
SHORELINE MASTER PROGRAM
for the City of Leavenworth and its Urban Growth Area



Prepared by The Watershed Company, ICF International for Department of Ecology and City of Leavenworth

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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”. Since the 1975 SMP was developed much has changed along shorelines. In addition, knowledge of best development and conservation practices has evolved and there have 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 and the implementing State rules codified as Chapter 173-26 of the Washington Administrative Code (WAC), as amended through 2020.

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.

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, the City of Leavenworth 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. The Shoreline Management Act of 1971, Chapter 90.58 RCW;
- B. State master program approval/amendment procedures and master program guidelines, WAC 173-26; and
- 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. 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.

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

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.
- B. Pursuant to WAC 173-27-060, federal agency activities may be required to meet the permitting requirements of RCW 90.58.
- C. As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Indian Nations or Tribes.
- D. 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 purpose of this SMP is to:

1. 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
2. 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
4. Protect against significant adverse effects to the land, its vegetation and wildlife, and the waters and their aquatic life within jurisdictional shorelines; and
5. 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
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
7. Assure no net loss of ecological functions associated with the shoreline, using best available science; and
8. Protect rights of navigation; and
9. Recognize private property rights and constitutional limitations on the regulation of private property and protect those rights while implementing this SMP; and
10. Maintain or recreate a high quality of environment along jurisdictional shorelines; and

11. Preserve and protect fragile natural resources and cultural significant features; and
12. Increase public access to publicly owned areas of the shorelines where increased use levels are desirable; and
13. Protect public and private properties from adverse effects of improper development in hazardous shoreline areas; and
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
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.
- C. Consistent with RCW 36.70A.480, the goals and policies of this SMP shall be considered an element of the Leavenworth's comprehensive plan. All regulatory elements of this SMP, including, but not limited to definitions and use regulations, shall be considered a part of the Leavenworth's development regulations.
- D. This SMP includes critical areas regulations applicable only in the shoreline jurisdiction, and shall control within shoreline jurisdiction over Leavenworth Municipal Code (LMC) Chapter 16.08 Critical Areas adopted pursuant to the Growth Management Act. Amendments to the LMC regulations are separate and distinct from the SMP, and do not require amendment to the SMP.

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.

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.

1.8 Effective Date

This SMP adopted by the City Council August 2021, City Ordinance 1634. This SMP and all amendments thereto shall become effective 14-days after final approval by Ecology.

2 GOALS AND OBJECTIVES

This section contains shoreline goals and objectives. Goals express the ultimate aim of the 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

Goal ED-1. Permit those commercial, industrial, recreational, and other developments requiring a shoreline location which may contribute to the economic well-being of Leavenworth.

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.

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.

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

Goal PA-1. Ensure public access to shorelines:

- Is safe, convenient and diversified;
- Provides for public access to publicly owned shoreline jurisdiction areas;
- Avoids endangering life or adverse effects on property or fragile natural features;
- Minimizes conflicts between the public and private property;
- 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;
- Is designed for persons with disabilities, where feasible, consistent with federal standards; and
- Limits altering the natural conditions of the shorelines of the state to instances when development provides an opportunity for substantial numbers of people to enjoy the shorelines of the state.

Objective PA-1.1. Increase public access to shorelines, particularly on public properties, by developing and implementing parks, recreation, and trails plans.

Objective PA-1.2. Require public access as part of public shoreline development, where appropriate.

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.

Objective PA-1.4. Protect and enhