adjacent to a shoreline that separates and protects the waterbody from adverse impacts associated with adjacent land uses. It is designed and designated to remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife, to afford limited public or private access, and to accommodate certain other specified uses that benefit from a shoreline location. Buffers are distinct from setbacks. The dimensions of the shoreline buffer are established in the specific local government Vegetation Conservation and Shoreline Buffers sections of this SMP.

BUILDING. Any combination of materials constructed, placed or erected permanently on the ground or attached to something having a permanent location on the ground, for the purpose of shelter, support or enclosure of persons, animals or property, or when supporting any use, occupancy or function. Excluded from this definition are structures waterward of the OHWM, all forms of vehicles even though immobilized, residential fences, retaining walls less than three feet in height, rockeries and similar improvements of a minor nature. ~~Docks and b~~Bulkheads are not buildings under this definition. For structures waterward of the OHWM, see OVER-WATER STRUCTURES.

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BULKHEAD. A solid wall erected generally parallel to and at or near the OHWM for the purpose of protecting adjacent uplands from waves or current action. A bulkhead is an example of hard structural shoreline stabilization.

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.

C

CHANNEL MIGRATION ZONE (CMZ). The area along a river or stream within which the channel(s) can reasonably be expected to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river or stream and its surroundings. ~~(WAC 173-26-020(6))~~ It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.

CHANNELIZATION. The straightening, relocation, deepening or lining of stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.

~~**CITY/CITIES.** Local governments with shorelines in Chelan County. Cities include, but are not limited to, the Cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee and those that may incorporate in accordance with applicable State and County laws.~~

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

COMMERCIAL DEVELOPMENT. Those developments whose primary use is for retail, service or other commercial business activities. Included in this definition are developments— including but not limited to hotels, motels, bed and breakfast establishments, or other commercial accommodations, shops, restaurants, banks, professional offices, grocery stores, laundromats, recreational vehicle parks, and indoor or outdoor commercial recreation facilities.

COMMERCIAL USES. Commercial uses are those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities. Examples include, but are not limited to, hotels, motels, or other commercial accommodations, grocery stores, restaurants, shops, commercial recreation facilities, and offices.

COMMUNITY ACCESS. The ability of all property owners or members of a residential development to reach and use the waters of the State, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or community corridor to the shore), and/or visual access facilitated by scenic roads and overlooks, viewing platforms, and other community sites or facilities. Community access is not intended for the general public. ~~(example SMPs)~~

~~**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. Community docks are different from marinas.~~

CONDITIONAL USE, SHORELINE. A use, development, or substantial development which is classified as a Conditional Use or is not classified within this SMP. Those activities identified as conditional uses or not classified in this SMP must be treated according to the review criteria established in WAC 173-27-160. ~~(WAC 173-27-030)~~

CONSERVATION. The prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

CONSERVATION EASEMENT. A legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

CONTAMINANT. Any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels. ~~(WAC 173-200)~~

COUNTY. Chelan County, Washington.

~~COVERED MOORAGE. Boat moorage, with or without walls, that has a roof to protect the vessel. See also BOATHOUSE.~~

CRITICAL AQUIFER RECHARGE AREA. Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(2).

CRITICAL AREAS. The following areas as designated in critical area standards as established in Appendix B:

- A. Critical aquifer recharge areas
- B. Wetlands
- C. Geologically hazardous areas
- D. Frequently flooded areas
- E. Fish and wildlife habitat conservation areas

CRITICAL HABITAT. Habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified in reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with authority for such designations.

D

DAHP. The State of Washington Department of Archaeology and Historic Preservation.

DEPARTMENT OF ECOLOGY or ECOLOGY. The Washington State Department of Ecology. ~~(WAC 173-27-030)~~

DEVELOPMENT. A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, minerals or vegetation; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. ~~(RCW 90.58.030(3)(a).)~~ Development does not include the following activities:

A. ~~A. Dismantling or removing structures if there is no other associated development or re-development.~~

B. Interior building improvements that do not change the use or occupancy;

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

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

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

DEVELOPMENT REGULATIONS. The controls placed on development or land uses by local government, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. ~~(WAC 173-26-020(8))~~

DIKE. An artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

DOCK. All platform structures or anchored devices in, suspended over, or floating on waterbodies to provide ~~water access. moorage for pleasure craft (including watercraft and float planes) or landing for water dependent recreation including, but not limited to, piers, floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps. Docks often consist of a nearshore pier with a ramp to an offshore float.~~ See also PIER.

DOCUMENT OF RECORD. The most current shoreline master program officially approved or adopted by rule by the Department of Ecology for a given local government, including any changes resulting from appeals filed pursuant to RCW 90.58.190. ~~(WAC 173-26-020(9))~~

DREDGING. Excavation or displacement of the bottom or shoreline of a waterbody (waterward of the OHWM) for purposes of flood control, navigation, utility installation (excluding on-site utility features serving a primary use, which are “accessory utilities” and shall be considered a part of the primary use), the construction or modification of essential public facilities and regional transportation facilities, and/or restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose). Dredging, as regulated in this SMP under Section 5.8, is not intended to cover other excavations waterward of the ordinary ~~high water~~~~high-water~~ mark that are incidental to construction of an otherwise authorized use or modification (e.g.),~~—~~, bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

E

ECOLOGICAL FUNCTIONS (or SHORELINE FUNCTIONS). The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem. ~~(WAC 173-26-020(11))~~

ECOLOGY. See DEPARTMENT OF ECOLOGY.

ECOSYSTEM-WIDE PROCESSES. The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions. ~~(WAC 173-26-020(12))~~

EMBANKMENT. A wall or bank of earth or stone built to prevent a river flooding an area.

EMERGENCY/EMERGENCY CONSTRUCTION. 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 and facilities from the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where

new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or this SMP, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this SMP. As a general matter, flooding or seasonal events that can be anticipated and may occur but that are not imminent are not an emergency. ~~(RCW 90.58.030(3eiii))~~

~~ENHANCEMENT. Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions. Enhancements are to be distinguished from resource creation or restoration projects.~~ Means the manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific functions(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in wetland functions(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. See also BEACH ENHANCEMENT/RESTORATION.

ENVIRONMENTAL IMPACT STATEMENT (EIS). An environmental impact statement is a document that must be prepared in accordance with the State Environmental Policy Act or National Environmental Policy Act when the lead agency determines a proposal is likely to have significant adverse environmental impacts. The EIS provides an impartial discussion of significant environmental impacts, reasonable alternatives, and mitigation measures that would avoid or minimize adverse impacts. A draft EIS is issued with a comment period to allow other agencies, tribes, and the public to comment on the environmental analysis and conclusions. The lead agency uses these comments to finalize the environmental analysis and issue a final EIS.

EROSION. The wearing away of land by the action of natural forces.

ESSENTIAL PUBLIC FACILITIES: Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities, as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 30 71.09.020.

EXCAVATION. The disturbance or displacement of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material. In addition to upland excavation, this definition covers excavations waterward of the ordinary ~~high water~~high-water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement). See also DREDGING.

EXEMPTION. Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the Shoreline Substantial Development Permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and this SMP. Conditional use and/or variance permits may also still be required even though the activity does not need a Shoreline Substantial Development Permit. ~~(RCW 90.58.030(3e); WAC 173-27-040.)~~

EXISTING AND ONGOING AGRICULTURAL ACTIVITIES. Those activities conducted on lands defined in RCW 36.70A.030 and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of existing farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and maintenance or repair of

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existing serviceable structures and facilities. Activities that result in the filling of an area or bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a non-agricultural use, or has lain idle for more than five (5) years unless that idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition. ~~(term used in WAC 173-26-221(3); defined based on example SMPs and Growth Management Act)~~ See also ACRICULTURAL ACTIVITIES.

F

FAIR MARKET VALUE. The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services, and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation, and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials. ~~(WAC 173-27-030)~~

FEASIBLE. For the purpose of this master program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- A. The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated 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. Reasonable means acceptable and according to common sense or normal practice.
- C. The action does not physically preclude achieving the project's primary intended use. ~~(WAC 173-26-020(13))~~

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, City of Leavenworth may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. ~~(WAC 173-26-020(13))~~
See INFEASIBLE

FEED LOT. A confined area or structure for feeding, breeding or holding livestock for eventual sale or slaughter and in which animal waste accumulates faster than it can naturally dissipate without creating a potential for a health hazard, particularly with regard to surface and groundwater; but not including barns, pens or other structures used in a dairy operation or structures on farms holding livestock primarily during winter periods.

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 a manner that raises the elevation or creates dry land. ~~(WAC 173-26-020(14))~~

~~**FINGERS or DOCK FINGERS.** Narrow extensions of piers perpendicular to the pier or float that provide additional watercraft moorage.~~

FISH AND WILDLIFE HABITAT CONSERVATION AREAS. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

2. Habitats of local importance, including, but not limited to, areas designated as priority habitat by the State Department of Fish and Wildlife;
3. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish and wildlife habitat;
4. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface water and watercourses within the authority of the state of Washington;
5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; state natural area preserves and natural resources conservation areas; and
6. Land essential for preserving connections between habitat blocks and open spaces.

FLOATING HOMES. Any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. "Floating homes" include house boats, house barges, or any floating structures that serve primarily as a residence and do not qualify as a vessel. A floating structure that is used as a residence and is capable of navigation, but is not designed primarily for navigation, nor normally is capable of ~~self-self~~ propulsion and use as a means of transportation is a floating home, not a vessel. ~~(WAC 332-30-106)~~

FLOATS. A detached, anchored platform that is free to rise and fall with water levels, used for boat mooring, swimming (including a SWIM FLOAT) or similar recreational activities that is not anchored to the shoreline or accessed directly from the shoreline.

FLOAT, SWIM. A floating platform designed and intended expressly for facilitating safe swimming. Swim floats are anchored in deeper waters, are not connected to uplands, and are not motorized. Water ski/wake board jumps are also considered swim floats.

FLOOD CONTROL WORKS. Methods or facilities designed to reduce flooding of adjacent lands, to control or divert stream flow, to retard bank erosion, or to create a reservoir.

- A. Nonstructural measures include, but are not limited to, shoreline buffers, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, storm water management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs.
- B. Structural measures include, but are not limited to, dikes, levees, revetments, floodwalls, channel realignment, or embankments.

FLOODPLAIN. Synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act. ~~(WAC 173-26-020(15))~~

FLOODWAY. The area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state,~~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 groundcover condition. 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. (RCW 90.58.030(2)(b))~~

FOREST PRACTICES. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, final and intermediate; precommercial thinning and fire protection; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practices do not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

FREQUENTLY FLOODED AREA. Means an area subject to flooding, as defined by the Flood Insurance Rate Maps (FIRM), once every one hundred years, also known as the floodplain.

G

GEOLOGICALLY HAZARDOUS AREA. Areas that may not be suited to development consistent with public health, safety or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include erosion, landslide, seismic, volcanic hazards, and mine.

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 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 engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes. ~~(WAC 173-26-020(19))~~

GEOTECHNICAL REPORT. See GEOTECHNICAL ANALYSIS.

GRADE. See average grade level.

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. ~~(WAC 173-26-020(17))~~

GRASSY SWALE. A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

GRAY WATER. Sewage from bathtubs, showers, bathroom sinks, washing machines, dishwashers, and kitchen sinks. It includes sewage from any source in a residence or structure that has not come into contact with toilet wastes.

GROINS. A barrier type of structure extending from the backshore or stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. In lake environments, groins are typically used to trap sediment for the purpose of preserving a depositional feature, such as a beach. In a stream environment, groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also BARB and WEIR.

GROUNDWATER. All water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the

geological formation or structure in which such water stands or flows, percolates or otherwise moves (Chapter 90.44 RCW).

GROWTH MANAGEMENT ACT. RCW 36.70A and 36.70B, as amended.

GUIDELINES. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs. ~~(WAC 173-26-020(18))~~

H

HABITAT. The place, including physical and biotic conditions, where a plant or animal usually occurs or could occur and is fundamentally linked to the actual or potential distribution and abundance of species. A species may use a habitat or a structural component of the habitat for all or part of its lifecycle, and may adapt to use various habitats. Habitat is scale-dependent and refers to a large geographic area, a species' home range, a local setting, or a site-specific feature. Habitat may perform a specific function for a species or multiple species, and may include those elements necessary for one or more species to feed, migrate, breed, or travel.

HARD STRUCTURAL SHORELINE STABILIZATION. Shoreline 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. These include bulkheads, rip-rap, groins, and similar structures.

HEIGHT. The vertical dimension measured from average grade to the highest point of a structure; provided that, antennas, chimneys, and similar appurtenances shall not be used in calculating height, unless such appurtenance obstructs the view of a substantial number of adjacent residences. Temporary construction equipment is excluded in this calculation. – Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure; ~~(WAC 173-27-030)~~

HISTORIC PRESERVATION PROFESSIONAL. Individuals who meet standards promulgated by the DAHP as well as the National Park Service and published in 36 CFR Part 61. These standards address minimum education and experience required to perform identification, evaluation, registration and treatment activities for historic properties. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved. ~~(Based on <http://www.dahp.wa.gov/pages/EnvironmentalReview/Consultants.htm>)~~

HISTORIC SITE. Sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places or any locally developed historic registry formally adopted by City of Leavenworth. ~~(State DAHP recommendations)~~

HYDROLOGICAL. Referring to the science related to the waters of the earth including surface and ground water movement, evaporation and precipitation. Hydrological functions in shoreline include, water movement, storage, flow variability, channel movement and reconfiguration, recruitment and transport of sediment and large wood, and nutrient and pollutant transport, removal and deposition.

I

IMPACT. See SIGNIFICANT ECOLOGICAL IMPACT.

IMPERVIOUS SURFACE. A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. For purposes of determining whether thresholds for application of core elements are exceeded, open, uncovered retention or detention facilities shall not be considered as impervious surfaces. Open, uncovered retention or detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

IN-WATER STRUCTURES, MAJOR. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner installed within the water. In-water structures include those placed by humans within streams, rivers and lakes for hydroelectric generation, irrigation, water supply, flood control, transportation, utilities, fish habitat enhancement, recreation, or other purpose ~~of a value greater than 5,000.~~

~~**IN-WATER STRUCTURES, MINOR.** A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner installed within the water of a value less than 5,000~~

INDUSTRIAL DEVELOPMENT. Facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing construction contractors' offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining including onsite processing of raw materials, and ~~off-site~~off-site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use.

INDUSTRIAL PARK. A tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses with special attention to circulation, parking, utility needs and compatibility.

INDUSTRIAL USES. The production, processing, manufacturing, or fabrication of goods or materials, including warehousing and storage of materials or production.

INFEASIBLE. To determine that an action, such as a development project, mitigation, or preservation requirement, is infeasible, the following conditions are found:

- A. The action cannot be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently not available or unlikely to achieve the intended results.
- B. The action does not have a reasonable likelihood of achieving its intended purpose. Reasonable means acceptable and according to common sense or normal practice.
- C. The action precludes achieving the project's primary intended use.
- D. The action's relative public costs and public benefits, considered in the short- and long-term time frames, show the costs far outweigh the benefits.

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, City of Leavenworth may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. ~~(WAC 173-26-020(13))~~ See FEASIBLE.

INFILTRATION. The passage or movement of water into the soil surface.

INSTITUTIONAL. Those public and/or private facilities including, but not limited to, police and fire stations, libraries, activity centers, schools, educational centers, water-oriented research facilities, and similar uses.

IN-WATER STRUCTURE. Structure placed by humans within a stream, river or lake waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-water structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation (e.g., docks, boatlifts), or other purpose. ~~Note that the listed recreation-related in-water structures have a very limited capacity to affect water flows and are exclusively regulated under SMP Sections 5.5 (Boating Facilities).~~

INVASIVE SPECIES. A species that is 1) non-native (or alien) to Chelan County and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes).

J

JETTIES. A barrier type of structure generally built singly or in pairs perpendicular to the shoreline at harbor entrances or river mouths to prevent sediment from depositing in the harbor or channel. They also protect channels and inlets from crosscurrents and storm waves. See also BREAKWATERS.

~~JOINT USE DOCKS. Those constructed and utilized by two, three or four property owners, whether on adjacent lots as single family residences or as multi family units, or by a homeowner's association..~~

L

LAKE. A body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty acres or greater in total area. A lake is bounded by the OHWM or, where a stream enters a lake, the extension of the elevation of the lake's OHWM within the stream. Where the OHWM cannot be found, it shall be the line of mean high water.

LANDSLIDE. A general term covering a wide variety of mass movement landforms and processes involving the down slope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

LARGE WOODY DEBRIS. Logs, limbs, or root wads 4 inches or larger in diameter, delivered to waterbodies from adjacent riparian or upslope areas or from upstream areas. Large woody debris also includes logs, limbs, or root wads 4 inches or larger that are placed in a waterbody for the purpose of providing habitat and/or mitigation. (based partially on a definition in a WDFW document)

LAUNCH RAMP. An inclined slab, set of pads, rails, planks, or graded slope which extends waterward of the OHWM, and is used for transferring watercraft between uplands and the water with trailers or occasionally by hand. See also BOAT LAUNCH FACILITY.

LEGALLY ESTABLISHED. A use or structure in compliance with the laws and rules in effect at the time of creation of the use or structure.

LETTERS OF EXEMPTION. A letter prepared by the City of Leavenworth addressed to the applicant whenever a development is determined by the City of Leavenworth to be exempt from the substantial development permit process according to the exemption provisions of this program. Also see EXEMPTION.

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LEVEE. A natural or artificial embankment on the bank of a stream or river for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

LIMITED UTILITY EXTENSION. For the purposes of Section 7.3.D, the extension of a utility service that:

- A. Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;
- B. Will serve an existing use in compliance with WAC 173-27; and
- C. Will not extend more than two thousand five hundred linear feet within the shorelines of the state.

LIVEABOARD. A floating vessel that serves as a residence, and is self-powered by sail or motor.

LOCAL GOVERNMENT. Any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW. ~~(WAC 173-26-020(19))~~ For the purposes of this SMP, this means Chelan County or the Cities of Cashmere, Chelan, Entiat, Leavenworth, or Wenatchee and those that may incorporate in accordance with applicable State and County laws. Chelan County is the responsible local government within unincorporated territory, including urban growth areas, and the Cities are the responsible local government within their City limits.

M

MAINTENANCE, NORMAL. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition. See REPAIR, NORMAL.

~~**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. Dry storage and launching facilities, either launch ramp, crane or hoist, may also be provided. Marinas may be open to the general public or restricted on the basis of property ownership or membership. 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.~~

MARSH. A low flat wetland area on which the vegetation consists mainly of herbaceous plants such as cattails, bulrushes, tules, sedges, skunk cabbage or other hydrophytic plants. Shallow water usually stands on a marsh at least during part of the year.

MAY. Refers to actions that are acceptable, provided they conform to the provisions of this master program and the Act. ~~(WAC 173-26-020(21))~~

MINERAL EXTRACTION. The removal of topsoil, gravel, rock, clay, sand or other earth material, including accessory activities such as washing, sorting, screening, crushing and stockpiling. Not included is the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development, etc.) subject to the provisions of this SMP.

MITIGATION (or MITIGATION SEQUENCING). The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. The following sequence of steps is listed in prioritized order:

- A. Avoiding the impact altogether by not taking a certain action or parts of an action;
- B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- E. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
- F. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

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

MIXED USE. A combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design.

MIXED USE COMMERCIAL. Developments that include water-dependent commercial uses combined with water-related, water-enjoyment uses and/or nonwater-oriented commercial uses. Mixed-use developments can be a tool for water-dependent activities, civic revitalization, and public access to the shoreline. ~~(Example SMPs, Port Townsend)~~

MIXED USE RESIDENTIAL. Mixed use developments that include water-dependent and water-oriented commercial uses together with single-family or multi-family uses while promoting public access for significant numbers of the public and/or providing an ecological restoration resulting in a public benefit. This mix of uses is intended to reduce transportation trips, use land efficiently, and provide for waterfront commerce and housing options.

MODIFICATION. A change or alteration in existing materials, including structures, plans and uses.

MODIFICATION, SHORELINE. 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, ~~dock~~, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals. ~~(WAC 173-26-020(31))~~

~~**MOORAGE FACILITY.** Any device or structure used to secure a boat or a vessel, including docks, piers, floats, piles, watercraft lifts or buoys.~~

~~**MOORAGE PILE.** A permanent vertical column generally located in open waters, often in close proximity to a dock or pier, to which the vessel is tied to prevent it from excessive movement generated by wind, or wind or boat driven waves.~~

MULTI-FAMILY DWELLING (OR RESIDENCE). A building containing two or more dwelling units, including, but not limited to, duplexes, apartments and condominiums.

MUST. A mandate; the action is required. ~~(WAC 173-26-020(22))~~ See SHALL.

N

NAVIGABLE WATERS. Navigable waters of the United States are those waters that are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity.

NECESSARY: A word describing an element that is essential, indispensable or needed to achieve a certain result or effect. ~~(www.Dictionary.com)~~

NO NET LOSS. A public policy goal and requirement to maintain the aggregate total of the County's shoreline ecological functions at its current level of environmental resource productivity. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Inventory and Analysis Report. As a development and/or mitigation standard, no net loss requires that

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the impacts of a particular shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated, such that it has no resulting 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 development which was lawfully constructed or established prior to the effective date of the Act (June 1, 1971; RCW 90.58.920) or this SMP-, or amendments thereto, but which does not conform to present regulations or standards of the SMP.

NONPOINT POLLUTION. Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

NONWATER-ORIENTED USES. Those uses that are not water-dependent, water-related, or water-enjoyment. ~~(WAC 173-26-020(23))~~

NORMAL MAINTENANCE. See MAINTENANCE, NORMAL and REPAIR, NORMAL”

NORMAL PROTECTIVE BULKHEAD. Those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. ~~(WAC 173-27-040(2)(e))~~

NORMAL REPAIR. See REPAIR, NORMAL and MAINTENANCE, NORMAL

NOXIOUS WEEDS. A special sub-class of invasive plant species listed as Class A or B by the Chelan County Noxious Weed Control Board.

O

OFF-SITE REPLACEMENT/MITIGATION. To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

ORDINARY HIGH WATER MARK (OHWM). 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 of Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(c).

OVERWATER STRUCTURES. Any structure located above the water surface waterward of the OHWM. ~~Common examples include, but are not limited to, residential docks, marinas, and pedestrian or vehicular bridges over waterways.~~

P

PARKING. A place where vehicles are temporarily stored while an activity is being conducted. Local parking is located onsite intended to serve and support a primary use(s) of a property. Regional parking is a parking area intended to support a district with multiple uses.

PARTY OF RECORD. All persons, agencies, or organizations who have submitted written or verbal 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 or email.

PERIODIC. Occurring at regular intervals.

PERSON. An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated. ~~(RCW 90.58.030(1d))~~

PIER. Fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also DOCK.

PRIMARY USE. Uses or activities on a shoreline site that is identified as serving the main purpose of the site in terms of its land occupancy or use intensity, and any other uses within the site are supportive or accessory to it.

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: 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; refuge; 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. A priority habitat may also be described by a successional stage. Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife. ~~(WAC 173-26-020(24))~~.

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: ~~(WAC 173-26-020(25))~~

- A. 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. 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. 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. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered. ~~(WAC)~~.

PROVISIONS. Policies, regulations, standards, guideline criteria or designations. ~~(WAC 173-26-020(26))~~

PUBLIC ACCESS. The public's ability to reach and use the State's public waters, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and visual access facilitated by means such as scenic roads and overlooks, viewing platform, and other public sites or facilities. ~~(WAC 173-26-221(4) and example SMPs, Whatcom County)~~—See also COMMUNITY ACCESS.

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PUBLIC FACILITIES. Facilities that include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools ~~(RCW 36.70A.030).~~

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)~~

Q

QUALIFIED PROFESSIONAL. A person with expertise and training appropriate for the relevant subject. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, hydrology, geomorphology or related field, ~~and or~~ at least ~~five-ten~~ years of related work experience. Specific qualified professionals must also meet the following criteria, or any other criteria included in Appendix B, Critical Areas Regulations:

- A. A qualified professional providing a geotechnical analysis as required under Section 5.18 of this Master Program must be a licensed engineer in the State of Washington, with specific training in geology, hydrology and/or geomorphology.
- B. A qualified professional providing a demonstration of need as required under Section 5.18 of this Master Program must have a M.S. or equivalent degree in geology, hydrology, structural engineering, or geomorphology.
- C. A qualified professional for wetlands means a biologist who has a degree in biology, ecology, botany, or a closely related field, or has been certified as a Professional Wetland Scientist, and a minimum of five (5) years of professional experience in wetland identification and assessment in Eastern Washington.
- D. A qualified professional for habitat conservation areas means a biologist who has a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five (5) years professional experience related to the subject species/habitat type.
- E. A qualified professional for geologically hazardous areas must be a geologist licensed in the state of Washington pursuant to RCW 18.220. If an engineering geologist is required, by the Administrator, they must be licensed as a civil engineer pursuant to Chapter 18.43 RCW.
- F. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydro-geologist, geologist, or engineer.
- G. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.
- H. A qualified professional for channel migration zone assessment and mapping means a Washington State licensed geologist, or engineer.~~A qualified professional providing a geotechnical analysis as required under Section 5.18 of this Master Program must be a licensed engineer in the State of Washington, with specific training in geology, hydrology and/or geomorphology.~~
- ~~B. A qualified professional providing a demonstration of need as required under Section 5.18 of this Master Program must have a M.S. or equivalent degree in geology, hydrology, or geomorphology.~~
- ~~C. A qualified professional for wetlands means a biologist who has a degree in biology, ecology, botany, or a closely related field, or has been certified as a Professional Wetland Scientist, and a minimum of five (5) years of professional experience in wetland identification and assessment in Eastern Washington.~~

- ~~D. A qualified professional for habitat conservation areas means a biologist who has a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five (5) years professional experience related to the subject species/habitat type.~~
- ~~E. A qualified professional for geologically hazardous areas must be an engineer or engineering geologist licensed in the state of Washington. An engineer must be licensed as a civil engineer pursuant to Chapter 18.43 RCW, to qualify. An engineering geologist must be a practicing geologist licensed as a professional geologist pursuant to Chapter 18.22, RCW.~~
- ~~F. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydro geologist, geologist, or engineer.~~
- ~~G. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.~~

R

RAMP. Walkway that connects a pier or land to a float, often used in areas where water levels change due to seasonal variations. LAUNCH RAMP is defined above.

RCW. Revised Code of Washington.

REASONABLE. Reasonable means acceptable and according to common sense or normal practice.

RECREATION. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Most shore-based outdoor recreation such as: fishing, hunting, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

RECREATIONAL USES. Uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body. Examples include, but are not limited to, parks, camps, camping clubs, launch ramps, golf courses, viewpoints, viewpoint platforms, trails, public access facilities, public parks and athletic fields, hunting blinds, and other low-intensity use outdoor recreation areas. Recreational Uses that do not require a shoreline location, nor are related to the water, nor provide significant public access, are considered non-water-oriented. For example, a recreation use solely offering indoor activities would be considered non-water-oriented. (based on example SMPs, Whatcom County, Douglas County)

REPAIR, NORMAL. To restore a development or structure to a state comparable to its original, legally established 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 adverse effects to shoreline resources or environment. See also MAINTENANCE, NORMAL.

RESIDENTIAL USES. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, apartment/condominium buildings, manufactured homes, modular homes, and other structures that serve to house people. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, home occupations, family day care homes, and adult care homes.

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RESTORE (RESTORATION or ECOLOGICAL RESTORATION). 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))~~

REVTMENT. Facing of rock, concrete, etc., built to protect a steep slope, cliff, embankment, or shore structure against erosion by waves or currents.

RIPARIAN VEGETATION. Vegetation that tolerates and/or requires moist conditions and periodic free flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilizes stream banks, attenuates high water flows, provides wildlife habitat and travel corridors, and provides a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

RIPRAP. A layer, facing, or protective mound of dense, hard, angular rock used to prevent erosion, scour, or sloughing of a structure or embankment for revetments, armoring or hardening of shorelines, or other flood/erosion control works.

ROAD. Road shall mean and include contiguous streets, alleys, sidewalks, curbs and gutters, planting strips, roads, highways, thoroughfares, parkways, bridges, viaducts, public grounds and public improvements within City of Leavenworth's territory. Lands for public right of ways are reserved for use and maintenance of the road system. Bridges are roads which cross over water. Sidewalks or paths independent of the rest of typical roadway cross-sections shall be considered trails.

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

S

SANITARY SEWER. A system designed to accept sewage to be deposited into and carried off by a system of lateral sewers, drains, and pipes to a common point, or points, for transfer to treatment or disposal. (based on WAC 458-20-251)

SEDIMENT. The ~~fine grained~~fine-grained material deposited by water or wind.

SEPA (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, environmental impact statements (EISs) may be required to be prepared and public comments solicited. ~~(RCW 43.21e and WAC 197-11 guide this process)~~

SETBACK. The distance between property line and the foundation wall or load-bearing member of the primary structure. Meaning is distinct from BUFFER.

SETBACK, SIDE. The distance between side lot line and the foundation wall of the primary structure.

SEWAGE: Any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places. ~~(WAC 246-272A-0010)~~

SHALL. A mandate; the action must be done. ~~(WAC 173-26-020(28))~~ See also MUST.

SHORELANDS or SHORELAND AREAS. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this

chapter; the same to be designated as to location by the Department of Ecology. ~~(RCW 90.58.030(2)(f))~~

SHORELINE AREAS. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030. ~~(WAC 173-26-020(29))~~

SHORELINE BUFFER. See BUFFER OR ~~SHORELINE BUFFER~~ [SETBACK](#).

SHORELINE ENVIRONMENT DESIGNATIONS. The classifications 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.

SHORELINE FUNCTIONS. See ecological functions.

SHORELINE JURISDICTION. The term describing all of the geographic areas covered by the SMA, related rules and this SMP. Also, such areas within a specified local government's authority under the SMA. See SHORELINES, SHORELINES OF THE STATE, SHORELINES OF STATE-WIDE SIGNIFICANCE and WETLANDS. See also Section 3.1 of this SMP.

SHORELINE MANAGEMENT ACT. Washington's Shoreline Management Act was passed by the State Legislature in 1971 and adopted by voters in 1972. The overarching goal of the Act is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." There are three basic policy areas to the Act: shoreline use, environmental protection and public access. The Act emphasizes accommodation of appropriate uses that require a shoreline location, protection of shoreline environmental resources and protection of the public's right to access and use the shorelines (RCW 90.58.020). Under the Shoreline Management Act (SMA), each city and county with "shorelines of the state" must prepare and adopt a Shoreline Master Program (SMP) that is based on state laws and rules but is tailored to the specific geographic, economic and environmental needs of the community.

SHORELINE MASTER PROGRAM, MASTER PROGRAM, or SMP. A comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies articulated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations. (WAC 173-26-020(30))

SHORELINE PERMIT. A Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, revision, or Shoreline Variance Permit or any combination thereof.

SHORELINE PROPERTY. An individual property wholly or partially within shoreline jurisdiction.

SHORELINE STABILIZATION. Structural or non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches. They are generally located parallel to the shoreline at or near the OHWM.

SHORELINES HEARINGS BOARD (SHB). A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

SHORELINES OF STATEWIDE SIGNIFICANCE. A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply. This includes lakes over 1,000 acres in area and all associated shorelands and rivers that have either a mean annual flow of 200 cubic feet per second or more, or; the portion downstream from the first 300 square miles of drainage areas.

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SHORELINES OF THE STATE. The total of all “shorelines” and “shorelines of state-wide significance” within the state.

SHORELINES. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on areas of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream areas; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

SHOULD. The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this SMP, against taking the action. ~~(WAC 173-26-020(32))~~

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 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 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.

SIGNIFICANT TREE. A significant tree shall be defined as any tree over eight inches in diameter as measured four feet above grade.

SIGNIFICANT VEGETATION REMOVAL. The removal or alteration of trees, shrubs, and/or groundcover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal. ~~(WAC 173-26-020(33))~~

SINGLE-FAMILY RESIDENCE (SFR). A single [detached](#) dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

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

SMP. ~~See~~ SHORELINE MASTER PROGRAM.

SOFT STRUCTURAL SHORELINE STABILIZATION: Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of HARD STRUCTURAL SHORELINE STABILIZATION ~~(see above definition).~~

~~**STATE MASTER PROGRAM.** The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology. (WAC 173-26-020(34))~~

STORM WATER. That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

STORMWATER FACILITY: A constructed component of a stormwater drainage system designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to: pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales. (~~Eastern Washington Stormwater Management Manual~~)

STREAM. Any portion of a channel, bed, bank, or bottom waterward of the ordinary ~~high-water~~high-water line of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans. (~~WAC 220-110-020(105)~~)—A shoreline stream is 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. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stock watering channels (~~WAC 173-22-030(15)~~)

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.

SUBDIVISION. The division or redivision of land, including short subdivision, for the purpose of sale, lease or conveyance. (~~based on definition of subdivision and short subdivision in RCW 58.17.020~~)

SUBSTANTIAL DEVELOPMENT, SHORELINE. Any development which meets the criteria of RCW 90.58.030(3)(e). See also DEVELOPMENT and EXEMPTION.

SUBSTANTIALLY DEGRADE. See SIGNIFICANT ECOLOGICAL IMPACT

SURFACE WATER. All water that exists on the land surface, including streams, lakes or reservoirs, or other bodies of water within the boundaries of the state. (~~based on Chapter 90.44 RCW~~)

SWAMP. A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

T

TERRESTRIAL. Of or relating to land as distinct from air or water.

TRAIL. Trails are clearly identified paved, semi-paved or unpaved but defined (e.g. gravel) pathways for pedestrians in a natural or urban setting used for recreational or circulation purpose. A trail by itself is not considered a road.

TRANSPORTATION FACILITIES. Roads and railways, including their related bridges and culverts, transportation structures, public transit and bus facilities, pedestrian transportation including foot bridges over rivers/streams and trails, fills, embankments, causeways, truck terminals and rail switchyards, sidings, spurs, air fields and other associated minor facilities. Not included are, highway rest areas, ship terminals, nor logging roads.

Local transportation refers to facilities provide direct access to abutting land and to higher order roads.

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Regional transportation refers to facilities serving more than one city or community or major destinations.

U

UNAVOIDABLE. Adverse impacts that remain after all appropriate- mitigation sequencing measures have been implemented.

UPLAND. Generally described as the dry land area above and landward of the OHWM.

UTILITIES. Lines and facilities related to the provision, distribution, collection, transmission or disposal of water, stormwater, sanitary sewage, oil, gas, power, and telephone cable, and includes facilities for the generation of electricity.

- A. "Large facilities" serve more than one community (e.g. more than one neighborhood, town, city or other defined place) or major attractions. Examples include, but are not limited to, 230 kv power transmission lines, natural gas transmission lines, and regional water storage tanks and reservoirs, regional water transmission lines or regional sewer collectors and interceptors. Large facilities may also include facilities serving an entire community, such as sub-regional switching stations (one hundred fifteen (115) kv and smaller), and municipal sewer, water, and storm water facilities.
- B. "Small facilities" serve adjacent properties and include, but are not limited to, power lines not specified under "large facilities," water, sanitary sewer, and storm water facilities, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way. On-site utility features serving primary use such as a water, sewer, or gas line to a residence are accessory utilities and shall be considered part of the primary use.

V

VARIANCE, SHORELINE. A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in this SMP and RCW 90.58.020; variance is not a means to vary a use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by the Administrator and the Department of Ecology.

VESSEL. A floating structure that is designed primarily for navigation, is normally capable of self-self-propulsion and use as a means of transportation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency. (WAC 332-30-106)

VIEW ANALYSIS. An analysis to evaluate the ability of the general public to view the water and the shoreline from adjacent locations such as public places or from substantial numbers of residences. (WAC 173-26-221(4) and RCW 90.58.320)

VISUAL ACCESS. The ability of the general public to view the water and the shoreline from adjacent locations. (WAC 173-26-221(4))

VIEW CORRIDOR. The line of sight (identified as to height, width, and distance) of an observer looking toward shoreline from upland locations, public spaces, such as parks, trails, or streets that have particular significance in preserving the unique character of the shoreline.

W

WAC. Washington Administrative Code.

WASTE STORAGE AND TREATMENT. Facilities for collecting and treating, as an accessory use only, garbage, solid waste or sewage generated by the development and its users. This definition does not include municipal sewage treatment facilities.

WATERBODY. A body of still or flowing water, fresh or marine, bounded by the OHWM.

WATERCRAFT LIFT. An in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water. A watercraft lift is generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a pier or float, and may be floating or ground-based. Watercraft lifts include, but are not limited to, lifts for motorized boats, kayaks, canoes, jet skis, and float planes. A watercraft lift is different from a hoist or crane used for the launching of vessels.

WATER-DEPENDENT USE. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. (WAC 173-26-020(36)) Examples of water-dependent uses may include but are not limited to ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, boating facilities, aquaculture, float plane facilities, sewer outfalls, hydroelectric generating plants and water diversion facilities, such as agricultural pumphouses. (examples based on Shoreline Inventory and Analysis Report)

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. WAC 173-26-020(37) Primary water-enjoyment uses may include, but are not limited to, parks, viewing and walking piers and other improvements facilitating public access to the shorelines of the State, including public view or fishing platforms; and general water-enjoyment uses may include, but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts/hotels (as part of mixed use development or with significant public access or restoration components), and mixed-use commercial/office. (examples based on Shoreline Inventory and Analysis Report)

WATERFRONT. A parcel of property with upland characteristics which includes within its boundary a physical interface with the existing shoreline of a body of water. (WAC 332-30-106)

WATER-ORIENTED USE. A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses. (WAC 173-26-020(38))

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 SMP, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impervious surfaces and storm water handling practices. Water quantity, for purposes of this master program, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340. (WAC 173-26-020(39))

WATER-RELATED USE. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

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- A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- B. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. WAC 173-26-020(40))

Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, gravel storage when transported by barge, oil refineries where transport is by tanker, log storage, and agriculturally related water transportation systems. (examples based on Shoreline Inventory and Analysis Report)

WATERSHED. A geographic region within which water drains into a particular river, stream or body of water.

WATERSHED RESTORATION PLAN. A plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized ~~Indian~~+Tribe acting within and 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 chapter 43.21C RCW, the State Environmental Policy Act. (WAC 173-27-040)

WATERSHED RESTORATION PROJECT. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

- A. A project that involves less than 10 miles of stream or lake reach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings; or
- B. A project for the restoration of an eroded or unstable stream bank or lake shore that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of wave energy; or
- C. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure (e.g., project equipment shed), other than a bridge or culvert or in-water habitat enhancement structure associated with the project, is less than 200 square feet in floor area and is located above the ordinary high water mark of the stream or lake.

WEIR. A structure generally built across a stream channel for the purpose of diverting water or trapping sediment or other moving objects transported by water.

WETLAND OR WETLANDS. Areas that are inundated or saturated by surface water 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 marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. (~~RCW 90.58.030(2)(h)~~)

Z

ZONING. The system of land use and development regulations and related provisions of Chelan County, the City of Cashmere, the City of Chelan, the City of Entiat, the City of Leavenworth, the City of Wenatchee, and any other future Cities that may incorporate.

Universal Note

In addition, the definitions and concepts set forth in RCW 90.58.030, Washington Administrative Code as amended, and implementing rules shall also apply as used herein.

Appendix B: Critical Areas Regulations

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Article I. Generally

~~16.08~~SMP16.110 Purpose.

The purpose of this chapter is to identify and protect critical areas as required by the Growth Management Act of 1990, and to protect people from hazards posed by critical areas, by supplementing the development requirements contained in the various chapters of the city code and providing for protection measures for critical areas. This resolution is adopted under the authority of Chapter 36.70A RCW, RCW Title 35A and the Leavenworth Municipal Code as now or hereafter amended.

In some areas, it may be important to use the critical areas regulations along with other regulations, such as stormwater management and flood damage prevention regulations, in order to adequately address risks to life, property, and the environment. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

~~16.08~~SMP16.120 Chapter applicability.

- A. This chapter classifies and designates critical areas and establishes protection measures for those critical areas. All development or other alterations within, adjacent to, or likely to affect, one or more critical areas, whether public or private, shall be subject to review by the city's administrator or designee for compliance with this chapter.
- B. All proposed uses and development occurring within shoreline jurisdiction that potentially affect a critical area must conform to the intent and requirements of the laws and rules cited in Section 1.2, this SMP, and this Appendix whether or not a permit or other form of authorization is required. See Chapter 3 for the definitions of shoreline jurisdiction and Chapter 8 for definitions of uses, activities, and development. Development and uses include but are not limited to:
 1. Removing, excavating, dredging, dumping, discharging, distributing or filling materials of any kind in a critical area;
 2. Draining, flooding or altering the water level or water table in a critical area except as necessary to exercise an existing water right permit;
 3. New surface water management, drainage or erosion control development;
 4. Driving pilings or placing obstructions in water systems that are in an identified critical area;
 5. New construction including but not limited to roads and utilities;
 6. Removal or alteration of existing vegetation through chemicals, clearing, grading, harvesting, shading or planting vegetation that would alter the character of a critical area or designated buffer;
 7. Uses that result in significant changes in water temperature, physical or chemical characteristics of water sources, including quantity and pollutants, that are in a critical area; and
 8. Those Class IV conversions under the Forest Practices Act, for which the city may condition an application.
- C. Where two or more types of critical areas overlap, the regulation most protective of critical area functions and values shall apply.

~~16.08~~SMP16.130 Exceptions.

The following uses shall be exempt from the provisions of Appendix B of this SMP, but shall meet all other applicable regulations of this SMP:

- A. Normal operation and maintenance of irrigation facilities, limited to removal of sediment and vegetation in existing ditches;

- B. Existing and ongoing agricultural activities, not to include removal of trees, diverting or impounding water, excavation, ditching, draining, culverting, filling, grading, and similar activities that introduce new adverse impacts to wetlands or other aquatic resources;
- C. Removal and replacement of trees within an existing orchard when replacement occurs within the same season of the same year of removal;
- D. Forest practices applications, submitted for lands that are not identified for conversion, administered under regulation of the Forest Practices Act, that the city cannot condition an application;
- E. Low-impact educational activities, scientific research, outdoor recreational activities, including but not limited to interpretive field trips, bird watching and hiking, provided these activities do not temporarily or permanently impact a critical area;
- F. Site investigative work and studies necessary for preparing land use applications, including but not limited to land surveying, soils tests, water quality studies, wildlife studies and similar tests and investigations; provided, that any disturbance of critical areas shall be the minimum necessary to carry out the work or studies;
- G. Emergency uses and development necessary to prevent an immediate threat to public health, safety or property, provided the administrator is given written notice within 30 days that such use was performed, and appropriate permitting and mitigation actions follow;
- H. Minor activities (such as those subject to LMC 21.09.030, Limited administrative review of applications) not mentioned above and determined by the administrator to pose minimal potential risk to the public health, safety and general welfare. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08SMP16.140 **Administrator appointed.**

The City Administrator, or his/her designee, is appointed to administer and implement this chapter. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08.150 ~~**Abrogation and greater restrictions**~~Non-regulatory Measures.

Regulations are just one tool to protect the many functions of critical areas. Along with regulations, there are many non-regulatory tools important to critical areas protection. These include stewardship actions taken by landowners, private groups, and the community. The City and residents may benefit from programs from the Cascadia Conservation District, Recreation and Conservation Office, Department of Natural Resources, Chelan-Douglas Land Trust, Trout Unlimited, Cascade Columbia Regional Fisheries Enhancement Group, Yakama Nation, or the Wenatchee River Institute (educational), to name a few groups. ~~Unless otherwise stated, this chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another resolution, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 1395 § 1 (Exh. A) 2011.]~~

16.08SMP16.160 **Vegetation removal.**

- A. Vegetation removal is subject to the provisions of this SMP and may be considered development. Native vegetation removal is prohibited unless otherwise provided within this SMP. ~~Critical areas review is required prior to removal of any vegetation, including nonnative vegetation, from a critical area or its buffer, whether or not development is proposed or a development permit is being sought. This provision applies to noxious weeds and invasive plant species, with the exception of hand removal or spot-spraying. If the administrator determines, based on a preliminary evaluation, that a critical area study is required, such removal of vegetation shall be incorporated in a mitigation plan designed to prevent erosion and facilitate establishment of a stable community of native plants. In all cases, including spot-spraying of noxious weeds and invasive plant species, any herbicide use must conform to all applicable~~

~~laws, including labeling laws.~~

- B. Unauthorized Vegetation Removal. Vegetation removal conducted without the appropriate review and approvals shall be mitigated in conformance with an approved mitigation plan meeting the standards of this chapter. [~~Ord. 1395 § 1 (Exh. A), 2011.~~]

16.08SMP16.170 Conflict resolution.

In case of disagreement regarding the findings or recommendations of any critical area study, ~~geotechnical~~ geological assessment, geotechnical report, or other analysis prepared to ensure the use of the best available science in the implementation of the city's critical areas regulations, the city at its discretion, may require an evaluation by an independent qualified professional regarding the analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate. The cost of such evaluation will be ~~shared equally by the city and~~ paid by the applicant. [~~Ord. 1395 § 1 (Exh. A), 2011.~~]

Article II. Technical Study and Reporting

16.08SMP16.210 Reference maps and materials.

The city shall maintain reference maps and materials (or, in the case of web-based resources, shall maintain access to the materials) that provide information on the general locations of critical areas and their functions and values, to the extent those are known, and shall make the materials available for reference in the city offices. Since boundaries are generalized, the application of this chapter and the actual type, extent, and boundaries of critical areas shall be determined and governed by the designation and classification sections for each type of critical area. In the event of any conflict between the maps (on the one hand) and the provisions of this chapter or the site-specific conditions (on the other hand), the provisions and/or site-specific conditions shall prevail. Site-specific reports prepared by qualified professionals shall supersede generalized mapping resources. Reference materials shall include, but shall not be limited to, the following (or, where applicable, any subsequent or amended version):

- A. The Web Soil Survey (available online at <http://websoilsurvey.nrcs.usda.gov>).
- B. Wellhead protection zone map, prepared by the Washington State Department of Health, Division of Environmental Public Health, Office of Drinking Water, Source Water Assessment Program. (~~available for viewing online at <http://www.doh.wa.gov/ehp/dw/swaphome.htm>~~);
- C. Flood Insurance Study: City of Leavenworth, Washington, Chelan County and the accompanying Flood Hazard Boundary Maps and Flood Insurance Rate Maps.
- D. Flood Insurance Study: Chelan County, Washington: Unincorporated areas and the accompanying Flood Hazard Boundary Maps and Flood Insurance Rate Maps.
- ~~E. Leavenworth Water Problems Study: Final Report, including all figures, tables, and appendices. February 1999.~~
- ~~F. Landscape Analysis and Identification of Opportunities to Restore Water Flow Processes prepared by the Department of Ecology based on the Leavenworth Water Problem Study of 1999.~~
- ~~G. 2016 Regional Stormwater/Wetland Plan, as amended. Lists of highly erodible and potential highly erodible soil map units. (Such lists are maintained in the NRCS field office technical guide.)~~
- ~~H. E. City of Leavenworth land use map and records for identification of areas in which aquifer contamination potential is high.~~

- ~~F.~~ Fish and wildlife habitat maps, based on the Washington Department of Fish and Wildlife's current Priority Habitat and Species data.
- ~~J.G.~~ Management Recommendations for Priority Habitats and Species ~~(available online at <http://wdfw.wa.gov/publications/00032/wdfw00032.pdf>).~~
- ~~K.H.~~ Management Recommendations for Washington's Priority Habitats: Riparian ~~(available online at <http://wdfw.wa.gov/publications/00029/wdfw00029.pdf>).~~
- ~~L.I.~~ Maps published by the U.S. Geologic Survey or the Washington State Department of Natural Resources showing areas designated as quaternary slumps, earthflows, mud flows, lahars, or landslides.
- ~~M.J.~~ The Seismic Design Category Map for Residential Construction in Washington, Sheet 2.
- ~~N.K.~~ Any ~~geotechnical~~ geological assessments, geotechnical reports, hydrogeologic evaluations, channel migration zone studies, or other special or detailed studies (including approved critical areas studies), including those that identify critical areas and those that identify areas not subject to the city's critical areas regulations.
- ~~O.L.~~ City of Leavenworth flood damage prevention regulations.
- ~~P.M.~~ Wetlands map, based on the National Wetlands Inventory (NWI) maps.
- ~~Q.N.~~ ~~Washington State Wetlands Identification and Delineation Manual (Washington Department of Ecology Publication No. 96-94, or as amended).~~ The approved federal wetland delineation manual and applicable regional supplements: Environmental Laboratory (1987), "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1, US Army Engineer Waterways Experiment Station, Vicksburg, Miss.: US Army Corps of Engineers 2008., Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Wester Mountains, Valleys and Coasts.
- ~~R.O.~~ Washington State Wetlands Rating System for Eastern Washington (Department of Ecology Publication No. ~~4-06-15~~ 14-06-030, or as amended).
- ~~S.P.~~ Wetlands in Washington State, Volumes 1 and 2 (Department of Ecology Publications No. 05-06-006 and No. 05-06-008, or as amended).
- ~~T.Q.~~ Wetland Guidance for CAO Updates (Eastern Washington) (Ecology Publication #16-06-002), June 2016, as amended. ~~Wetlands and CAO Updates: Guidance for Small Cities: Eastern Washington Version (available online at <http://www.ecy.wa.gov/pubs/1006001.pdf>).~~
- ~~U.R.~~ City of Leavenworth Comprehensive Plan.
- ~~V.S.~~ City of Leavenworth Shoreline Master Program.
- ~~W.T.~~ Current applicable building codes.
- ~~X.U.~~ Monitoring data. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08 SMP16.220 Critical areas review process.

- A. Preapplication Conference. All applicants are encouraged to meet with city staff prior to submitting an application subject to this chapter. The purpose of the meeting shall be to discuss the city's critical areas requirements, processes and procedures; to review any conceptual site plans prepared by the applicant; to discuss appropriate investigative techniques and methodology; to identify potential impacts and mitigation measures and to schedule a site visit. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the city.
- B. Preliminary Evaluation.

1. Submittal of a critical areas review checklist ([City form](#)) or a [SEPA checklist \(State form\)](#) shall be required prior to any development or other alteration in or within [a known critical area](#). ~~300 feet of a known or potential wetland; 500 feet of a known or potential active golden eagle, great blue heron or communal eagle roost site; or 250 feet of any other known or suspected critical area, whether or not a permit is required for the alteration. The application for any development proposal for which a permit is required shall include submittal of a critical areas review checklist by the applicant and completion of the checklist by city staff. Each critical areas review checklist shall indicate whether any known or suspected critical area(s) is located on the site. The critical areas review checklist form shall be provided by the city. The first page shall be completed by the applicant and shall provide the administrator with the information necessary for the preliminary evaluation of the proposed alteration.~~
2. On receipt of a critical areas review checklist [or SEPA checklist](#), the administrator shall conduct a preliminary evaluation, which shall include visiting the site and reviewing the following information.
 - a) Any pertinent information provided by the applicant;
 - b) Relevant reference materials; and
 - c) Any other pertinent information including but not limited to the information on the critical areas review checklist ~~and (when required) a~~ [or](#) SEPA checklist.

Based on the preliminary evaluation, the administrator shall determine whether or not sufficient information is available to evaluate the proposal.

3. If the administrator determines that the information presented is not sufficient to adequately evaluate the impact on critical areas of a proposed alteration, he or she shall notify the applicant that a critical area study is required. In the event that multiple critical areas occur on a given site, each critical area shall be addressed independently and all critical areas shall be addressed collectively for the purpose of determining development standards and appropriate mitigating measures.
 4. In the case of landslide or erosion hazard areas, should the applicant question the presence of such areas on the site, the applicant may submit a [geotechnical-geological](#) assessment prepared by a qualified professional for geological hazards, [consistent with these regulations](#). ~~If the geotechnical assessment demonstrates, to the satisfaction of the administrator, that the proposed site is not located in any landslide and erosion hazard area, then the requirements of this chapter shall not apply. The geotechnical assessment shall include at a minimum the following: (a) A discussion of the surface and subsurface geologic conditions of the site (b) A site plan of the area delineating all areas of the site subject to landslide and erosion hazards based on mapping and criteria referenced in LMC 16.08.620. A map meeting the criteria set forth for a geotechnical report shall be included.~~
- C. Critical Area Study. If the administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to one or more critical areas, a critical area study may be required. When required, the expense of preparing the critical area study shall be borne by the applicant. The content, format and extent of the critical area study shall be approved by the administrator.
1. The requirement for a critical area study may be waived by the administrator if there is substantial evidence that:
 - a) There will be no alteration of the critical area(s) and/or the required buffer(s); and
 - b) The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this chapter and the city's comprehensive plan; and

- c) The minimum standards of this chapter will be met.
2. Every critical area study shall be completed by a qualified professional who is knowledgeable about the specific critical area(s) in question, and approved by the administrator.
3. At a minimum, a required critical area study shall contain the following information:
 - a) Applicant's name and contact information; permits being sought; and description of the proposal;
 - b) A copy of the site plan for the alteration proposal, drawn to scale and showing:
 - i. Identified critical areas, buffers, and the proposed alteration with dimensions;
 - ii. Limits of any areas to be cleared; and
 - iii. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
 - c) The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 - d) Identification and characterization of all critical areas within, or within 250 feet of, the project area or within any proposed buffer;
 - e) An assessment of the probable cumulative impacts to critical areas resulting from the proposed development of the site;
 - f) An analysis of site development alternatives;
 - g) A description of reasonable efforts made to apply mitigation sequencing, as defined in these regulations, to avoid, minimize, and otherwise mitigate impacts to critical areas;
 - h) A mitigation plan as set forth in these regulations;
 - i) A discussion of the performance standards proposed to ensure that ecological functions of critical areas are protected and health and safety hazards associated with critical areas are precluded;
 - j) Financial guarantees proposed to ensure compliance with mitigation plan and performance standards; and
 - k) Any additional information required for specific critical areas as listed in subsequent sections of these regulations.
4. The administrator may request any other information reasonably deemed necessary to understand impacts to critical areas.
5. Development Standards.
 - a) Upon review of the critical area study, the administrator may require compliance with all or part of the development standards listed in this chapter. At a minimum, the administrator shall require that development mitigate any impacts that degrade the functions and values of critical areas in accordance with the mitigation provisions of this chapter.
 - b) The administrator shall waive all or part of the development standards required by this chapter if he or she determines that the potential impact of the proposal (including impact on critical areas and impact on the public health, safety, and welfare) and the protection measures proposed have been previously reviewed pursuant to this chapter under separate application and that an adequate degree of protection has been provided.

D. Mitigation Requirements for Fish and Wildlife Habitat, Geologically Hazardous Areas and Wetlands.

1. The applicant shall avoid all impacts that degrade the functions and values of critical areas. If alteration is unavoidable, all adverse impacts to critical areas and buffers resulting from the proposal shall be mitigated in accordance with an approved critical areas study ~~and~~ or SEPA documents/mitigation, with the exception that de ~~minimus~~ minimis impacts may be allowed. The location of any mitigation site shall be consistent with best available science and may be on-site or off-site.
2. Mitigation Sequencing. Applicants shall use the least intrusive type of mitigation feasible, and shall demonstrate that less intrusive types of mitigation have been evaluated. The types of mitigation, from least to most intrusive, are:
 - a) Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps (such as project redesign, relocation, or timing) to avoid or reduce impacts;
 - c) In the case of frequently flooded areas and geologically hazardous areas, minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered methods or other methods designed by a qualified design professional;
 - d) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to historic conditions or the conditions existing at the time the project was initiated;
 - e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
 - f) In the case of critical aquifer recharge areas, frequently flooded areas, fish and wildlife habitat conservation areas, and wetlands, compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - g) Monitoring the impact using a planned evaluation process and taking appropriate corrective measures.
3. Mitigation Plan. When mitigation is required, the applicant shall submit for approval a mitigation plan as part of the critical area study. Approval of a mitigation plan shall be processed according to the provisions of LMC Title .f.i, Development Code Administration, governing a full administrative review. The mitigation plan shall include a written report identifying:
 - a) Mitigation objectives, including:
 - i. A description of the anticipated impacts to critical areas and their buffers, the type or types of mitigation proposed, and the purposes of the measures proposed, including site selection criteria; identification of compensation objectives; identification of critical area functions and values; and dates for beginning and completion of any on-site mitigation activities;
 - ii. The impacts of any proposed alteration of a critical area or buffer, including proposed mitigation activities, on the development site, other properties and the environment;
 - iii. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in critical areas mitigation; and
 - iv. An analysis of the likelihood of success of the proposed mitigation.

- b) Measurable criteria for evaluating whether or not the objectives of the mitigation plan have been successfully attained and whether or not the requirements of these regulations have been met.
- c) Descriptions and specifications for any on-the-ground mitigation activities, including, but not limited to:
 - i. Proposed construction sequence, timing, and duration;
 - ii. Grading and excavation details;
 - iii. Erosion and sediment control measures;
 - iv. A planting plan specifying plant species, quantities, locations, size, and spacing; and
 - v. Measures to protect and maintain plants until established.
- d) Where on-the-ground mitigation activities are proposed, construction and post-construction monitoring programs.
 - i. The purpose of the construction monitoring program is to monitor adherence to the mitigation specifications and any other requirements of these regulations.
 - ii. The purpose of the post-construction monitoring program is to determine whether mitigation objectives are being achieved and, if not, prescribe corrective measures. The program shall include a schedule for monitoring the project over a period adequate to establish that mitigation objectives have been met, generally at least five years from completion of the mitigation project, and shall describe the methods to be used in monitoring.
- e) A list of potential corrective measures to be taken if monitoring or evaluation indicates project objectives are not being achieved.

4. Monitoring and Reporting. The mitigation project shall be monitored as specified in the mitigation plan. A monitoring report shall be submitted by the project proponent to the administrator according to the schedule specified in the mitigation plan, to document monitoring outcomes and any contingency actions. ~~{Ord. 1395 § 1 (Exh. A), 2011.}~~

16.08SMP16.230 Surety/bonding.

If a development proposal is subject to mitigation, maintenance, or monitoring plans, the city may require an assurance device or surety, in a form acceptable to the city attorney. ~~{Ord. 1395 § 1 (Exh. A), 2011.}~~

16.08SMP16.240 Reporting.

Any new residential subdivision or short plat that is determined to be in a critical area shall have a note placed on the face of the plat and on the title report stating that the site is located in a critical area, what hazard or critical area element is present, and any conditions relating to use or development of the land. Said note may include the provisions listed below:

- A. Documentation from the applicant stating their understanding and acceptance of any risk of injury or damage associated with the development of the site and agreeing to notify future purchasers of the site, portions of the site, or structures located on the site of the presence of the hazard or critical area and the potential risk of injury or damage;
- B. A legally enforceable agreement, which shall be recorded as a covenant and noted on the face of the deed or plat, acknowledging the site is located in a geologic or flood hazard area and the risks associated with development of the site, and including a waiver and release of any and all claims of the owners, their directors, employees, successors or assigns against the city for any

loss, damage or injury, whether direct or indirect, arising out of the issuance of development permits for the proposal. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

Article III. Critical Aquifer Recharge Areas

16.08SMP16.310 Purpose and intent.

This article is meant to prevent pollution and maintain water supply, in order to protect Leavenworth's drinking water and ~~preserve anadromous fisheries~~ serve future growth. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08SMP16.320 Designation.

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3). The city designates all areas with a critical recharging effect on aquifers used for potable water, regardless of any formal identification, as CARAs. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08SMP16.330 Classification.

The city classifies the following as CARAs susceptible to degradation or depletion:

- A. Those areas with a Hydrologic Soil Group Rating of "A" according to the most recent NRCS soil survey for the area, as designated and mapped in the Web Soil Survey and as may be periodically amended by NRCS~~The "older alluvium – coarser" area identified in the Landscape Analysis and Identification of Opportunities to Restore Water Flow Processes prepared by the Department of Ecology based on the Leavenworth Water Problem Study of 1999.~~
- B. Ten-year-time-of-travel wellhead protection areas associated with wells used for potable water and any other areas designated for wellhead protection pursuant to the Federal Safe Drinking Water Act.
- C. Any sole-source aquifers that may be designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Water Drinking Act.
- D. Areas designated for special protection as part of a groundwater management program per RCW Chapter 90.44, 90.48 or 90.58 or WAC Chapter 173-100 or 173-200~~Susceptible groundwater management areas, should any groundwater management area be identified for the city or its UGA pursuant to a groundwater management program (RCW 90.44.400 and 90.54.140 and WAC 173-100-030). Susceptible groundwater management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to Chapter 173-100 WAC. [Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08SMP16.340 ~~Critical areas process for critical aquifer recharge areas~~ Aquifer recharge area detailed study requirements.

- A. In determining whether ~~critical area review will be required for a proposed alteration, in completing a critical areas checklist, and in the city's review for the purpose of determining whether a critical area study~~ hydrogeological evaluation will be required, the administrator shall consider both the susceptibility of the site, based on the classification in LMC ~~16.08SMP16.330~~, and the potential for the proposed alteration to contribute to degradation or depletion of groundwater ~~or harm to anadromous fisheries.~~
- ~~B. At a minimum, the 10-year time-of-travel and assigned time-of-travel wellhead protection areas shown on maps prepared by the Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, Source Water Assessment Program (SWAP)~~

~~shall be considered in determining whether critical area review will be required for a proposed alteration, in completing a critical areas checklist, and in the city's review for the purpose of determining whether a critical area study will be required in the vicinity of a given well.~~

- ~~B. In addition to the general critical area study requirements of Article VII, the required critical area study for CARAs susceptible to degradation or depletion must contain a A level one hydrogeologic evaluation meeting the criteria of subsection (D) of this section shall be required for aquifer recharge areas or areas of concern, as determined by the Administrator.~~
- C. ~~In addition, a A level two hydrogeologic evaluation meeting the criteria of subsection (E) of this section shall be required for any of the following proposed activities:~~
1. Activities that result in five percent or more impervious site area.
 2. Activities that divert, alter, or reduce the flow of surface or groundwaters, or otherwise reduce the recharging of the aquifer (please note that, per LMC ~~16.08~~SMP16.370, significant reduction in recharge to aquifers currently or potentially used as a potable water source and to aquifers that are a source of significant baseflow to regulated streams is prohibited).
 3. The use, processing, handling, storage, treatment, or disposal of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications.
 4. The use of injection wells, including on-site septic systems, except those domestic septic systems that release less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per acre.
 5. Aboveground application of sewage or sludge.
 6. New agricultural activities.
 7. Commercial and industrial uses.
 8. Land division, including subdivisions, short subdivisions, planned developments, binding site plans and related developments.
 9. Storage tanks.
 10. Any other activity that the administrator determines is likely to have an adverse impact on groundwater quality or quantity, the recharge of the aquifer, or anadromous fish species.
 11. If any criteria from SMP.330 are confirmed present.
 - ~~10-12. When recommended by a Level I Evaluation; or when aquifer susceptibility rating from a Level I Evaluation is medium to high, or if a Level I Evaluation is indeterminate.~~
- D. A level one hydrogeologic evaluation shall include the following site- and proposal related information at a minimum:
1. Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone.
 2. Ground water depth, flow direction, and gradient based on available information.
 3. Currently available data on wells and springs within 1,300 feet of the project area.
 4. Location of other critical areas, including surface waters, within 1,300 feet of the project area.
 5. Available historic water quality data for the area to be affected by the proposed activity.
 6. Proposed Best Management Practices. The Stormwater Management Manual for Eastern

Washington shall be the preferred guidance for BMPs.

- E. A level two hydrogeologic evaluation shall include the following site- and proposal- related information at a minimum, in addition to the requirements for a level one hydrogeologic evaluation:
1. Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five-year period, or available data if data for the previous five-year period are not available.
 2. Ground water monitoring plan provisions.
 3. Discussion of the effects of the proposed project on the groundwater quality and quantity, including:
 - a. Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features; and
 - b. Predictive evaluation of contaminant transport based on potential releases to groundwater.
 4. Discussion of the effects of the proposed project on anadromous fish species, including where groundwater affects streams and other surface water habitats, and what the effects are.
 5. A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.
- F. Existing and ongoing agricultural activities in or within 200 feet of a CARA susceptible to degradation or depletion shall be encouraged to incorporate best management practices and seek technical assistance from the Chelan County Conservation District, WSU Cooperative Extension Agent, and local NRCS field agents. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

~~16.08~~ **SMP6.350 Performance standards — General requirements** General Standards.

- ~~A. The city prohibits the discharge of contaminants to CARAs, with the exception of incidental, de-minimus discharges.~~
- ~~B. All alterations in CARAs susceptible to degradation or depletion shall be evaluated for potential to contaminate groundwater resources.~~
- ~~1. If the administrator determines that a high potential for contamination exists, he or she may require a critical area study. If a critical area study or hydrogeologic evaluation identifies significant potential impacts to CARAs, the project applicant will be required to fully document those impacts and provide a discussion of alternatives by which the impacts could be avoided or prevented. The applicant shall provide a detailed mitigation plan for any unavoidable potential impacts. The city may require that the mitigation plan include process control and remediation as appropriate. Best management practices shall be employed to avoid introducing pollutants into the aquifer, depleting the aquifer, or harming anadromous fish species.~~
 - ~~2. Whether or not a critical area study is required, best management practices and other mitigation may be required.~~
 - ~~3. he Stormwater Management Manual for Eastern Washington shall be the preferred guidance for BMPs.~~
- ~~C. Alteration may be permitted in a CARA only if the applicant can show that the proposed alteration will not adversely affect the recharging of the aquifer.~~

~~D. Any proposed alteration must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, the Washington State Department of Health, and the Chelan-Douglas Health District.~~

~~E. Any proposed use or activity must be designed and constructed in accordance with the city's stormwater management regulations, when adopted.~~

~~F.A. Based on critical area study findings, a~~ Any operation/use may be required to adopt any or all of the following best management practices to ensure their operations minimize potential risks to water resources.

1. ~~The owner/operator shall take precautions to prevent accidental releases of h~~ Hazardous materials. Hazardous materials shall be separated and prevented from entering stormwater drainage systems, septic systems, and drywells.
2. Hazardous materials shall be managed so that they do not threaten human health or the environment, or enter CARAs.
3. ~~All h~~ Hazardous materials that have been released shall be contained and abated immediately, and the hazardous materials recycled or disposed of properly. The city shall be notified of any release of hazardous materials that clearly impact water resources, as soon as possible but no later than 24 hours after the release. The Stormwater Management Manual for Eastern Washington shall be the preferred guidance for operational BMPs for spills of oils and hazardous substances.
4. Oil/water separators shall be inspected, cleaned and maintained as stipulated in the Stormwater Management Manual for Eastern Washington. The city may allow an operation to modify the regularity of cleanouts if the operation can demonstrate to the city's satisfaction that the separator operates effectively at less frequent cleaning intervals.
5. ~~All p~~esticides, herbicides, fungicides and fertilizers shall be applied and managed according to the applicable BMPs for landscaping and lawn/vegetation management in the Stormwater Management Manual for Eastern Washington.
6. Stormwater drainage systems and treatment facilities, including, but not limited to, catch basins, wetponds and vaults, biofilters, settling basins, and infiltration systems, shall be cleaned and maintained according to the applicable operational BMPs for the maintenance of stormwater, drainage and treatment systems in the Stormwater Management Manual for Eastern Washington.
7. ~~Any water well that is~~ Wells that are unusable, abandoned, or whose use has been permanently discontinued, or that is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard, shall be decommissioned according to the provisions of WAC 173-160-381.
8. ~~At the closure of an operation, all hazardous~~ Hazardous materials shall be removed from the closing portion of the operation and disposed of in accordance with local, state and federal laws. [~~Ord. 1395 § 1 (Exh. A), 2011.~~]

~~16.08.360 — Performance standards — Specific uses.~~

~~A. New operations which engage in the following commercial activities shall implement the applicable source control BMPs from the Stormwater Management Manual for Eastern Washington: commercial animal handling, commercial composting, printing operations, fueling stations, log sorting, railroad yards, recyclers, scrap yards, and wood treatment facilities. Existing operations shall be encouraged to abide by the same standards.~~

- ~~B. New operations performing the following activities shall implement the applicable source-control BMPs from the Stormwater Management Manual for Eastern Washington: construction/repair/maintenance of boats/ships, airfield/street deicing, dust control, landscaping and lawn/vegetation management (including golf courses), loading/unloading of trucks and railcars, repair/maintenance/parking of vehicles/equipment, erosion control at industrial sites, maintenance of utility corridors, maintenance of roadside ditches/culverts, outdoor manufacturing, mobile fueling of vehicles/equipment, painting/coating of vehicles/buildings/equipment, storing dangerous wastes, managing raw materials. Existing operations shall be encouraged to abide by the same standards.~~
- ~~C. New operations that engage in commercial activities such as pressure washing, carpet cleaning, and equipment and vehicle washing shall use applicable BMPs for washing and steam cleaning; the Stormwater Management Manual for Eastern Washington shall be the preferred guidance for such BMPs. Mobile washing operations shall ensure that all of their employees are knowledgeable about proper discharge practices. Wash water from such operations shall be captured and directed to an approved discharge location. Nonapproved wash water shall not be discharged into the city's stormwater drainage system. Existing operations shall be encouraged to abide by the same standards.~~
- ~~D. Sewage Disposal:~~
- ~~1. All new residential, commercial or industrial alterations located in or within 250 feet of a CARA susceptible to degradation or depletion and within 200 feet of a public sewer system shall be connected to the sewer system.~~
 - ~~2. In or within 250 feet of a CARA susceptible to degradation or depletion, new on-site sewage systems on lots smaller than one acre without a treatment system that results in effluent nitrate-nitrogen concentrations below 10 milligrams per liter shall be prohibited.~~
- ~~E. Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state Departments of Ecology and Health.~~
- ~~1. Use of reclaimed water for surface percolation must meet the groundwater recharge criteria given in RCW 90.46.080(1) and 90.46.010(10). The state Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).~~
 - ~~2. Direct injection must be in accordance with 40 CFR Parts 144 and 146, the standards developed by authority of RCW 90.46.042, and Chapter 173-218 WAC.~~
- ~~F. Sand and gravel mining are prohibited in or within 250 feet of a CARA susceptible to degradation or depletion.~~
- ~~G. State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect CARAs in accordance with the applicable state and federal regulations.~~

Table 16.08.360.1 State and Federal Regulations to Protect CARAs

Activity	Statute—Regulation—Guidance
Above Ground Storage Tanks	WAC 173-303-640
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220WAC

Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56)
Chemical Treatment, Storage and Disposal Facilities	WAC 173-303-182
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	Chapter 173-303 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles-Recycler Facilities (WDOE 94-146)
Oil and Gas Drilling	WAC 332-12-450, Chapter 173-218 WAC
On-Site Sewage Systems (Large Scale)	Chapter 173-240 WAC
On-Site Sewage Systems (< 14,500 gal/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	WAC 332-18-015
Underground Storage Tanks	Chapter 173-360 WAC
Waste Water Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture

[Ord. 1395 § 1 (Exh. A), 2011.]

16.08 SMP16.370 Uses prohibited from critical aquifer recharge areas.

The following activities and uses are prohibited in CARAs:

- A. Disposal of hazardous or dangerous waste or special waste.
- B. Metals and hard rock mining.
- C. Storage, processing, or disposal of radioactive substances, except for medical equipment or materials that are used within a medical facility, and medical waste as defined in RCW70.99.020 that is generated within a medical facility and held for proper disposal.
- D. Other Prohibited Uses or Activities.
 - 1. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;

2. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream (including shorelines of the state); and
3. Activities that are not connected to an available sanitary sewer system are prohibited from critical aquifer recharge areas associated with sole source aquifers.
4. Chemical manufacturing and reprocessing;
5. Creosote/asphalt manufacturing or treatment;
6. Electroplating and metal coating activities;
7. Petroleum product refinement and reprocessing;
8. Storage tanks for petroleum products or other hazardous substances;
9. Recycling facilities;
10. Solid waste landfills;
11. Waste piles as defined in Chapter 173-304 WAC;
12. Wood and wood products preserving;
- ~~3.13. Storage and primary electrical battery processing and reprocessing [Ord. 1395 § 1 (Exh. A), 2011.]~~

Article IV. Fish and Wildlife Habitat Conservation Areas

~~16.08~~SMP16.410 Purpose.

It is the purpose of this article to reasonably ensure the protection of fish and wildlife and their habitats, with special consideration for anadromous fish species. The desired goal is to preserve, enhance, protect and promote fish and wildlife habitat within the city and its UGA, including habitat required by those species listed on the federal and state endangered species lists, priority habitats and species identified by the Washington Department of Fish and Wildlife (WDFW), and habitat required by priority species identified by WDFW. It is also the intent of this section to ensure that development and fish and wildlife are provided the opportunity to coexist. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

~~16.08.420~~ — Policy statements.

- ~~A. The city recognizes that the Federal Endangered Species Act (ESA) applies to all lands within the city.~~
- ~~B. The city recognizes the current WDFW priority habitat species (PHS) data, which identify locations and extent of priority species and habitats.~~
- ~~C. The city of Leavenworth recognizes the habitat importance of naturally occurring wetlands.~~
- ~~D. The city of Leavenworth recognizes all bodies of water in city of Leavenworth as waters of the state.~~
- ~~E. It is the policy of the city of Leavenworth to support the natural and human-assisted propagation of fish in lakes and streams in Chelan County by encouraging development that would enhance or mitigate impacts to fish habitat.~~
- ~~F. The city of Leavenworth recognizes and supports the Adopt-A-Stream program.~~
- ~~G. The city of Leavenworth recognizes the importance of natural area preserves and natural resource conservation areas. Furthermore, it is the policy of the city of Leavenworth to~~

~~promote the establishment of manmade preserves and conservation areas and to prohibit development within a preserve or a conservation area.~~

~~H. The city of Leavenworth recognizes the publication Management Recommendations for Washington's Priority Habitats and Species (or as amended) as a useful guide to conservation and management of wildlife resources. It is the policy of the city of Leavenworth to consider the management recommendations found within the aforementioned publication as a guide in reviewing development applications. Other sources of best available science may also be considered. [Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08SMP16.430 Classification and designation.

Fish and wildlife habitat conservation areas include:

- A. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association: classified as fish and wildlife habitat conservation areas of state or federal importance.
- B. Habitats and species identified in reference to lists categories and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with authority for such designations~~State priority habitats and areas associated with state priority species, including riparian habitat areas (RHAs): classified as fish and wildlife habitat conservation areas of state or federal importance.~~
- C. Areas associated with anadromous fish species: classified as fish and wildlife habitat conservation areas of state or federal importance.
- D. Waters of the state, including naturally occurring ponds under 20 acres: classified as fish and wildlife habitat conservation areas of local importance.
- E. State natural area preserves and natural resource conservation areas: classified as fish and wildlife habitat conservation areas of local importance.
- F. Areas formally designated by the city as areas of rare plant species, high quality ecosystems, or land useful or essential for preserving connections between habitat blocks and open spaces: classified as fish and wildlife habitat conservation areas of local importance.
- G. All such areas within the city and its UGA, regardless of any formal identification, are hereby designated as critical fish and wildlife habitat conservation areas. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08SMP16.440 Critical area review process for fish and wildlife habitat conservation areas.

- A. Identification and Preliminary Evaluation.
 1. At a minimum, the PHS data, Management Recommendations for Washington's Priority Habitats and Species (or as amended), and any critical areas study SEPA checklist that identifies fish and wildlife habitat conservation areas in the vicinity of a development site shall be used to determine whether critical area review will be required for a proposed alteration, in completing a critical areas checklist or SEPA checklist, and in the city's review for the purpose of determining whether a critical area study will be required.
 2. Because species populations and habitat systems are dynamic, agency consultation shall be required when a proposed alteration is within, adjacent to, or likely to affect a known or suspected fish and wildlife habitat conservation area of state or federal importance. The administrator shall contact the WDFW and the

U.S. Fish and Wildlife Service and request assistance in determining the value of the site as fish and wildlife habitat of state or federal importance.

3. Riparian habitat areas vary in width depending on the ecological function they perform. This section defines the area that must be evaluated for the purpose of determining the need for a critical area study, and in which alterations may be limited to protect priority habitat. Riparian habitat area (RHA) widths shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife or other best available science. For the purpose of determining the need for a critical area study:

a) RHAs are considered to extend landward from the ordinary high water mark (OHWM), measured on the horizontal plane, as shown in Table 16.08SMP16.440.1 below or as indicated in management recommendations for

Washington's priority habitats: Riparian, or as amended by WDFW.

b) If the 100-year floodplain exceeds the widths shown, the RHA should extend to the outer edge of the 100-year floodplain.

~~e) If there is a channel migration zone (CMZ), the OHWM is considered to start at the edge of the CMZ.~~

~~d) Larger RHA widths may be required where priority species occur or wherever supported by an approved critical area study.~~

~~e) Add 100 feet to the RHAs outer edge on the windward side of riparian areas with high blowdown potential.~~

~~f) Extend RHA widths at least to the outer edge of unstable slopes along Type 4 and 5 waters in soils of high mass wasting potential.~~

Table 16.08SMP16.440.1 Riparian Habitat Evaluation Area Widths

	Watertype ¹		Riparian Habitat Area Extent
	Permanent	Interim	
S		4	250ft. See the SMP buffer regulations
F		2	250ft.
FNp		3	200ft.
Np, low mass-wasting potential		4	150ft.
Np, high mass-wasting potential		4	225ft.
Ns, low mass-wasting potential		5	150ft.
Ns, high mass-wasting potential		5	225ft.

¹ Water types are based on WAC 222-16-030, Water typing system, and 222-16-031, Interim water typing system.

4. In reviewing proposed alterations, the city shall consider the fish and wildlife habitat conservation area classification in establishing buffer widths, mitigation requirements, and permit conditions. Any decision regarding establishment of buffers, buffer widths, access restrictions, vegetation conservation and restoration requirements, mitigation requirements, or permit conditions ~~outside of shoreline areas subject to the Shoreline Management Act~~

~~shall be processed according to the provisions of LMC Title 21 governing a full administrative review.~~ Chumstick Creek and the Wenatchee River are Shorelines subject to the Shoreline Management Act, and buffers have been assigned in the city's Shoreline Master Program.

- B. Critical Area Study. In addition to the general requirements for critical area studies, the required critical area study for any FWHCA shall include the following:
1. An evaluation of the presence or absence of regulated species. The following shall be required in developing the evaluation:
 - a) Consultation with the Washington State Department of Fish and Wildlife;
 - b) Review of PHS data for the development site and the area within 250 feet of the site; and
 - c) Review of PHS data on active golden eagle, great blue heron and communal eagle roost sites for the development site and the area within 500 feet of the site.
 2. A description of the nature and extent of the association of regulated species with the habitat conservation area and any critical ecological processes (such as feeding, breeding, incubation, resting, nesting and dispersal) occurring within the study area.
 3. A description of regulated species habitat requirements, seasonal range dynamics and movement corridor requirements, and relative tolerance of human activities and the cumulative effects of the previous development or future development in the region.
 4. An analysis of habitat quality, based on relative species diversity and species richness, in the study area.
 5. An evaluation of the proposed alteration for its influence on the above wildlife factors and on the measures that are recommended to mitigate the potential degradation of animal and plant populations, reproduction rates, and overall habitat quality over the long term.
 6. Designation, mitigation, and management recommendations, including the width of any riparian habitat area, the width of any buffer required to protect habitat and species outside of critical areas, and any requirements for restoration of a FWHCA or its buffer, and also including any requirements for the provision of open space for wildlife habitat within a development. Any relevant WDFW priority habitat and species management recommendations shall be consulted in developing the mitigation and management recommendations and identifying habitat and species protection measures.
- C. The information provided by a critical area study will augment the database for the Leavenworth area maintained by the city. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08 SMP6.450 Performance standards.

In addition to the general provisions of this chapter and the requirements of the underlying zone, the following minimum standards shall apply to development activities within and adjacent to the specified FWHCAs.

- A. The following standards shall apply in all FWHCAs and their buffers within shoreline jurisdiction
1. All projects shall comply with the applicable federal, state and local regulations regarding protection of species and habitats identified upon a site.
 2. Any approved alteration or development in a FWHCA shall minimize impacts to existing topography, drainage patterns, and native vegetation, including the composition and structure of the native plant community. Where disturbance is unavoidable, the applicant

shall mitigate the disturbance in accordance with the mitigation plan in an approved critical area study. New plantings shall be maintained in good growing condition and kept free of invasive weeds until well established. Temporary erosion and sedimentation controls may be used during and following construction until permanent control is achieved.

3. The administrator shall require the establishment of a buffer when, based on a critical area study, such a buffer is needed to protect the functions and values of a FWHCA. Buffer widths and use and management requirements shall reflect the classification and sensitivity of the habitat and the intensity of activity proposed, and shall be consistent with the management recommendations issued by the WDFW or other best available science (such as the findings of a critical area study or a mitigation plan). The city may require that buffers remain undisturbed or, where native vegetation has already been disturbed, that the vegetation be restored. Other limitations to disturbance, including access restrictions such as fencing and signage, may also be required where needed to ensure protection of habitat functions and values. Restrictions may be seasonal.
4. Selective pruning of trees for safety is allowed in fish and wildlife habitat conservation area buffers. [Individuals are encouraged to contact the City prior to removal or pruning.](#) Where trees pose a significant safety hazard, they may be removed from such buffers. [The City may require a professional arborist to determine a hazard tree.](#) All ~~other~~ tree removal in such buffers shall be minimized through site design, and mitigated when the loss of a tree or trees results in loss of ecological function. [WDFW Habitat Biologists can review if the pruning or removal requires mitigation with respect to hazard trees in the riparian buffer, not whether the tree is a hazard itself. WDFW would evaluate whether compensatory mitigation is needed for the removal of the hazard tree or if there is a way the hazard tree can be pruned or partially cut to avoid and minimize impacts.](#)
5. Selective pruning of trees for view protection may be allowed in fish and wildlife habitat conservation area buffers, subject to mitigation and enhancement based on an approved critical area study.

~~6. Subdivision shall be subject to the following:~~

- ~~a) All division of land shall be accomplished by planned development when a threatened or endangered species is verified to be present.~~
- ~~b) All division of land shall be accomplished by planned development when 25 percent or more of the site falls within one or more designated fish and wildlife conservation areas.~~

~~7.6.~~ Divisions of land may require the provision of open space for wildlife habitat as a part of the management plan.

~~8.7.~~ Any limitations to site disturbance, such as clearing restrictions, imposed as a condition of development approval shall be marked in the field and approved by the city prior to undertaking the project.

~~9.8.~~ Areas subject to use and management restrictions shall be shown on the face of the plat, planned development or binding site plan, and/or as a portion of the building permit recorded with the administrator.

~~B. Projects shall be encouraged to participate in habitat preservation programs, such as the WDFW's Backyard Wildlife Sanctuary Program.~~

~~C.B.~~ The following additional standards shall apply in fish and wildlife habitat conservation areas of state or federal importance and their buffers:

1. Any uses and activities allowed within priority habitat and species areas shall be limited to

those that will not adversely affect or degrade the habitat or threaten critical ecological processes identified in the critical area study.

2. No development approval shall be granted unless mitigation of adverse effects will be provided that will ensure continuation of baseline conditions in all priority habitats and baseline populations of all priority species.

~~D.C.~~ Site-specific modifications to recommended RHAs may be allowed if supported by an approved critical area study. Important characteristics should be retained or restored in all riparian areas in order to provide suitable habitat for fish and wildlife.

~~E.D.~~ Provided, that adequate regional populations are maintained, development may be allowed in fish and wildlife habitat conservation areas of local importance when only species and habitats of local importance will suffer population declines or interruption of migration routes or reproduction habits; provided, that endemic species are preserved. [~~Ord. 1395 § 1 (Exh. A), 2011.~~]

Article V. Frequently Flooded Areas

~~16.08~~SMP16.510 Purpose and intent.

The city's intention is to minimize hazard to new development and also to prevent development and other alterations from increasing risk to other properties. [~~Ord. 1395 § 1 (Exh. A), 2011.~~]

~~16.08~~SMP16.520 Frequently flooded areas – Designation and classification.

Lands within the city of Leavenworth and its urban growth area (UGA), regardless of any formal identification, are designated and classified as follows:

- A. All areas of special flood hazard indicated in the flood insurance study: City of Leavenworth, Washington, Chelan County and the accompanying flood insurance rate maps, as revised or amended: areas of special flood hazard.
- B. Any areas of special flood hazard indicated in The Flood Insurance Study: Chelan County, Washington: Unincorporated Areas and the accompanying flood insurance rate maps, as revised or amended, that are within the city or its UGA: areas of special flood hazard.
- C. All additional flood hazard areas identified by any special or detailed study: areas of special flood hazard.
- D. Riparian areas not shown as areas of special flood hazard indicated in the flood insurance study for the city of Leavenworth, Washington and the accompanying flood insurance rate maps, as revised or amended: potential frequently flooded areas.

~~E. Areas identified by the Web Soil Survey as "very limited" or "somewhat limited" for building site development due to flooding or depth to saturated zone: potential frequently flooded areas.~~

~~F. Areas in which maps, soil type, hydrology, or past modifications indicate a potential for shallow flooding, including the Ski Hill Basin water problem study area and any other areas currently or historically prone to surface water and high groundwater, particularly during the spring wet season: potential frequently flooded areas. [~~Ord. 1395 § 1 (Exh. A), 2011.~~]~~^e

~~16.08~~SMP16.530 Protection measures.

- A. Development in areas of special flood hazard within the city and its UGA must comply with the provisions of the city's Flood Damage Prevention Standards, Chapter 14.24 LMC, as amended.
- B. In addition to the general critical area review provisions in Article VII, development in potential frequently flooded areas within the city and its UGA shall be subject to the following:

1. Identification and Preliminary Evaluation. At a minimum, the ~~Leavenworth Water Problems Study: Final Report, the Landscape Analysis and Identification of Opportunities to Restore Water Flow Processes~~ 2016 Regional Stormwater/Wetland Plan, or as amended, and the Web Soil Survey shall be used to determine whether critical area review will be required for a proposed alteration, in completing a critical areas checklist or SEPA checklist, and in the city's review for the purpose of determining whether a critical areas study will be required.
2. Critical Area Study.
 - a) In addition to the general requirements for critical area studies, the required critical area study for any known or potential frequently flooded area shall include the following:
 - i. An assessment of the probable cumulative impacts of frequently flooded areas both to the proposed development and to existing or future development off the site; and
 - ii. A description of reasonable efforts made to apply mitigation sequencing, as defined in these regulations, to avoid, minimize, and otherwise mitigate impacts to development.
 - b) The administrator may request any other information reasonably deemed necessary to understand impacts to development.
 - c) The information provided by a critical area study will augment the database for the Leavenworth area maintained by the city.
3. Mitigation. At a minimum, the administrator shall require that development mitigate any risks to the proposed development or to existing or future development off the site that would be posed by frequently flooded areas. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

Article VI. Geologically Hazardous Areas ~~16.08~~

SMP16.610 Purpose and intent.

The city finds that certain portions of the city are characterized by geologic hazards that may pose a risk to public and private property, human life and safety and the natural systems that make up the environment of the city if incompatible development is sited in areas of significant hazard. Such lands are affected by natural processes that make them susceptible to landslides, erosion, seismic activity, or rock fall. Incompatible development in areas characterized by geologic hazards may not only place itself at risk, but also may increase the hazard to surrounding development and use.

The intent of this article is to reduce the threat posed by geologic hazards. Some geologic hazards can be reduced or mitigated by engineering, design or modified construction so that risks to health and safety are acceptable. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

~~16.08~~ SMP16.620 Designation.

The city of Leavenworth designates geologically hazardous areas in the city and its UGA as follows:

- A. Erosion. The city designates all erosion hazard areas, regardless of any formal identification, as geologically hazardous areas. At a minimum, the following shall be considered suspected erosion hazard areas for the purpose of determining the need for a preliminary evaluation:
 1. Areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as highly erodible or potential highly erodible land and areas identified by the Web Soil Survey as having soils with erosion hazard ratings of "moderate," "severe," or "very

severe" due to slope/erodibility.

2. Areas impacted by shore land and/or stream bank erosion and those areas within a channel migration zone. (Please note that, per LMC ~~16-08~~[SMP16](#).130, critical areas within shoreline jurisdiction are regulated by the city's Shoreline Master Program when update is adopted.)
3. Areas in which maps, soil type, hydrology, or presence of historic failures, past modifications, or records indicate a high potential for erosion.

B. Landslide. The city designates all landslide hazard areas, regardless of any formal

identification, as geologically hazardous areas. At a minimum, the following shall be considered suspected landslide hazard areas for the purpose of determining the need for a preliminary evaluation:

1. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) as having a significant limitation for building site development, including but not limited to areas identified by the Web Soil Survey as having soils "very limited" or "somewhat limited" for building site development due to slope (including those described as "too steep") or having a "severe" limitation for building site development.
2. Areas of historic failures, such as areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published as the United States Geological Survey or the Washington State Department of Natural Resources.
3. Any area exhibiting all three of the following characteristics:
 - a) Slopes steeper than 15 percent;
 - b) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying relatively impermeable sediment or bedrock; and
 - c) Springs or groundwater seepage.
4. Areas that have shown movement during the Holocene epoch (from 10,000 years ago until today) or that are underlain or covered by mass wastage debris of that epoch.
5. Slopes that are parallel or subparallel to lines of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.
6. Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking.
7. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones. (Please note that, per LMC ~~16-08~~[SMP16](#).130, critical areas within shoreline jurisdiction are regulated by the city's Shoreline Master Program.)
8. Areas that show evidence of, or are at risk from, snow avalanches.
9. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.
10. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

C. Seismic. The city designates all seismic hazard areas, regardless of any formal identification, as geologically hazardous areas. At a minimum, the following shall be considered suspected seismic hazard areas for the purpose of determining the need for a preliminary evaluation:

1. Those areas in Seismic Design Category DO on the Seismic Design Category Map for Residential Construction in Washington, Sheet 2.
 2. Areas underlain by cohesionless soils of low density.
 3. Areas in which there is a record of earthquake damage in the past.
- D. Rock Fall. A rock-fall hazard area consists of three components, illustrated below: (1) a rock-fall source area, in general defined by bedrock geologic units that exhibit relatively consistent patterns of rock-fall susceptibility throughout the study area; (2) an acceleration zone, where rock-fall debris detached from the source gains momentum as it travels down-slope; and (3) a rock-fall runout zone, which includes gentler slopes where boulders have rolled or bounced beyond the base of the acceleration zone.

Table 4.1 Vulnerability Matrix

		Contaminant Loading			
		1-3	4-6	7-9	General Description (susceptibility)
S u s c e p t i b i l i t y 	3 to 6				Typically low permeability, depth to groundwater is fairly deep and fairly significant slopes.
	7 to 10				Higher permeability and shallower depth to groundwater, less slope potential.
	11 to 14				Extremely permeable soils, shallow depth to groundwater and fairly flat terrain.

	Low vulnerability
	Medium vulnerability
	High vulnerability

The city designates all rock-fall hazard areas, regardless of any formal identification, as geologically hazardous areas. At a minimum, the following shall be considered suspected rock-fall hazard areas for the purpose of determining the need for a preliminary evaluation:

1. Areas within a 22-degree shadow angle extending from the base of a rock source; and
2. Areas in which the city has a record of rock falls or in which there is visual evidence of past rock falls. ~~{Ord. 1395 § 1 (Exh. A), 2011.}~~

16.08SMP16.630 Classification.

The city of Leavenworth classifies geologically hazardous areas within the city and its urban growth area as follows:

- A. Known or suspected risk: Documentation or projection of the hazard by a qualified professional exists, or the area is designated as a suspected critical area.
- B. No known risk: Documentation or projection of the lack of hazard by a qualified professional exists.
- C. Risk unknown: Data are not available to determine the presence or absence of a geologic hazard. [~~Ord. 1395 § 1 (Exh. A), 2011.~~]

16.08SMP16.640 Critical area review process for geologically hazardous areas.

- A. Preliminary Evaluation. In determining whether a preliminary evaluation is required for development in a given area, the administrator shall consider the geologic hazard classification. Any approved ~~geotechnical~~ geological assessment, geotechnical report, hydrogeologic evaluation, channel migration zone study, or other special or detailed study may be used to identify areas of known or suspected risk, unknown risk, or no known risk. The city may choose to use available data to map the approximate location and extent of geologically hazardous areas.
- B. Site Assessment and Report Requirements. Geological assessments and geotechnical reports shall be prepared in compliance with the following provisions. A geotechnical report contains all of the provisions of a geological assessment and shall be considered to meet the requirements of a geological assessment.
 - 1. A geological assessment shall include the following:
 - a) Evaluate the actual presence of geologically hazardous areas within or in the vicinity of the site and the need for a geotechnical report. Specifically mention the circumstances or conditions which require the report to be prepared (steep slopes, erodible soils, suspected landslide or avalanche hazard, adverse hydrologic or flood risk, etc.).
 - b) Evaluate Safety Issues Related to Proposed Activities. Address issues that could involve personal injury, worksite safety, or property damage.
 - c) Address existing geologic, topographic, and hydrologic conditions on the site, including an evaluation of the ability of the site to accommodate the proposed activity. Describe the proposed development, including property size and location, nature and extent of the planned development (i.e., house, garage, shop, swimming pool, etc.), and its specific location on the property. Include evidence of prior grading, excavation, cut banks, fill areas, or mining activity, and their potential impact on the project. Note and evaluate any features that could adversely affect development such as drainage gullies, erosion channeling, alluvial fans, evidence for debris flow or avalanche, surface creep and slope failure, observed or suspected spring activity and flood risk potential.
 - d) A discussion of the surface and subsurface geological and engineering properties of the soils, sediments, and/or rocks on the subject property and adjacent properties and their effect on the stability of the slope. Where known from field inspection or reference maps and literature, include bedrock identification and age, structural attitude with respect to slope inclination, fracturing, faults and shear zones, hydrothermal alteration, weathering characteristics, presence of landslide diamictite and its age and consolidation, etc. Use cross-sections if necessary for better representation of subsurface character.
 - e) A description of the soils in accordance with the Unified Soil Classification System. Give general soil characteristics that could affect site development (i.e., frost action and shrink/swell potential, permeability, plasticity and wet/dry behavior, erodibility, etc.). Especially note the presence or suspected presence of clay-rich horizons and their position/location in the soil profile, and any indication that a building site could be subjected to differential soil compression or settling.

- f) Evidence and history of avalanches, faults, significant geologic contacts, landslides, or downslope soil movement on the subject property and adjacent properties not detailed in subsection (B)(1)(c) of this section.
 - g) A summary of the site assessment and its conclusions, mentioning the presence or absence of geohazards and site suitability. Include any recommendations for mitigation of potential hazards that can be dealt with without requiring a complete geotechnical report (control measures such as footing or intercept drainage systems, retaining walls, erosion control, vegetative management and restoration, and the probable need for engineering consultation and design).
 - h) A topographic map showing the proposed development site location and approximate parcel shape location, boundaries, and all buildable space on the property.
 - i) Cite all references and information used in the assessment preparation, such as United States Geologic Survey (USGS) and Department of Natural Resources Geologic Maps and Bulletins, soil studies, surveys and previous reports.
2. A geotechnical report shall include all of the information required for a geologic site assessment as well as the following:
- a) A contour map of the proposed site, at a scale of one-inch equals 20 feet or as deemed appropriate by the administrator. Slopes shall be clearly delineated for the ranges between 15 and 29 percent, and 30 percent or greater, including figures for a real coverage of each slope category on the site. When site-specific conditions indicate the necessity, the administrator may require the topographic data to be field surveyed.
 - b) The location of springs, seeps, or other surface expressions of groundwater. The location of surface water or evidence of seasonal surface water runoff or groundwater.
 - c) The extent and type of vegetative cover prior to development activity or site disturbance.
 - d) A description of site history, including any prior grading, soil instability, or slope failure. Identify all existing fill areas.
 - e) A determination regarding the appropriate hazard category or categories according to the classification of the geologically hazardous area consistent with LMC ~~16-08~~[SMP16.630](#).
 - i. An explanation of soil characteristics and geologic, topographic, and hydrologic conditions of the site that might be expected to create a significant risk due to any geologic hazard and show the location of such hazardous areas. Specifically, include:
 - a. Slope stability studies and opinion of slope stability;
 - b. Erosion vulnerability of site;
 - c. Suitability of on-site soil for fill;
 - d. A summary of all subsurface exploration data, including subsurface soil profile, exploration logs, laboratory or in situ test results, and groundwater information and an interpretation and analysis of the subsurface data; and
 - e. Building limitations.
 - f) A site development plan, drawn to scale, which shows the boundary lines and dimensions of the subject property, the location, size and type of any existing or

proposed structures, impervious surfaces, wells, drain-fields, drain-field reserve areas, roads, easements, and utilities proposed or located on site.

- g) A hazard analysis evaluating the proposed alteration's influence on the safety and stability of structures and any other risks of property damage, death, or injury resulting from development of the hazard area. Factors such as landscape irrigation, stormwater generation and the effect of street conveyance and utility placement should be included in the review of potential landslide and erosion hazard areas.
- h) A description of appropriate mitigation measures, including specific design, development, and construction measures that will be taken to eliminate or minimize identified risks and to comply with the performance standards in LMC ~~46.08~~[SMP16.650](#) (Performance Standards) of this chapter. Specify any recommended setbacks and/or buffers. Include specific engineering recommendations for design and any geotechnical special provisions. Specifically, include:
 - i. Proposed angles of cut and fill slopes and site grading requirements;
 - ii. Structural foundation requirements and estimated foundation settlements;
 - iii. Soil compaction criteria;
 - iv. Proposed surface and subsurface drainage; and
 - v. Lateral earth pressures.
- i) A vegetation management and restoration plan or other means for maintaining long-term stability of slopes.
- j) The proposed method of drainage and locations of all existing and proposed surface and subsurface drainage facilities and patterns, and the locations and methods for erosion control.
- k) An erosion control plan that minimizes erosion (including both water and wind erosion) from all disturbed areas during construction and until permanent erosion control is achieved. Until the city adopts stormwater management regulations, the ~~Stormwater Management Manual for Eastern Washington~~[Regional Stormwater/Wetland Management Master Plan 2016, or as amended](#), shall be the preferred guidance for erosion control measures.
- l) A monitoring program, to be marked on the face of the building permit.
- m) Information demonstrating compliance with all applicable codes and ordinances for the proposed development permit.

C. Critical Area Study.

1. A required critical area study for geologically hazardous areas shall include a geotechnical report adequate to assess any risks of property damage, death, or injury resulting from development of the hazard area and establish mitigation measures.
2. If an applicant can demonstrate, through submittal of a ~~geotechnical~~[geological](#) assessment, that no landslide or erosion hazards exist on site, the requirement for a geotechnical report may be waived by the administrator.
3. Erosion and Landslide Hazard Areas. In addition to the basic report requirements, a critical area study for an erosion or landslide hazard area shall also meet the following requirements:
 - a) A site plan showing:

- i. The height of slope, slope gradient, and cross-section of the project area;
 - ii. The location of springs, seeps, or other surface expressions of groundwater on or within 200 feet of the project area or that have potential to be affected by the proposal; and
 - iii. The location and description of surface water runoff features;
 - b) A hazards analysis that includes:
 - i. A description of the extent and type of vegetative cover;
 - ii. A description of subsurface conditions based on data from site specific explorations;
 - iii. Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - iv. 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;
 - v. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
 - vi. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
 - vii. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - viii. Recommendations for building siting limitations; and
 - ix. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;
 - c) A geotechnical report prepared by a licensed engineer that presents engineering recommendations for the following:
 - i. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - ii. Recommendations for drainage and subdrainage improvements;
 - iii. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - iv. Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate;
 - d) For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan prepared in accordance with the city's stormwater management regulations, when adopted;
 - e) A drainage plan providing for the collection, transport, treatment, discharge, and/or recycling of water, prepared in accordance with the city's stormwater management regulations, when adopted. The drainage plan should consider on-site septic system

disposal volumes where the additional volume will affect the erosion or landslide hazard area;

- f) Hazard and environmental mitigation plans that include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability; and
 - g) If the administrator determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the city.
4. Seismic Hazard Areas. In addition to the general critical area study requirements specified in Article VII of this chapter, a critical area study for a seismic hazard area shall also meet the following requirements:
- a) The site map shall show all known and mapped faults that are within 200 feet of the project area or that have potential to significantly affect or to be affected by the proposal.
 - b) The hazards analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).
 - c) A geotechnical engineering report shall evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented.
5. Rock-Fall Hazard Areas. In addition to the basic report requirements, a critical area study for a rock-fall hazard area shall also meet the following requirements:
- a) Any required critical area study for a rock-fall hazard area shall be prepared by a geotechnical consultant familiar with rock-fall hazards;
 - b) The study shall include a geologic vicinity map, at an appropriate scale (typically 1:24,000) and with references, showing the general surface geology (landslides, alluvial fans, etc.), bedrock geology where exposed, bedding attitudes, faults, other geologic structural features, and location of any rock-fall hazards;
 - c) The hazards analysis shall include an evaluation of available remote sensing data, which may include aerial photographs, oblique aerial photographs, and DEMs derived from detailed topography and/or LIDAR, for the potential presence of geologic hazards;
 - d) The study shall include final design plans and specifications for engineered mitigation signed and stamped by a qualified geotechnical engineer. If the geologic report is submitted with a land use application that is reviewed prior to the construction or building plans (e.g., preliminary plat or conditional use permit), the engineering level design and calculations of the improvement do not need to be submitted until after a land use approval is obtained and construction approval is requested. However, the proposed methods must still be identified;
 - e) The study shall include a statement regarding the suitability of the site for the proposed development from a rock-fall hazard perspective.
6. Where a geotechnical report has been prepared and approved by the city within the last

five years for a specific site, and where the proposed activity and surrounding site conditions are unchanged (or, in the case of an individual lot within a subdivision, where the only changes in surrounding site conditions are development and mitigation as specified in the report), said report may be used and a new report may not be required. The applicant shall submit a ~~geotechnical~~-geological assessment detailing any changed environmental conditions associated with the site. [~~Ord. 1395 § 1 (Exh. A), 2011.~~]

16-08SMP16.650 Performance standards.

- A. Any development or other alteration that would pose a foreseeable risk to the public, public or private resources and facilities, or the natural environment is prohibited.
- B. The following standards apply to all development within geologically hazardous areas:
 - 1. Development shall not increase instability or create a hazard to the site or adjacent properties, or result in a significant increase in sedimentation or erosion. Construction methods shall minimize risks to structures and shall not increase the risk to the site, or to adjacent properties and their structures, from the geologic hazard.
 - 2. Site planning shall minimize disruption of existing topography and natural vegetation, and where feasible shall incorporate opportunities for phased clearing.
 - 3. Disturbed areas shall be replanted within one year of project completion, in accordance with an approved revegetation plan.
 - 4. Impervious surface coverage shall be minimized.
 - 5. Excavation and grading shall be limited to the minimum necessary to accomplish engineering design. The clearing and grading schedule shall consider limitations based upon seasonal weather conditions.
 - 6. Any limitations to site disturbance, such as clearing restrictions, imposed as a condition of development approval should be marked in the field and approved by the city prior to undertaking the project.
 - 7. All authorized clearing for roads, utilities, etc., should be limited to the minimum necessary to accomplish engineering design. Alterations should meet the following requirements:
 - a) Clearing, grading or filling of sloped sites containing erosion or landslide hazard areas should be limited by weather conditions and an approved erosion control plan;
 - b) All clearing shall be marked in the field for inspection and approval prior to alteration of the site;
 - c) The face of cut and fill on slopes shall be prepared and maintained to control against erosion.
- C. The following additional standards apply to erosion hazard areas:
 - 1. In order to prevent or mitigate potential hazards to life, property or the natural environment, development in or adjacent to erosion hazard areas shall be discouraged. No public or private development will be permitted in erosion hazard areas where mitigation approved by the city and adequate to protect members of the public and public and private resources and facilities from injury, loss of life, property damage or financial losses due to erosion, landslide, seismic events or steep slope failure is not feasible.
 - 2. Alterations.
 - a) Alterations of an erosion hazard area may occur only for activities for which a hazards 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. The alterations will not adversely impact other critical areas.
 - b) Excavation and grading shall be minimized in all erosion and steep slope areas and shall comply in full with the relevant provisions of building codes adopted by the city.
3. Development within an erosion or landslide hazard area or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design provides greater long-term slope stability while meeting all other provisions of this chapter. The requirement for long-term slope stability shall exclude designs that require regular maintenance to maintain their level of function. The basic requirements are:
 - a) The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the Uniform Building Code;
 - b) Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
 - c) 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;
 - d) Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
 - e) The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
 - f) Retaining walls that allow the maintenance of existing natural slope area are preferred to graded artificial slopes; and
 - g) Development shall be designed to minimize impervious lot coverage.
4. 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.
5. Clearing shall be allowed only during the dry season, which shall depend on actual weather conditions but is generally considered to run from May through September.
6. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no 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.
7. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:
 - a) Discharge is conveyed via continuous storm pipe down slope to a point where there are no erosion hazard areas downstream from the discharge;
 - b) Water is discharged at flow durations matching pre-development conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the pre-developed state; or

- c) Discharge is dispersed up-slope 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.
- 8. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion hazard areas and related buffers.
- 9. Development may occur in steep slope areas only after the following standards have been met:
 - a) Development must be located to minimize disturbance and removal of vegetation and also to protect the most sensitive areas (including areas of erosive soils, areas at risk of erosion by wind or water, and areas of dense vegetation) and retain open space. The use of continuous greenbelt areas shall be encouraged; and
 - b) Structures must be clustered where possible to reduce disturbance and maintain natural topographic character. Common access driveways shall be considered as a means of reducing construction disturbances; and
 - c) Where possible, structures must conform to the natural contour of the slope and foundations must be tiered to conform to existing topography of the site.
- 10. Unless a grading plan prepared by a licensed civil engineer is provided and approved by the administrator, disturbance of a development site shall generally not exceed the following for the slope categories indicated:

Table 16-08 SMP16.650.1 Maximum Amount of Slope That May Be Disturbed

Slope Category	Factor
Slopes 30 – 40% (60% of the site or more)	.60
Slopes 40% + (also see landslide hazard area)	.30

The overall amount of disturbance allowed on development sites which have any combination of the above slope categories shall be determined by the following formula: [Square footage of the area within the slope category x slope factor] = Total amount of allowable disturbance for that slope classification.

The total amount of allowable disturbance for the site is the sum of all the allowable disturbance totals for each slope category.

- D. The following additional standards apply to landslide hazard areas.
 - 1. Areas identified as landslide hazard areas or within 250 feet of landslide hazard areas shall be altered only when the administrator concludes, based on environmental information provided by a qualified professional, that:
 - a) There will be no increase in surface water discharge or sedimentation to adjacent properties; and
 - b) There will be no decrease in slope stability on adjacent properties; and

- c) Either:
 - i. There is no evidence of recent landslides in the vicinity of the proposed development, and a quantitative analysis of slope stability indicates no significant risk to the proposed development, adjacent properties, or the health or safety of humans or the environment; or
 - ii. The hazard can be mitigated, modified or the project can be designed so that the risk (including risks to the project and risks beyond the project site) is no greater than the risk posed by development on a site without a landslide hazard; or
 - iii. The proposal is so minor as not to pose a threat.
- 2. The following standards apply to all development in landslide hazard areas:
 - a) Disturbance of trees and vegetation shall be minimized in and within 250 feet of landslide hazard areas in order to prevent erosion, stabilize slopes, and preserve the natural character of the area;
 - b) Structures and improvements shall be located to preserve the most sensitive portion of the site and its natural landforms and vegetation.
- 3. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the administrator to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area study prepared by a qualified professional.
- 4. Alterations.
 - a) Alterations of a landslide hazard area or its buffer may occur only for activities for which a hazards 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. The alterations will not adversely impact other critical areas.
- 5. Subdivision.
 - a) Land that is located wholly within a landslide hazard area or its buffer may not be subdivided.
 - b) Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer.
 - c) Access roads and utilities may be permitted within a landslide hazard area and associated buffers if the city determines that no other feasible alternative exists.
- 6. On-site sewage disposal systems, including drain fields, shall be prohibited within landslide hazard areas and related buffers.
- E. Seismic Hazard Areas. All development activities in seismic hazard areas shall conform to the applicable building code.
- F. Rock-Fall Hazard Areas. Development of structures intended for human occupancy or critical facilities in a rock-fall hazard area shall be discouraged unless the hazard is mitigated to an

acceptable and reasonable risk level, based on information provided by a qualified professional who is a geotechnical consultant familiar with rock-fall hazards.

- G. Development of any such structure in a rock-fall hazard area in which the hazard is not mitigated to an acceptable and reasonable risk level shall require a recorded waiver of liability. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

Article VII. Wetlands

~~16.08~~SMP16.710 Purpose and intent.

- A. Wetlands and their buffer areas are valuable natural systems with significant natural constraints. In their natural state wetlands provide many ecological functions and values that ensure the general health, safety and welfare of the citizens of Leavenworth. Physical functions of wetlands include: water quality values (pollution filtration, sediment removal, oxygen production, nutrient recycling and chemical and nutrient absorption), aquatic productivity, microclimate regulation, and fish and wildlife habitat. Values of wetlands include: flood control, wave damage protection, erosion control, groundwater recharge, domestic/irrigation water supply, timber/natural resources, energy resources (peat), livestock grazing, fishing/hunting, recreation, aesthetics, education/scientific research and migratory waterfowl. This chapter is intended to prevent adverse environmental impacts to proposed development and to designated wetlands and associated buffers. These protection measures are designed to protect designated wetlands based on overall uniqueness and value of the wetland and intensity of proposed land use.
- B. This chapter is designed to reflect the following priority issues as a part of the overall goal:
1. Protect property rights;
 2. Encourage voluntary creation of wetland areas;
 3. Compensation for loss of value of lands designated as wetlands and to include their required buffers.

These specific goal components should be sought without infringement on the health and welfare of the citizens of Leavenworth. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

~~16.08~~SMP16.720 Designation.

All lands (including areas of open water) in the city and its UGA, that meet the definition of wetlands in RCW 36.70A.030(21) are designated wetlands and are subject to the provisions of this chapter.

~~16.08~~SMP16.730 Critical areas review.

- A. Preliminary Evaluation.
1. A preliminary evaluation shall evaluate known or potential wetlands on or within 300 feet of the site of a proposed alteration.
 2. At a minimum, the National Wetlands Inventory (NWI) maps, ~~the Leavenworth Water Problems Study: Final Report~~ and the 2016 Regional Stormwater/Wetland Plan, or as amended, ~~and any critical areas study that identifies wetlands in the vicinity of a development site~~ shall be used in completing a critical areas checklist or SEPA checklist and in the city's review for the purpose of determining whether a critical areas study will be required.
- B. Wetlands shall be identified and delineated by a qualified wetland professional in accordance with the U.S. Army Corps of Engineers, Regional Supplement to the Corps of Engineers

[Wetland Delineation Manual: Western Mountains, Valleys and Coasts](#), ~~currently approved federal wetland delineation manual and applicable regional supplements~~. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Appendix.

- C. In addition to the general requirements for critical area studies, the required critical area study for any wetland shall include the following:
1. An overview of the methodology used to conduct the study;
 2. As part of the identification and characterization, a written assessment and accompanying maps of the wetlands and buffers within 300 feet of the project area, including the following information at a minimum:
 - a) Wetland delineation and required buffers;
 - b) Existing wetland acreage;
 - c) Wetland category;
 - d) Vegetative, faunal, and hydrologic characteristics;
 - e) Soil and substrate conditions;
 - f) Topographic elevations, at two-foot contours; and
 - g) A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year such as algal layers and sediment deposits);
 3. When [a mitigation plan](#) is required ~~it shall meet the standards of, a compensatory mitigation plan as described in LMC 16.08~~[SMP16.790](#).
- D. An applicant should be aware that Section 404 of the Federal Clean Water Act and other federal and state statutes may apply.
- E. The information provided by the study will augment the database for the Leavenworth area maintained by the city. ~~{Ord. 1395 § 1 (Exh. A), 2011.}~~

~~16.08.735 Documentation.~~

~~The specific location of a designated wetland and its buffer, including any compensatory mitigation areas, shall be shown on the face of the plat, planned development or binding site plan, and/or as a portion of the building permit recorded with the administrator. {Ord. 1395 § 1 (Exh. A), 2011.}~~

~~16.08~~[SMP16.740](#) **Classification- Wetland rating system.**

[Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington: 2014 Update \(Ecology Publication #14-06-030, or as revised and approved by Ecology\). which contains the definitions and methods for determining whether the criteria below are met.](#)

- [A. Category I wetlands are: 1\) alkali wetlands: 2\) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR: 3\) bogs and calcareous fens: 4\) mature and old-growth forested wetlands over Y. acre with low growing trees: 5\) forests with stands of aspen: and 6\) wetlands that perform many functions very well \(scores between 22-27\). These wetlands are those that 1\) represent a unique or rare wetland type: or 2\) are more sensitive to disturbance than most wetlands: or 3\) are relatively undisturbed and](#)

contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

- B. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over 1/4 acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands but still need a relatively high level of protection.
- C. Category III wetlands have a moderate level of functions (scores between 16-18 points). These wetlands can be often adequately replaced with a well-planned mitigation project. Wetlands scoring between 16-18 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
- D. Category IV wetlands have the lowest level of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

~~Wetlands shall be classified using the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication No. 04-06-015, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.~~

~~Category I wetlands are those that (1) represent a unique or rare wetland type; or (2) are more sensitive to disturbance than most wetlands; or (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of function. In eastern Washington, they include: (1) alkali wetlands; (2) Natural Heritage Program wetlands; (3) bogs; (4) mature and old-growth forested wetlands (over one-quarter acre) with slow-growing trees; (5) forests with stands of aspen; and (6) wetlands that perform many functions very well, with rating-system scores of 70 points or more. We cannot afford to risk any degradation of Category I wetlands because their functions and values are too difficult to replace.~~

~~Category II wetlands are: (1) forested wetlands in the floodplains of rivers; (2) mature and old-growth forested wetlands (over one-quarter acre) with fast-growing trees; (3) vernal pools; and (4) wetlands that perform functions well, with rating-system scores of 51 to 69 points. Category II wetlands are difficult, although not impossible, to replace, and provide high levels of some functions.~~

~~Category III wetlands are (1) vernal pools that are isolated and (2) wetlands with a moderate level of functions, with rating-system scores of 30 to 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 than Category II wetlands.~~

~~Category IV wetlands have the lowest level of functions, with rating-system scores of fewer than 30 points, and are often heavily disturbed. They are wetlands that we should be able to replace, and in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. Category IV wetlands may provide some important functions and also need to be protected. [Ord. 1395 § 1 (Exh. A), 2011.]~~

16.08SMP16.750 Wetland buffers.

Buffers shall be required, in order to protect the integrity, function, and value of a designated wetland area. The following standards shall apply to development activities within 300 feet of wetland areas.

A. Buffer Requirements. The following buffer widths have been established in accordance with the best available science. 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 Eastern Washington: 2014 Update (Ecology Publication #14-06-030, or as revised and approved by Ecology). The adjacent land use intensity is assumed to be high. ~~The standard buffer widths in Table 16.08.750.1 have been established in accordance with the best available science. They are based on the category of the wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington.~~

1. For wetlands that score 6 points or more for habitat function, the buffers in Table SMP16.7.1 can be used if both of the following criteria are met:

- a) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW web site.
- b) The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.
- c) Presence or absence of a nearby habitat must be confirmed by a qualified professional. If no option for providing a corridor is available, Table 16.7.1 may be used with the required measures in Table 16.7.2 alone.
- d) All of the measures in Table 16.7.2, are implemented, where applicable, to minimize the impacts of the adjacent land uses.

2. For wetlands that score 3-5 habitat points, only the measures in Table 16.7.2 are required for the use of Table SMP16.7.1.

3. If an applicant chooses not to apply the mitigation measures in Table SMP16.7.2, or is unable to provide a protected corridor where available, then Table SMP16.7.3 must be used.

4. The buffer widths in Table SMP16.7.1 and SMP16.7.3 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.

~~1-5. The use of the standard buffer widths requires the implementation of the measures in Table 16.08.750.2, where applicable, to minimize the impacts of the adjacent land uses.~~

~~2-6.~~ If an applicant chooses not to apply the mitigation measures in Table 16.08SMP16.750.2, then a 33 percent increase in the width of all buffers is required. For example, if a 75-foot buffer were required with the mitigation measures, the required buffer without the mitigation measures would be 100 feet wide (75 feet x 1.33 = 100).

~~3-7.~~ 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 administrator may require that the buffer be modified in accordance with an approved critical area study, e.g., planted to create the appropriate plant community or widened to ensure that adequate functions of the buffer are provided.

~~4-8.~~ Additional buffer widths are to be added to the standard buffer widths when the rating-

system score is greater than 20. For example, a Category I wetland scoring 32 points for habitat function would require a buffer of 150 feet (75 + 75).

Table 16.08 SMP16.750.17.1 Wetland Buffer Requirements Eastern Washington, if Table 16.7.2 is Implemented and Corridor Providedⁿ²

	<u>Buffer width (in feet) based on habitat score</u>		
<u>Wetland Category</u>	<u>3-5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category I: Based on total score or Forested</u>	<u>75</u>	<u>110</u>	<u>150</u>
<u>Category I: Bogs and Wetlands of High Conservation Value or Alkali</u>	<u>None Present</u>		
<u>Category II: Based on total score</u>	<u>75</u>	<u>110</u>	<u>150</u>
<u>Category II: Vernal pool</u>	<u>None Present</u>		
<u>Category II: Forested</u>	<u>75</u>	<u>110</u>	<u>150</u>
<u>Category III (all)</u>	<u>60</u>	<u>110</u>	<u>150</u>
<u>e</u>	<u>40</u>		

<u>Wetland Category</u>	<u>Standard-Buffer-Width</u>	<u>Additional buffer width if wetland scores 21 — 25 habitat points</u>	<u>Additional buffer width if wetland scores 26 — 29 habitat points</u>	<u>Additional buffer width if wetland scores 30 — 36 habitat points</u>
<u>Category I: Based on total score</u>	<u>75ft.</u>	<u>Add 15ft.</u>	<u>Add 45ft.</u>	<u>Add 75ft.</u>
<u>Category I: Forested</u>	<u>75ft.</u>	<u>Add 15ft.</u>	<u>Add 45ft.</u>	<u>Add 75ft.</u>
<u>Category I: Bogs</u>	<u>190ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Category I: Alkali</u>	<u>150ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Category I: Natural Heritage Wetlands</u>	<u>190ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Category II: Based on total score</u>	<u>75ft.</u>	<u>Add 15ft.</u>	<u>Add 45ft.</u>	<u>Add 75ft.</u>

Category II- Vernal pool	150ft.	NA	NA	NA
Category II- Forested	75ft.	Add 15ft.	Add 45ft.	Add 75ft.
Category III (all)	60ft.	Add 30ft.	Add 60ft.	NA
Category IV (all)	40ft.	NA	NA	NA

~~2. Wetland scores referred to in the table are derived from wetland rating as described in LMC-16.08.740, Classification-Wetland rating system.~~

Table 16.08SMP16.750.2 Required measures to minimize impacts to wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> Direct lights away from wetland
Noise	<ul style="list-style-type: none"> 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 industry or mining, establish an additional 10 ft. heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Retrofit stormwater detention and treatment for roads and existing adjacent development Prevent channelized flow from lawns that directly enters the buffer Use Low Density Development techniques (per PSAT publication on LID techniques)
Change in water regime	<ul style="list-style-type: none"> Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> 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 to protect with a conservation easement
Dust	<ul style="list-style-type: none"> Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> Maintain connections to off-site areas that are undisturbed Restore corridors or connections to off-site habitats by replanting

Table SMP16.7.3 Wetland Buffer Requirements Eastern Washington, if Table 16.7.2 is NOT Implemented and Corridor NOT Provided

	<u>Buffer width (in feet) based on habitat score</u>		
<u>Wetland Category</u>	<u>3-5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category I: Based on total score or Forested</u>	<u>100</u>	<u>150</u>	<u>200</u>

Category I: Bogs and Wetlands of High Conservation Value or Alkali	None Present		
Category II: Based on total score	100	150	200
Category II: Vernal pool	None Present		
Category II: Forested	100	150	200
Category III (all)	80	150	200
Category IV (all)	50		

- B. Increased Wetland Buffer Area W1dth. Buffer Widths shall be Increased beyond those indicated above when a critical area study shows that a larger buffer is necessary to protect wetland functions and values. The size of the increase shall be supported by appropriate documentation showing that it is reasonably related to protection of specific functions and values of the wetland, such as:
1. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
 2. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
 3. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.
- C. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:
1. Different parts of the wetland have significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area.
 2. The buffer is increased adjacent to the higher-functioning area of habitat or the more-sensitive portion of the wetland and decreased adjacent to the lower- functioning or less-sensitive portion as demonstrated by a critical areas study from a qualified wetland professional.
 3. The total area of the buffer after averaging is equal to the area required without averaging.
 4. The buffer at its narrowest point is never less than either three-fourths of the required width or 75 feet for Categories I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.
- D. Measurement of Wetland Buffers. All buffers shall be measured perpendicular 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. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.
- E. Buffers on Mitigation Sites. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.
- F. Maintenance and Repair.

1. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive nonnative weeds is required for the duration of the monitoring period.
 2. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way; provided, that the maintenance or repair does not increase the use of the facility or right-of-way, or increase its footprint by more than 10 percent.
 3. Removal of hazardous trees according to vegetation management plan prepared by a qualified wetland professional. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of hazard trees.
- G. Impacts to Buffers. Compensation for impacts to buffers shall be consistent with the provisions of LMC ~~16.08~~[SMP16](#).790.
- H. Overlapping Critical Area Buffers. If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer shall apply.
- I. Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this chapter, provided said uses are not prohibited by any other applicable law and are conducted so as to minimize impacts to the buffer and adjacent wetland:
1. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 2. Passive Recreation. Passive recreation facilities designed and in accordance with an approved critical area study, including:
 - a) Walkways, trails, and minor trail-related facilities such as benches having no adverse impact on water quality.
 - i. Those walkways and trails that are generally parallel to the perimeter of the wetland shall be located in the outer 25 percent of the wetland buffer area. Exceptions may be made for access points and to accommodate variations in topography and similar site factors, provided the impacts are mitigated in accordance with an approved critical area study.
 - ii. All walkways and trails shall be located to avoid removal of significant trees and to minimize disruption and disturbance of natural vegetation and wildlife habitat. Where feasible, walkways and trails should be located in areas that have previously been disturbed, such as road grades and utility corridors. They should be limited to pervious surfaces no more than five feet in width for pedestrian, bicycle, and cross-country ski use only. Raised boardwalks using nontreated pilings may be acceptable.
 - b) Wildlife-viewing structures which, when appropriate, are placed on piles made out of non-treated wood and account for shading impacts.
 3. Educational and scientific research activities.
 4. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or wetland alteration by changing existing topography, water conditions, or water sources.
 5. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary; provided, that a qualified wetlands

professional has shown that the drilling will not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column.

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

7. Stormwater Management Facilities. [wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID. Runoff Treatment or Flow Control BMP if ALL of the following criteria are met:](#)

- a) [The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points, and](#)
- b) [There will be "no net loss" of functions and values of the wetland, and](#)
- c) [The wetland does not contain a breeding population of any native amphibian species, and](#)
- d) [The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the "Guide for Selecting Mitigation Sites Using a Watershed Approach," \(available here: <http://www.ecy.wa.gov/biblio/0906032.html>\); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan, and](#)
- e) [The wetland lies in the natural routing of the runoff and the discharge follows the natural routing, and](#)
- f) [All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits, and](#)
- a)g) [Modifications that alter the structure of a wetland or its soils will require permits, Existing functions and values that are lost would have to be compensated/replaced.](#) ~~Stormwater management facilities shall be limited to dispersion outfalls and bioswales or alternate facilities that do not create erosion or degrade function and values of critical areas. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only, subject to compliance with the Stormwater Management Manual for Eastern Washington, Washington Department of Ecology Publication Number 04-10-076 (or as amended) and with Washington State's Surface Water Quality Standards (Chapter 173-201A WAC, as amended).~~

- 7.8. Nonconforming Uses. Repair and maintenance of nonconforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity, and provided any impacts to wetlands or their buffers are mitigated.

8.9. Signs and Fencing of Wetlands and Buffers.

- a) Temporary Markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary clearing limits fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the administrator prior to the commencement of permitted activities. This temporary marking shall be maintained

throughout construction and shall not be removed until permanent signs, if required, are in place.

- b) Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.
 - i. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another nontreated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the administrator: "Protected Wetland Area; Do Not Disturb; Contact the city of Leavenworth Community Development Department Regarding Uses, Restrictions, and Opportunities for Stewardship."
 - ii. The provisions of subsection (1)(9) of this section may be modified as necessary to assure protection of sensitive features or wildlife.
- c) Fencing.
 - i. The applicant may be required to install a permanent fence around the wetland or buffer to mitigate impacts identified in an approved critical area study, such as disturbance by humans, pets, or grazing animals.
 - ii. Where no fence is required, fencing may be allowed, provided it does not interfere with wetland hydrology, structure, or function, and provided it complies with this subsection.
 - iii. Wetland and buffer fencing shall be designed to facilitate species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat. ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

~~16.08~~SMP16.760 Road/street construction.

Any private or public road or street construction (including expansion of an existing road) which is allowed within a designated wetland or buffer shall comply with the following minimum development standards:

- A. No other practicable alternative exists.
- B. Mitigation sequencing must be followed.
- C. Where appropriate, the roadway section shall provide for other purposes, such as utilities or pedestrian facilities.
- D. Stormwater runoff facilities associated with road and street construction shall be located outside of wetlands. Such facilities shall be limited to dispersion outfalls and bioswales or alternate facilities that do not create erosion or degrade function and values of critical areas. They may be permitted within the outer 25 percent of wetland buffers; such facilities must be consistent with LMC ~~16.08~~SMP16.750(1)(7). ~~[Ord. 1395 § 1 (Exh. A), 2011.]~~

~~16.08~~SMP16.770 Land division.

All proposed divisions of land which include designated wetlands shall comply with the following procedures and development standards:

- A. Up to 50 percent of the total wetlands on a development site, other than lands that are usually

inundated and submerged during the spring wet season, may be used in calculating minimum lot area for proposed lots, provided the development proposal includes adequate provisions to protect wetland functions and values.

- B. Wetland buffers may be included in the calculation of minimum area for proposed lots, provided the development proposal includes adequate provisions to protect wetland functions and values.
- C. New lots shall contain at least one site, adequate in size to accommodate the proposed use, (including access) that is suitable for development and is not within the designated wetland or its buffer area.
- D. In order to implement the goals and policies of this section, to accommodate innovation, creativity, design flexibility and the potential for density bonuses to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of planned development and/or cluster subdivision as described in the city code is strongly encouraged for any project on a site that includes a designated wetland. ~~{Ord. 1395 § 1 (Exh. A), 2011.}~~

16.08SMP16.780 Erosion control.

Work performed in designated wetlands and their associated buffers that involves filling, grading or disturbance, shall comply with an approved mitigation plan prepared by a qualified wetlands professional. That plan shall identify the work to be performed, including any proposed filling or cutting, and shall be consistent with all provisions of this section.

Protection measures required and identified in the mitigation plan may include temporary measures applied during construction, such as the use of filter fabrics in the construction area or temporary vegetative cover intended to stabilize the site immediately following construction. ~~{Ord. 1395 § 1 (Exh. A), 2011.}~~

16.08SMP16.790 Compensatory mitigation.

- A. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in the order of preference.
 - 1. Avoid the impact altogether by not taking a certain action or parts of an action.
 - 2. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
 - 3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.
 - 4. Reduce or eliminate the impact over time by preservation and maintenance operations.
 - 5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
 - 6. Monitor the required compensation and take remedial or corrective measures when necessary.
- B. Requirements for Compensatory Mitigation.
 - 1. Compensatory mitigation for wetland alterations shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State- Part 2: Developing Mitigation Plans (Version 1), Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised.

2. The mitigation ratios in Table ~~16.08SMP16.790.1~~ of this article shall be used as a general

guide in establishing mitigation ratios. Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or reestablishment. See Table 1a or 1b, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance -Version 1, Ecology Publication No. 06-06-011a, Olympia, WA, March 2006 or as revised.

[Table SMP16.790.1 Wetland Mitigation Ratios](#)

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation	Enhancement	Preservation
Category I: Bog, Natural Heritage site	None Present			
e	6:1	12:1	24:1	24:1
e	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

2.3. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a 1:1 ratio.

Compensatory buffer mitigation shall replace those buffer functions lost from development.

- C. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:
1. The lost wetland provides minimal functions and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
 2. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the city, such as replacement of historically diminished wetland types.
- D. Preference of Mitigation Actions. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:
1. Restoration (re-establishment and rehabilitation) of wetlands.
 2. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative species. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.
 3. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in an overall loss of wetland acreage and is less effective at replacing the functions lost. Where enhancement is used as compensation, it must be part of a mitigation package that includes replacing the impacted area and meeting ratio requirements specified in this section.
 4. Preservation. Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of 1:1 acreage replacement is provided by re-establishment or creation. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

- a) Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA-listed species.
- b) There is no net loss of habitat functions within the watershed or basin.
- c) Mitigation ratios for preservation as the sole means of mitigation shall be consistent with an approved critical area study prepared by a qualified wetland professional, based on the significance of the preservation project and the type and quality of the wetland resources lost.
- d) The impact area is small (generally less than one-half acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

E. Type and Location of Compensatory Mitigation. Selecting Wetland Mitigation Sites Using a Watershed Approach (Department of Ecology Publication No. 10-06-007, November 2010) shall be the preferred guidance for establishing the location of compensatory mitigation.

Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions shall be either in kind and on site, or in kind and within the Wenatchee River Basin (WRIA 45).

1. Compensatory mitigation actions shall be conducted within the same subbasin of the Wenatchee River Basin and on the site of the alteration except when all of the following apply:
 - a) An approved critical area study shows that there are no reasonable opportunities on-site (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts; and
 - b) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland.
2. Off-site locations shall be in the Wenatchee River Basin unless:
 - a) Watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation outside the basin; or
 - b) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - i. The bank is certified under Chapter 173-700 WAC;
 - ii. The administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification.
 - c) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
 - d) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

3. In-Lieu Fee. To aid in the implementation of off-site mitigation, the city may develop a program which prioritizes wetland areas for use as mitigation and allows payment of fees in lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with federal rules, state policy on in-lieu fee mitigation, and state water quality regulations. The program should address:
 - a) The identification of sites within the city/county that are suitable for use as off-site mitigation. Site suitability shall take into account wetland functions, potential for wetland degradation, and potential for urban growth and service expansion; and
 - b) The use of fees for mitigation on available sites that have been identified as suitable and prioritized.
 4. The design for the compensatory mitigation project must be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation shall not result in the creation, restoration, or enhancement of an atypical wetland (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.
- F. Timing of Compensatory Mitigation. If feasible, compensatory mitigation projects shall be completed prior to activities that will disturb wetlands. If that is not feasible, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the development or other alteration. Construction of mitigation projects shall be timed to minimize impacts to existing fisheries, wildlife, and flora.
1. The administrator may authorize one or more temporary delays in completing construction or installation of the compensatory mitigation when the applicant provides an appropriate written explanation from a qualified wetland professional as to the rationale for such delay; however, temporary delays exceeding a cumulative period of two years shall not be authorized. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). 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, or 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 compensatory mitigation plan. The justification must be verified and approved by the city.
 2. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.
- G. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:
1. Compensatory Mitigation Report. Full guidance can be found in Wetland Mitigation in Washington State- Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised).
 2. The report must include a written report and plan sheets that must contain, at a minimum, the following elements:

- a) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland- related permit(s) required for the project; and a vicinity map for the project.
- b) A description of reasonable efforts made to apply mitigation sequencing, as defined in these regulations, to avoid, minimize, and otherwise mitigate impacts to critical areas.
- c) Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on LMC ~~46.08~~[SMP16](#).740, Classification- Wetland rating system.
- d) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession?).
- e) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.
- f) A description of the proposed mitigation construction activities and timing of activities.
- g) A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).
- h) Documentation of compliance with LMC ~~46.08~~[SMP16](#).735.
- i) The scaled plan sheets for the compensatory mitigation must contain, at a minimum:
 - i. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.
 - ii. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.
 - iii. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.
 - iv. Conditions expected from the proposed actions on site including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.
 - v. Required wetland buffers for existing wetlands and proposed compensation

areas. Explain how buffers comply with LMC ~~16-08~~[SMP16](#).750(A) through (D), Wetland buffers, and the rationale for any deviations from the provisions of those subsections.

- vi. A plant schedule for the compensation area including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation.
 - vii. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.
- j) Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for 10 years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.
3. Alternative Mitigation Plans. The administrator may approve alternative critical areas mitigation plans that are based on best available science, such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals must provide an equivalent or better level of protection of critical area functions and values than would be provided by the strict application of this chapter.

The administrator shall consider the following for approval of an alternative mitigation proposal:

- a) The proposal uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publication No. 09- 06-32, Olympia, WA, December 2009).
- b) Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas;
- c) Mitigation according to subsection (E) of this section is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards;
- d) There is clear potential for success of the proposed mitigation at the proposed mitigation site;
- e) The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in LMC ~~16-08~~[SMP16](#).220;
- f) The plan shall be reviewed and approved as part of overall approval of the proposed use;
- g) A wetland of a different type is justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative;
- h) Mitigation guarantees shall meet the minimum requirements as outlined in LMC ~~16-08~~[SMP16](#).230;
- i) i. Qualified professionals in each of the critical areas addressed shall prepare the plan;

- j) The city may consult with agencies with expertise and jurisdiction over the resources during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas. ~~[Ord. 1395 § 1 (Exh. A), 2011.]ⁱ~~

~~•Prior Legislation: Ords. 944, 1203 and 13~~



City of Leavenworth

Department of Development Services

State Environmental Policy Act

Determination of Nonsignificance (DNS)

Lead Agency: City of Leavenworth
Lead Agency Address: 700 Hwy 2/ PO Box 285
Leavenworth, WA 98826

Project Name: Shoreline Master Program Update

Project Description: The City of Leavenworth, in joint review with the Washington Department of Ecology, is completing a periodic review and update to the City of Leavenworth Shoreline Master Program. Amendments are intended to ensure that the regulations are current with changes in state law, changes in other City plans and regulations, and streamline the regulations for clarity.

Project Location: The Leavenworth Shoreline Master Program incorporates shoreline within the City limits, specifically portions of the Icicle River, Wenatchee River and Chumstick River within Township 24 Range 17 & 18.

SEPA Determination: The lead agency for this proposal has determined that the project as proposed with mitigation does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2) (c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below.

Final Permit Approval(s) may include further compliance review and analysis with conditions of approval for the project.

Responsible Official: Lilith Vespier, AICP
Position/Title: Development Services Manager
Phone: (509) 548-5275
Address: 700 Highway 2 / P.O. Box 287
Leavenworth, WA 98826

Signature:  _____

Date: June 15, 2021

Public Comment:

The public comment period on this determination ends fourteen (14) days after the date of issuance (signing).

This determination may be appealed to:

*City of Leavenworth Hearing Examiner
P.O. Box 287, 700 U.S. 2,
Leavenworth, WA 98826*

Date: *Deadline for filing an appeal is 21 calendar days of the date of issuance. If the last day of the appeal period is a holiday or a weekend, the appeal must be filed by 5:00 p.m. on the first weekday following such holiday or weekend.*

Method: *Appeal shall be in writing per the Leavenworth Municipal Code Sections 16.04.230.*

- A. Only Threshold Determinations May Be Appealed. Only final threshold determinations, in the form of a determination of significance (DS), mitigated determination of nonsignificance (MDNS) or a determination of nonsignificance (DNS), shall be appealable to the hearing examiner; provided, however, when the threshold determination is a DS which has been agreed to by the proponent, it shall not be appealable.*
- B. Who May Appeal. Any person aggrieved by a threshold determination may appeal; provided, however, if there is a comment period required by WAC 197-11-340, only those persons who submit written comments during the comment period may appeal the threshold determination.*
- C. Time to Appeal. A written notice of appeal, meeting the requirements of subsection (D) of this section, and the appeal fee must be received by the community development department within 14 calendar days of the date of issuance of the threshold determination or, if there is a comment period under WAC 197-11-340, within seven calendar days of the last day of the comment period. If the last day of the appeal period is a holiday or a weekend, the appeal must be filed by 5:00 p.m. on the first weekday following such holiday or weekend.*
- D. Contents of an Appeal. A written notice of appeal shall contain the following information:*
 - 1. Name, mailing address and telephone number of the appellant and his/her representative, if any;*
 - 2. A copy of the DS, MDNS or DNS;*
 - 3. A concise statement of the factual and legal basis for the appeal citing specifically the alleged errors in the decision;*
 - 4. The specific relief sought; and*
 - 5. A statement describing the appellant's standing to appeal pursuant to subsection (B) of this section.*

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

A. Background [\[HELP\]](#)

1. Name of proposed project, if applicable: **Leavenworth Shoreline Master Program Update**
2. Name of applicant: **City of Leavenworth**
3. Address and phone number of applicant and contact person:
Contact: Lilith Vespier
700 Highway 2/ PO Box 287
Leavenworth, WA 98826
4. Date checklist prepared: **June 15, 2021**
5. Agency requesting checklist: **City of Leavenworth**
6. Proposed timing or schedule (including phasing, if applicable): **Adoption by the City Council August 2021 before forwarding to Department of Ecology for formal action.**
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. **There are no plans for future additions, expansion, or further activity related to or connecte with this proposal.**
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. **The current Shoreline Master Program includes related environmental information which will remain with the updated plan. Future development of the shoreline will require site specific environmental review.**
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. **No.**
10. List any government approvals or permits that will be needed for your proposal, if known. **After City Council action, the Shoreline Master Program amendments will be sent to Department of Ecology for final review and approval.**

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.) **The documents available on the City website:** <https://cityofleavenworth.com/city-government/development-services-department/shoreline-master-program-update/>

Generally, the amendments to the 2012 Shoreline Master Program included updates necessary to comply with changes in the State regulations – see Department of Ecology Periodic Review Checklist for each proposed amendment, and Additional Amendments, which include, but are not limited to:

- Removal of references to WAC, RCW and the Old SMP (County document) were removed
- Housekeeping changes included: replacing the “City of Leavenworth” references to “Shoreline Administrator” as appropriate; grammar corrections, updating of text for readability and simplification of text; moved application requirements to Section 7; and, removal of references that did not apply to the City
- Added reference to best available science
- Updated Appendix B, Critical Areas, to match amendments made to the City regulations by Ordinance 1597, approved by the City Council in 2019
- Removed or combined redundant regulations
- Updated Shoreline Use and Modification Matrix (Use/Permit Chart) to reflect definitions, designations and community needs for permitting; including removal of mining and forest practices as a permitted use
- Removed the requirement for written exemption letters for exempt activities
- Removed several buffer reductions, to better fit the City shoreline conditions; also moved buffer and reduction tables to new location (SMP Section 3.4) to improve flow/use of the SMP
- Prohibited new subdivisions within the channel migration zone
- Required all new development to connect to City sewer – except recreational facilities
- Simplified recreational development requirements
- Simplified shoreline stabilization – new and repair, which includes maintenance; removed requirements for enlargement and replacement which will be reviewed as new
- Removal of Section 5.21, Redevelopment, Repair and Maintenance which is covered within the SMP, including the non-conforming section
- Added “pre-existing residential structures” to the non-conforming section to clarify how these may be maintained/repared, replaced and/or enlarged
- Streamlined other non-conforming regulations
- Updated the duration/expiration of permit timelines for clarity
- Updated definitions, removing terms that were unnecessary and modifying others to improve clarity or consistency with the SMP

The State Shoreline Management Act Guidelines require that the Shoreline Master Program policies and regulations be integrated and coordinated with the comprehensive plan and development regulations of the City. The proposed amendments will create consistency with the existing City (and State) regulations and/or the City policies which have been updated since 2012.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist. **The Leavenworth Shoreline Master Program incorporates shoreline within the City limits, specifically portions of the Icicle River, Wenatchee River and Chumstick River within Township 24 Range 17 & 18; lands within 200' of the ordinary high-water mark or associated floodplain, known as the shoreline jurisdiction. For the City of Leavenworth that covers lands from the Golf Course downstream to the KOA campgrounds.**

B. Environmental Elements [\[HELP\]](#)

1. Earth [\[help\]](#)

- a. General description of the site: **rolling, hilly, steep slopes**

- b. What is the steepest slope on the site (approximate percent slope)? **There are areas slopes greater than 30%.**

- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. **The shoreline soils are sand, gravel and areas of silts deposits.**

- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. **There are areas of unstable soils, particularly at and around Blackbird Island.**

- e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill. **To be addressed with future site development.**

- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. **To be addressed with future site development.**

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? **To be addressed with future site development.**

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: **To be addressed with future site development.**

2. Air [\[help\]](#)

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. **To be addressed with future site development.**
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. **To be addressed with future site development.**
- c. Proposed measures to reduce or control emissions or other impacts to air, if any: **To be addressed with future site development.**

3. **Water** [\[help\]](#)

a. Surface Water: [\[help\]](#)

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.
Wenatchee River, Icicle River and Chumstick Creek
- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. **To be addressed with future site development.**
- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. **To be addressed with future site development.**
- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. **To be addressed with future site development.**
- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. **To be addressed with future site development.**
- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. **To be addressed with future site development.**

b. Ground Water: [\[help\]](#)

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. **To be addressed with future site development.**

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. **To be addressed with future site development.**

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. **To be addressed with future site development.**

2) Could waste materials enter ground or surface waters? If so, generally describe. **To be addressed with future site development.**

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe. **To be addressed with future site development.**

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any: **To be addressed with future site development.**

4. **Plants** [\[help\]](#)

a. Check the types of vegetation found on the site:

deciduous tree: alder, maple, aspen, other

evergreen tree: fir, cedar, pine, other

shrubs

grass

pasture

crop or grain

Orchards, vineyards or other permanent crops.

wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other

water plants: water lily, eelgrass, milfoil, other

other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

Shoreline vegetation along the golf course on the western side of the City is characterized by mown grass with scattered trees along the water's edge. In contrast, the City's parks offer significant forested areas along the river with low-intensity public access. Among areas of residential development, shoreline vegetation varies, but is generally less dense, with fewer

trees compared to the City parks. The mouth of Chumstick Creek is well vegetated with trees and shrubs, but the vegetated buffer decreases just upstream of the mouth, where it runs adjacent to the Chelan County Public Works Facility.

- c. List threatened and endangered species known to be on or near the site. **Note known**
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: **Mitigation is required to ensure no net loss from future site development.**
- e. List all noxious weeds and invasive species known to be on or near the site. **Not known**

5. *Animals* [\[help\]](#)

- a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

birds: hawk, heron, **eagle**, **songbirds**, other:
mammals: **deer**, **bear**, elk, beaver, other:
fish: bass, **salmon**, **trout**, herring, shellfish, other _____

- b. List any threatened and endangered species known to be on or near the site.
Shorelines in the City of Leavenworth and its UGA contain 115 acres of priority habitats, consisting only of priority riparian zone concentrations. All of the City's shorelines contain priority fish species. According to the National Wetlands Inventory information, as much as 26% of the total shoreline area may be wetlands, although on site review would need to be completed to confirm existence and boundary.
- c. Is the site part of a migration route? If so, explain. **Not known**
- d. Proposed measures to preserve or enhance wildlife, if any: **Mitigation is required to ensure no net loss from future site development.**
- e. List any invasive animal species known to be on or near the site. **Not known**

6. *Energy and Natural Resources* [\[help\]](#)

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. **To be addressed with future site development.**
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. **To be addressed with future site development.**

- c. What kinds of energy conservation features are included in the plans of this proposal?
List other proposed measures to reduce or control energy impacts, if any: **To be addressed with future site development.**

7. Environmental Health [\[help\]](#)

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.
- 1) Describe any known or possible contamination at the site from present or past uses.
To be addressed with future site development.
 - 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.
To be addressed with future site development.
 - 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.
To be addressed with future site development.
 - 4) Describe special emergency services that might be required.
To be addressed with future site development.
 - 5) Proposed measures to reduce or control environmental health hazards, if any:
To be addressed with future site development.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? **Noises typically associated with residential, park, commercial and road uses currently exist.**
- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. **To be addressed with future site development.**
- 3) Proposed measures to reduce or control noise impacts, if any: **To be addressed with future site development.**

8. Land and Shoreline Use [\[help\]](#)

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe. **Current land uses along the shoreline include, commercial, residential, park and public sewer facility. New uses will be addressed with future site development.**
- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? **There are no farmlands or working forest lands in the City limits.**
- 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how: **No impacts to farm or forest lands would occur with this non-project action.**
- c. Describe any structures on the site. **The SMP Cumulative Impacts Analysis notes current uses and development along the shoreline.**
- d. Will any structures be demolished? If so, what? **Unknown**
- e. What is the current zoning classification of the site? **Most of the shoreline jurisdiction is park lands, there are areas of industrial zoning and residential zoning. A small segment is within the commercial zoning.**
- f. What is the current comprehensive plan designation of the site? **The comprehensive plan designations match the zoning districts.**
- g. If applicable, what is the current shoreline master program designation of the site? **The SMP has three designations, High Intensity, Urban Park and Residential.**
- h. Has any part of the site been classified as a critical area by the city or county? If so, specify. **The shoreline area includes critical areas.**
- i. Approximately how many people would reside or work in the completed project? **To be addressed with future site development.**
- j. Approximately how many people would the completed project displace? **To be addressed with future site development.**
- k. Proposed measures to avoid or reduce displacement impacts, if any: **To be addressed with future site development.**

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: **To be addressed with future site development.**
- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any: **None.**

9. Housing [\[help\]](#)

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. **To be addressed with future site development.**
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. **To be addressed with future site development.**
- c. Proposed measures to reduce or control housing impacts, if any: **To be addressed with future site development.**

10. Aesthetics [\[help\]](#)

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed? **To be addressed with future site development.**
- b. What views in the immediate vicinity would be altered or obstructed? **To be addressed with future site development.**
- b. Proposed measures to reduce or control aesthetic impacts, if any: **To be addressed with future site development.**

11. Light and Glare [\[help\]](#)

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur? **To be addressed with future site development.**
- b. Could light or glare from the finished project be a safety hazard or interfere with views? **To be addressed with future site development.**
- c. What existing off-site sources of light or glare may affect your proposal? **To be addressed with future site development.**
- d. Proposed measures to reduce or control light and glare impacts, if any: **To be addressed with future site development.**

12. Recreation [\[help\]](#)

- a. What designated and informal recreational opportunities are in the immediate vicinity? **The Leavenworth shoreline is mostly developed passive and active recreation.**

- b. Would the proposed project displace any existing recreational uses? If so, describe. **To be addressed with future site development.**
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: **To be addressed with future site development.**

13. Historic and cultural preservation [\[help\]](#)

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe. **To be addressed with future site development.**
- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources. **To be addressed with future site development.**
- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc. **To be addressed with future site development.**
- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required. **To be addressed with future site development.**

14. Transportation [\[help\]](#)

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any. **The shoreline is bisected by Highway 2 and the Icicle Bridge. Additionally, urban roads and driveways impact the shoreline.**
- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop? **To be addressed with future site development.**
- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate? **To be addressed with future site development.**

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private). **To be addressed with future site development.**
- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. **To be addressed with future site development.**
- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates? **To be addressed with future site development.**
- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe. **No.**
- h. Proposed measures to reduce or control transportation impacts, if any: **To be addressed with future site development.**

15. Public Services [\[help\]](#)

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe. **To be addressed with future site development.**
- b. Proposed measures to reduce or control direct impacts on public services, if any. **To be addressed with future site development.**

16. Utilities [\[help\]](#)

- a. Circle utilities currently available at the site:
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,
 other _____
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. **To be addressed with future site development.**

C. Signature [\[HELP\]](#)

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:  _____

Name of signee Lilith Vespier, AICP

Position and Agency/Organization Development Services Manager

D. Supplemental sheet for nonproject actions [\[HELP\]](#)

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? **The purpose of the Shoreline Master Program update is to regulate uses on and adjacent to the shoreline in a manner which prevents loss of shoreline ecological function, including water function, emissions and noise.**

Proposed measures to avoid or reduce such increases are: **Implimenting the policies and regulations, as updated, will reduce or avoid a loss of ecological function and address water, emissions and noise impacts.**

2. How would the proposal be likely to affect plants, animals, fish, or marine life? **The proposed updates to the Shoreline Master Program will ensure regulations and policies which will not affect plants, animals or fish.**

Proposed measures to protect or conserve plants, animals, fish, or marine life are: **Implimenting the policies and regulations, as updated, will reduce or avoid a loss of ecological function.**

3. How would the proposal be likely to deplete energy or natural resources? **The proposed updates will not have notiable impact on energy use.**

Proposed measures to protect or conserve energy and natural resources are: **No specific policies address energy within the shoreline jurisdiction.**

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands? **The proposed updates will protect parks, rivers, habitat, and critical areas.**

Proposed measures to protect such resources or to avoid or reduce impacts are: **Implimenting the SMP regulations and adopted critical area regulations will ensure the best protection measures are taken.**

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? **The SMP defines compatible uses and regulates or prohibits other uses.**

Proposed measures to avoid or reduce shoreline and land use impacts are: **Implimenting the SMP will ensure compatible uses.**

6. How would the proposal be likely to increase demands on transportation or public services and utilities? **The proposed updates will not increase demands of transportation or services. Future site specific uses will be reviewed at the time of development.**

Proposed measures to reduce or respond to such demand(s) are: **no specific polieceies address the demand of transportation or utilities in the shoreline jurisdiction.**

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment. **Through the amendment process review of the proposed amendments will occur at the local and State level to ensure no conflicts with other regulations. Additionally, the SMP includes a clause that, then there is conflict, the most restrictive regulation will govern.**

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

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

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

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

Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

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

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

Prepared By	Jurisdiction	Date
Lilith Vespier	City of Leavenworth	7/2020

Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	Missing exemption for freshwater docks; docks are not permitted	Clarified that docks are not permitted
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)	Section 5.9.2	Removed requirement
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	Section 5.17; no saltwater habitat within our jurisdiction	No change to text
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	Outdated dollar threshold	Amended Section 7.6.3
b.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	Chapter 8 definitions	Updated Chapter 8 definition of Development and Section 1.3 applicability
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	Missing exceptions	Added to Section 1.3 Applicability
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	Sections 7.10 and 7.11	Updated text to read “date of filing” rather than “date of receipt”
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	Section 5.10	Added clarifying language but also updated matrix to prohibit forestry in the City.
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	There are no federal lands within the City/UGA. Removed from Section 1.3	N/A
g.	Ecology clarified “default” provisions for nonconforming uses and development.	Chapter 6	No change required

Row	Summary of change	Review	Action
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	Section 7.16.2	Updated with suggested language
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	There is no conflict with a joint review, comment and noticing with DOE	No change required
j.	Submittal to Ecology of proposed SMP amendments.	Process for amending the SMP Section 7.16	Updated final approval 14 days after approval
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act .	Section 1.3 applicability	Added exemption
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Appendix B	Updating all critical area regulations to match updates approved by the City in 2019.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	Section 7.12	Added suggested language providing for a goal of 90 days to review and an option to start 21 days after filing.
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	N/A – no floating on-water residences or floating homes have been established within the City/UGA; all floating homes are prohibited in SMP	N/A
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	Section 7.16, amendments to the SMP does not include appeal requirements	N/A, defaults to RCW 90.58.190
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	Appendix B	Updating all critical area regulations with 2019 City regulations.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	N/A	N/A

Row	Summary of change	Review	Action
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	N/A – no floating homes have been established prior to 2011; all floating homes are prohibited in SMP	N/A
d.	The Legislature authorizing a new option to classify existing structures as conforming.	Not adopted in SMP	N/A
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	Section 7.16	Changed effective date from immediately to 14-days after DOE approval.
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	Provided 5.17	N/A
b.	Ecology adopted a rule for certifying wetland mitigation banks.	N/A	N/A
c.	The Legislature added moratoria authority and procedures to the SMA.	Not required component of the SMP	N/A
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Chapter 8, definition of floodway	Updated with recommended definition for adopting FEMA maps.
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	Addressed with prior adoption, see page 3-1	N/A
c.	Ecology’s rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	Addressed Section 5.17	N/A

Additional amendments

Modify this section, as needed, to reflect additional review issues and related amendments. The summary of change could be about Comprehensive Plan and Development regulations, changes to local circumstance, new information, or improved data.

SMP Section	Summary of change	Discussion
Throughout	Remove WAC/RCW/Old SMP references; and “all provisions of this SMP” – it is a given that all provisions apply to any project to be in compliance with the SMP; change City of Leavenworth to Shoreline Administrator, as appropriate	
Throughout	Minor grammar and corrections	
Map – Urban Park	Change designation to match underlying zoning	Land Trust property zoned Recreation currently has a “Shoreline Residential” SMP designation will change to “Urban Park” designation. The approximate are of change is 59,524 square feet.
Map – High Intensity	Change designation (primarily for the floodplain) to match underlying zoning	Johnson property, zoned Commercial currently has an “Urban Park” SMP designation. The proposed change would change a small corner of existing “Urban Park” and most of the floodplain to “High Intensity” to match the existing commercial zoning. The approximate are of change is 131,570 square feet.
Appendix B	Critical Areas updated to match updates made to City regulations in 2019	Ordinance 1597-2019
Reader’s Guide	Updated and simplified text; Table of Content information to be added later	Updated and simplified text
Authority and Purpose		
1.1	Removed RCW language	Simplify text
1.3	Added statement that all development shall be in compliance with SMP	
1.3	Removed items already defined in development (to minimize redundancy); added new exemption for ADA development; added new exception for hazard, boatyard and	

SMP Section	Summary of change	Discussion
	transportation activities; and, included restoration as not applicable	
1.3	Removed reference to County and Federal lands; added, single statement about federal activities.	Does not apply within the City
1.3	Change most recent amendment governing to most protective of ecological function.	Most protective is the generally used standard and prevents potential decrease/loss of function.
1.4	Streamline purposes	Identify the intended action of each purpose; added best available science
1.5.B	Clarify relation of SMP to City Codes	Restated to clarify
1.5.C	Remove County references	
1.5.D	Clarify critical area regulations	Removed duplicated text from item B
1.5.E	Removed as duplicate text	
1.8	Updated to reflect amendment	
Goals and Objectives		
2	Clarify introduction	
2.1	Removed County reference	
2.2	Clarified term	Changed “makes provisions” to Provides
Shoreline Jurisdiction and Environment Designations		
3.1	Clarify/simplify shore jurisdiction introduction	Added statement that the OHWM is defined at the time of development by a professional
3.2	Simplify Environmental Designation introduction.	No need to restate RCW or WAC
3.2.2	Removed Section	Addressed in 3.1
3.2.3 Urban Park	No change	
3.2.4 Shoreline Residential	Remove statement about “adequate land”	Vague term and duplicate of lot size and utility requirements in the Leavenworth Municipal Code
3.2.5 High intensity	Remove requirement to re-designate high intensity for non-water oriented uses.	Non-water oriented uses still limited to no conflict with water-oriented uses and on sites with no direct access to the shoreline.
3.2.5	Remove reference in item 3 and 5	Redundant with requirement to meet state and federal law.
Use Matrix		
3.2.7	Changed to 3.3 and added introduction	
3.3.A	Moved to introduction	
3.3.E	Restated to provide clarity	
3.3.F	Moved to item E	
3.3.G	Removed	Redundant to item D

SMP Section	Summary of change	Discussion
3.3.H & J	Removed	Redundant – all development must be compliant with the SMP, zoning and subdivision requirements – as stated in Section 1.5
3.3.I	Removed	Unnecessary to define variance
3.3.K	Restated	Aquatic uses may be prohibited if the upland use is prohibitive
3.3.G	New provision	Permitted aquatic uses may have associated uses upland.
3.3.L	3.3.H – removal of exemption statement and no exemption option for an CU uses	Exemptions are addressed in item E; added non-conforming reference
Table 1	Remove “subject to....SMP”	Redundant, all use and development subject to the SMP or prohibited
Table 1 – commercial uses	Changed CU requirements to SD/E	Simplified process
Table 1 – fill	Changed to address in CMZ and outside CMZ	
Table 1 – fill	Removed restoration	Permitted through “shoreline habitat and natural systems enhancement or restoration projects”
Table 1 – forest practices	Removed	No forest designated lands in the City
Table 1 – industrial	Changed SD/E to CU for water-related and nonwatery-oriented uses	Higher level of review to reflect higher intensity of uses.
Table 1 – mining	Prohibited mining	City shorelines are more recreational focused with no known mineral deposits. To avoid conflicts between mining and recreations, recommend prohibiting mining (commercial and recreational).
Table 1 – residential uses	Add Accessory Dwelling Unit	Similar impact as duplex which is addressed
Table 1 – shoreline enhancement	Added restoration projects as permitted	Enhancement and restoration are similar work benefiting the shoreline.
Table 1 – Transportation	Changed CU to SD/E for aquatic	Road work required to only occur when no other feasible options
Table 1 – Utilities	Changed CU to SD/E for aquatic	Utilities required to only occur when no other feasible options
Buffers and Development Standards		
3.4	New and expanded section	
Table 2	Add buffers and buffer reductions from section 4.5.2.S	Streamline the development standards with the buffer requirements
Table 2	Removed side yard setback	Redundant to zoning

SMP Section	Summary of change	Discussion
Table 2	Add note – water-dependent uses exempt from buffer if consistent with SMP	Items like parking associated with a boat launch would meeting the required parking location standards or seek a variance
3.2.8	Moved and simplified to 3.1	
3.4.1	Moved & simplified buffer reduction options from section 4.5.2.S	Removed option for 50% reduction and reduction percentages.
3.4.1.A	Removed “as of the date of this SMP”	Redundant to legally established improved road/railway.
3.4.1.C	Removed reference to A.3 and A.4 (unknown); added option for “an equal” level of function	Retain requirement for mitigation plan; provide for reduction with an equal level of function (same as the 50% reduction option)
3.4.1.D	1.c – moved mitigation plan to a separate section and used similar text to other requirements 2.a – criteria changed to modification of the zoning setbacks would not allow for the standard buffer to be achieved.	
3.4.2	Moved & simplified height modification from section 4.5.2.S Also removed requirement for no adverse impact on adjacent properties as vague	Remove vagueness and streamline regulation
Interpretation and Environment Designation Boundaries		
3.2.9	Changed to 3.5	
3.5.E	Moved to Table 2	
3.3	Removed	Redundant to Section 3.4.2
3.4	Changed to 3.6 and simplified to a set of review criteria	
3.4.3	Included into 3.6	
General Policies and Regulations		
4.2.2 – Ecological Protection and Critical Areas	Simplified text	Mitigation ratios required to be adequate to achieve no net loss of function.
4.3 – Flood Hazard Reduction	Simplified text	
4.3.1	Simplified policies Removed item L as redundant to item B	
4.3.2.B	Corrected appendix reference and simplified text	
4.3.2.D	Removed reference to incorporated municipalities; and removed items 2 and 4	Forest practices not required in the City and mining is prohibited under the draft changes

SMP Section	Summary of change	Discussion
4.3.2.1.2	Removed references for general consistency statement Prohibit subdivision in the CMZ	Additional lots/parcels within the CMZ would encourage future development which is counterproductive to protection of property/environment
Public Access		
4.4.1	Change item A into the introduction	
4.4.1.B and D	Remove “city of Leavenworth” text	Focused policies on action statements, such as to “promote” and “aim”. Policy statements are objectives not requirements. The current language mixes the two concepts.
4.4.1.E	Clarify preferred level of service standard for shoreline access	Removed reference to appendix G (which should be F) will occur with development
4.4.1.F	Removed some text	Redundant implementation occurs with development requirements. Removed review of public access plans with the State law (periodic review), as not required
4.4.1.H	Removed some text	Payment amount for use or purchase of property is negotiated between parties.
4.4.1.I	Restate as policy	
4.4.1.J.1	Removed “significant numbers of single family dwelling”; changed three stories to 35’	Term is vague and could lead to misunderstanding of impact area;
4.4.1.K	Change of terms	“strict compliance” changed to “permitted consistent” with
4.4.1.L	Restate as policy. Remove County reference	
4.4.1.M	Restate as policy; remove reference to derelict, easement, delinquent, surplus or otherwise unproductive land.	
4.4.2.A	Revise text to clarify regulation	Simplify text
4.4.2.C & D	MOVE TO ITEMS 4&5 UNDER B	
4.4.2.D.5	Replace reference to older city plans with general statement	
4.4.2.E	Removed text item 1 and 7	Subdivisions defined in item E making item E.1 redundant. There are no “gap areas” in Leavenworth. Does not apply to the City

SMP Section	Summary of change	Discussion
4.4.2.E.8	Replace exception items with specific text in item C	References did not match. New text is clearer.
4.4.2.F	Remove “fee in lieu”	There is no fee in lieu of program used by the City
4.4.2.F.2	Reference City standards	Updated to most recent and standard development requirements
4.4.2.F.6	Removed	Redundant to state law
4.4.2.F view corridor	Updated text	
Vegetation Conservation and Shoreline Buffers		
4.5.1.B	Changed to reflect maintenance of buffers rather than creation	Buffers are established
4.5.1.C	Removed reference to County native plant list	Outdated reference; encourage only native plants
4.5.2.A	Removed references	Redundant to SMP requirements
4.5.2.B	Removed text	Redundant to SMP allowances
4.5.2.C	Require mitigation for any adverse impact; removed examples	
4.5.2.D.3	Removed “similar” native tree and allowance for non-native trees; and, removed 1:1 ratio	Any native tree replacement is a beneficial option; ratio to be determined by site conditions.
Table 3	Moved to Table 2	
4.5.2.F	Removed text	Fill is addressed in Section 5.9
4.5.2.G	Removed text	Mitigation sequencing is addressed in Section 4.2; best to have all mitigation in one location.
4.5.2.H	Restate requirement for clarity	
4.5.2.I	Non-native vegetation removal permitted by the Shoreline Administrator	
4.5.2.J	Remove some text	No development in the buffer unless specifically stated in the SMP
4.5.2.K	Remove references to other sections or option for variance	Redundant to the SMP requirements
4.5.2.L	Removed some text	Essential public facilities existing or planned in the shoreline would be challenging to move.
4.5.2.M	Removed text	Court action may trump the SMP – such action to be reviewed at time of permit
4.5.2.N	Simplified example of passive activity vs development	
4.5.2.P	Addressed in Section 5.19	
4.5.2.Q	Addressed in Section 5.20	
4.5.2.R	Simplified reference and permitted stairs when associated with a public trail	Public access is encouraged and stairs may provide an option to reduce

SMP Section	Summary of change	Discussion
		negative impacts due to unmanaged access.
4.5.2.S	Moved to Table 2; some provisions removed, including; setback reduction; chart of reduction options	Complex and not all reduction options are practicable. Additionally, permits prior actions for reduction tools which is vague. Focus on no net loss and/or gain in ecological function.
4.5.2.S	Moved height modification to Section 3.4.2	
4.5.2.S	Shoreline Setback Reduction Options	Removed to streamline process; buffer reduction in Section 3.4.1
4.5.2.S	Remove Additional Standards	Landscape standards will be addressed with no net loss review.
4.5.2.S	Additional buffer reductions	Moved to Section 3.4.1
4.5.2.S	New Development standards – removed or moved to existing SMP	Redundant to existing SMP; combined Urban Park Standards tables into Table 4, Section 5.15
Table 3	Moved to Table 4, Section 5.15	Use chart identifies uses and this section now priorities those uses.
Table 3	Impervious Surface requirements removed	Redundant
Table 3	Parking simplified	
Table 3	Vegetation Management	Simplified
Table 3	Chemical Applications	
Table 3	Pools – removed	Pools required to connect to City wastewater
Table 3	Lighting – removed navigational lights	
4.5.2.S.B/E	Remove additional/specific application requirements for parks	The applicant is required to demonstrate compliance with the SMP through the submittal, there is no need to add a list of items here. Redundant to Section 7.
4.5.2.S.F	Removed flood hazard reduction	When removing and/or recontouring the shoreline for flood hazard reduction that work will include an analysis of vegetation impacts, NNL (no net loss) and shoreline re-stabilization.
Water Quality, Stormwater and Nonpoint Pollution		
4.6.2.E	Require sewer connection	Require City sewer connection for all new development (no septic). Excepting out recreation which may require restrooms in locations not feasible for a sewer line extension.

SMP Section	Summary of change	Discussion
4.6.2.F	Removed requirement for all decking and structural materials	If not coming in contact with water then the type of material used can be standard building materials.
Shoreline Modifications and Uses		
Upland Shoreline Modifications and Uses		
5.1 Introduction	Removed text	Simplified text
5.1.2.E	View Corridors - Questions	Does the City want to regulate height impacts? What defines substantial? Is any obstruction of view a problem? If meeting the zoning requirement should a view analysis be required?
5.1.2.E.3.c	Removed	Variance option is the process for all deviation from the standards. There is no need to specifically add text for the height variance.
5.1.2.G	Removed	Require compliance with LMC appendix G
Aquatic Shoreline Modification and Use Regulations		
5.2.2.A	Clarified	Modified to clarify when shoreline stabilization and dredging may be acceptable.
5.2.2.B	Removed	Addressed in Table 2
5.2.2.C	Removed	Other required permits do not need to be listed (only reference in code)
5.2.2.D	Removed	Timing of the work is addressed through other agencies based on environmental needs.
5.2.2.T	Removed	All development is required to consider mitigation sequencing and comply with Critical Area Regulations, Appendix B.
Agriculture		
5.3.2.A	Change item A to introduction	The existing language is more of an introduction not a regulation.
5.3.2.A	Removed some applicability	The City (UGA and surrounding County) does not include designated agricultural lands. Therefore, regulations around agricultural activities can be streamlined.
5.3.2.C	Removed	No Net Loss already addressed and required.
5.3.2.D.1	Removed	Type of permit required is addressed in the matrix and chapter 7
5.3.2.D.2, 4-7	Removed	Uses are addressed in the matrix

SMP Section	Summary of change	Discussion
Aquaculture		
5.4.2.C	Removed some text	All development is required to complete mitigation sequencing.
5.4.2.D & H	Removed	Review process defined in section 7
5.4.2.O	Removed bonding language	Bonding becomes less effective the longer the life of the project. This is not an effective way to address the potential safety hazard
5.4.2.J	Removed dock reference	Docks not permitted
5.4.2.P	Application requirements, moved to Section 7, retained last three items which are regulations more than application requirements	Application requirements are a better fit under Section 7
Boating Facilities		
5.5 Introduction	Clarified Introduction – removed redundant text	
5.5.1.D	Replaced marinas with boating facilities	
5.5.1.E-H	Consolidated policies	Each of these policies related to design and impacts of design.
5.5.1.I	Removed	No net loss is required of all projects
5.5.2.A.2	Removed list of protected areas (as redundant to items a-c); and, removed channel migration zone	The CMZ covers the majority of the shoreline.
5.5.2.A.4	Restated to permit shoreline stabilization	The City's shoreline is dynamic and most boat facilities will require stabilization which must meet the SMP requirements.
5.5.2.A.5	Restate to clarify if boating facilities are within 200' of public areas what must be done.	A regulation which first prohibits and then allows (when there is no alternative) can be clarified to allow with mitigation. Due to the limited amount of shoreline and high use of the waters the City would anticipate a need to mitigate impacts.
5.5.2.A.8	Removed	Boat storage is a private facility, not a public facility. It can be addressed outside of the shoreline jurisdiction.
5.5.2.B.1-3	Streamlined facility design into one statement	
5.5.2.B.4	Removed over water residences	Addressed in the use matrix
5.5.2.B.5	Simplified replacement of existing boating facilities and added repair	Streamlining regulations
5.5.2.B.6	Additions to boating facilities simplified to be addressed as new	Streamlining regulations

SMP Section	Summary of change	Discussion
5.5.2.D	Require boat trailer and vehicle parking based on demand and placed outside of the shoreline buffer, when feasible.	
5.5.2.H.3	Prohibit fueling or use of chemicals	There are no current fueling facilities and with the proximity to existing gas stations, all servicing can be done outside the shoreline jurisdiction.
5.5.2.F	Removed submittal requirements	Submittal requirements already addressed in Section 7
5.5.2.G	Removed aquatic land requirements	Redundant to SMP requirements
Breakwaters, Jetties, Groins, Weirs and Barbs – DOE?		
5.6.2.A	Removed	Redundant to SMP requirements - No net loss required of all development
5.6.2.B	Removed	Type of permit addressed in the use matrix
5.6.2.C-G	Moved prohibition to item A and removed from remaining regulations; Removed state-owned land as redundant to existing SMP requirements	Streamline regulations
Commercial Development		
5.7.2.A	Removed some text	Conformance with both zoning and SMP is required outright of all development and does not need to be specified (or only specified once, see Section 3.2.7)
5.7.2.B	Removed some text	All portions of a development (in the shoreline jurisdiction) are reviewed for consistency with the zoning and SMP
5.7.2.C	Simplified requirements	Nonwater-oriented commercial uses need to be part of a mixed-use project which includes water-dependent uses.
Dredging and Dredge Material Disposal		
5.8 Introduction	Removed some text	All development is required to comply with the whole SMP so it is redundant and confusing to list other sections.
5.8.2.B	Removed requirement to document when dredging is necessary	Applicant required to show no other feasible alternative. The additional requirement to show necessary is redundant.
5.8.2.B.3	Moved management plan to item D	

SMP Section	Summary of change	Discussion
5.8.2.D	Replaced text with management/monitor plan	Prior text is redundant to existing SMP requirements
5.8.2.G, H and I	Removed	The Wenatchee and Icicle are not deep-water rivers capable of in water disposal. If the applicant wants this to be considered a variance can be requested.
5.8.2.J	Removed application requirements	Redundant to Section 7
Fill and Excavation		
5.9 Introduction	Simplified and removed definitions	Redundant to definition
5.9.2.A	Removed mitigation plan	Redundant to existing SMP requirements
5.9.2.B	Removed other permit statements	Redundant to the requirements of the SMP and other State and Federal permit processes
5.9.2.B.2	Removed	No longer required to be disposed of at DMMP sites, RCW 90.58.140 -A permit under this section is not required in order to dispose of dredged materials at a disposal site approved through the cooperative planning process referenced in RCW 79.105.500 , provided the dredged material disposal proponent obtains a valid site use authorization from the dredged material management program office within the department of natural resources
5.9.2.B.5	Removed reference	Redundant to existing SMP requirements
5.9.2.B	Removed statement requiring condition permit	Changed all fill activities to require conditional permit – see matrix
5.9.2.B.6	New numbered statement and removed part of statement	Redundant to existing SMP requirements
Forest Practices – NOT PERMITTED USE		
5.10.1.F	New policy	Clarification of forest practice activities and permit requirements.
5.10.2.A.	Removed compliance statement	Redundant to the SMP requirements
5.10.2.E	Removed	Applies only to the County Natural designation, not a city designation
Industry		
5.11.2	Removed A and B	Redundant to existing SMP requirements
5.11.2.C	Removed portion of the text and added as a conditional use in matrix	Change to the matrix to a conditional use to address existing uses and zoning. Removed navigability as the

SMP Section	Summary of change	Discussion
		Wenatchee and Chumstick have limited navigability already.
5.11.2.D	Modified	Modified to address all accessory uses in a similar manner
5.11.2.E	Removed	Redundant to existing SMP requirements
In-Water Structures		
5.12	Introduction – removed definition	Redundant
5.12.2.B	Added reference to existing regulation	Provides consistency for developments
5.12.2.C	Removed text	City is able to condition all permits to achieve any objective of the SMP
5.12.2.D	Combined with item C	Streamlined text to water quality
5.12.2.H	Removed	Redundant to existing SMP requirements
5.12.2.I	Removed	Public access would be required per State law if a publicly owned facility.
Mining		
5.13.1	New Policy A and removing remaining policies	Addressing why mining is (should be considered) prohibited
5.13.2	Removing regulations	Prohibited use
Private Moorage Facilities - Prohibited		
Recreational Development		
5.15.2.D	Removed reference	Redundant to existing SMP requirements
5.15.2.G	Removed City standard and added design components listed in items I	All development is required to meet City standards, or higher if defined by State or Federal law.
5.15.2.H	Removed	Redundant to existing SMP requirements
5.15.2.I	Removed	Management Plan developed by the City is a policy direction. New recreation will require designs (per amended item G) to address water, stormwater, erosion. New public recreation is required to document no net loss
5.15.2.J	Removed reference to island; and type of material submittal	Blackbird Island to be treated the same as all shoreline; required submittals may be achieved through multiple forms – not just a management plan.
5.15.2.J	Labeled: Table 4: Recreational Development	For ease of reference and clarity

SMP Section	Summary of change	Discussion
5.15.2.J – Table item 1	Clarified Category of Use	Added water-enjoyment (trails, parks, etc) removed option for city to establish setbacks (that occurs with a variance); removed duplicate text
5.15.2.J – Table item 2	Removed trail expansion only with increased demand – updated text	When a trail needs to be expanded it may occur based on ADA or other site needs
5.15.2.J – Table item 3	Streamline parking requirements	Same for new and existing
5.15.2.J – Table item 4	Streamlined Vegetation management	Significant vegetation removal requirements remain, only native species to be used, public projects to have the higher bar of enhancing the shoreline.
5.15.2.J – Table item 6	Prohibited pools as permitted in the buffer	If outside the buffer and associated with approved use they may occur following the standards of the SMP
5.15.2.J	Removed application requirements	Addressed in Chapter 7
Residential Development		
5.16.1.F & G (see E)	Combined policies	
5.16.2.A	Removed	Addressed in the use matrix
5.16.2.B	Simplified text	All development required to meet SMP and City standards; “where necessary” is vague term
5.16.2.C.1	Removed reference	Redundant to existing SMP requirements
5.16.2.C.2	Clarified text	Larger buffers to be required if based on best available science, as noted in Section 3
5.16.2.D&F	Removed	Addressed in the use matrix
5.16.2.G	Removed part of text	Redundant to existing SMP requirements
Shoreline Habitat and Natural Systems Enhancement Projects		
5.17 Introduction	Added State law requirement to include kelp, etc; removed stabilization which is reviewed under section 5.18	Projects that cross over multiple sections of the SMP shall meet the standards in each section; exempt projects per RCW77.55.181 do not require City review.
5.17.1.C&D	Restated as action policy	Removed City reference
5.17.2.C	New text	Added flexibility for city to monitor
5.17.2.D		
5.17.2.E	Removed	Redundant to existing SMP requirements

SMP Section	Summary of change	Discussion
5.17.2.F	Removed text	Redundant to existing SMP requirements
5.17.2.G	Removed text	Addressed in the use matrix
Shoreline Stabilization		
5.18 Introduction	Removed text	Reduced introduction consistent with other sections.
5.18.2.A	Removed text	Redundant to existing regulations and “purpose” statement not a regulation
5.18.2.B	Removed sentence	Conflicts with the definition
5.18.2.C	Clarified – repair which enlarges the structure shall be considered under 5.18.2.B	Simplify
5.18.2.C.1 and 2	Removed text	Addressed in definitions and prior section
	Moved image of soft/hard stabilization from 5.18.2.G	Provides visual for mixing soft/hard stabilization
5.18.2.C.3	Removed	Replacement is repair unless enlarging then it is new
5.18.2.D	Removed text	Replacement is defined as either repair or new – no need to regulate separately
5.18.2.E.1	Reorganized text and removed some text	Clarified text to state soft structural stabilization shall be use primarily with hard structural stabilization limited to portions of a site, as determined necessary.
5.18.2.E.2-10	Simplified text	
5.18.2.E.11	Replaced text with RCW	
5.18.2.F.1-3	Streamline text	Reduced text with intent of clarifying requirement
5.18.2.G.1-2	Removed text	Require qualified professional review when project includes soft and hard structural components
5.18.2.H	Removed text	Address in Section 7
Transportation and Parking		
5.19.2.I	Require native vegetation	Simplify regulation
5.19.2.K	Change private driveway from serving one home to one parcel	To account for ADUs and work prior or with establishment of the home.
Utilities		
5.20.2.E	Replace specific reference	Refer to compliance with the SMP
5.20.2.F	Remove other permit requirements	Redundant to the existing SMP requirements

SMP Section	Summary of change	Discussion
5.20.2.G	Simplified text; changed limitation within shoreline jurisdiction to shoreline buffer	All utilities may be placed in shoreline jurisdiction with more restricted placement in the buffer. This provides consistency with development that is permitted in the jurisdiction and mitigation if required in the buffer. Refer to compliance with the SMP
5.20.2.H	Modified text	Require qualified professional to design and review outfall for protection of aquatic and upland vegetation.
5.20.2.I	Removed text	No net loss required for all development – redundant to existing SMP requirements
Redevelopment, Repair and Maintenance		
5.21	Removed	Covered through existing SMP as permitted, nonconforming or prohibited
Nonconforming Structures and Uses		
6.1	Streamlined policies	
6.2	Removed definition of appurtenant	Defined in SMP Section 8
6.2.3.C	Streamlined	Several items redundant to existing SMP and development regulations; accessory buildings to be addressed as either nonconforming or conforming meeting SMP
6.2.3.C	Removed SFR regulation (which related to zoning) and added Pre-existing single-family residential structures	Borrowed from Chelan County as clarification for existing homes.
6.2.3.E	Removed extra text	
6.2.3.F&G	Removed	Defined in Section 8
6.2.3.H	Simplified	Simplified to permit expansion when conforming with the SMP(unstated but required to comply with zoning or by variance)
6.2.4	Simplified text	
6.2.5	Changed text to require nonconforming signs to become conforming	Replacing nonconforming signs should not create a notable hardship to the benefit of becoming conforming.
Shoreline Permits, Procedures and Administration		

SMP Section	Summary of change	Discussion
7	Changes throughout to define roles – Hearing Examiner, Administrator, etc	
7.3	Removed reference to Chapter 21.07	Shoreline permits to follow WAC
7.4	Additional application requirements added, as appropriate, from other sections of the SMP	Also simplified the option for the Administrator to require additional information.
7.6	Added statement about exemptions	No letter is required from the City
7.6.3	Removed requirement for written exemption – redundant to 7.6	No letter is required from the City
7.6.3.A	Updated exemptions	To include exemption dollar threshold and how that is defined
7.6.3.H	Added exemption for docks but noted docks are prohibited	
7.6.3.Q	Added exemption for ADA compliance	
7.6.4	Removed text	Some projects are exempt for a letter of exemption per State law. Not needed to restate that here.
7.10.B	Removed text	Moved to a new item D
7.10.C	Removed text	Addressed in new item D
7.10.D	Effective date restated for clarity	Reference RCW
7.12	New text	To address State law change
7.14.3	Removed extra notification requirement for revisions	
7.15	Streamlined text	
7.16.1	Removed reference to Chelan County	
7.16.1.B	Added timeline for effective date	
7.16.2	Removed reference to Chelan County	
7.16.2.C	Updated WAC reference	
7.16.2.F	Remove reference regarding City SMP applying to the Urban Growth Area	The County’s SMP applies to the UGAs
Definitions		
Approval, SMP	Removed	Unnecessary to define
Approval, Permit	Removed	Unnecessary to define
Aquaculture	Removed intensities	Not used in the SMP
Boathouse	Removed	Unnecessary to define
Boat Launch Facility, Commercial	Removed	Unnecessary to define
Boat Launch Facility, Community		
City/Cities	Removed	Unnecessary to define
Community Dock	Removed	Unnecessary to define
Covered Moorage	Removed	Unnecessary to define

SMP Section	Summary of change	Discussion
Development	Added exemption	Consistent with the SMP
Dock	simplified definition	
Fingers or Dock Fingers	Removed	Unnecessary to define
Floodway	Redefined	Only required to adopt one standard for defining floodway. The FEMA maps are readily available and updated for accuracy therefore, recommend adopting FEMA maps.
In-water Structures	Removed major/minor and added statement from SMP	Major/minor is not used in the SMP
Joint Use Docks	Removed	Unnecessary to define
Marina	Removed	Unnecessary to define
Moorage Facility	Removed	Unnecessary to define
Moorage Pile	Removed	Unnecessary to define
Overwater structures	Removed examples	
Qualified professional	Updated	Barrowed from Chelan County, as a comprehensive list of types of professionals
State Master Program	Removed	Unnecessary to define and not used in this SMP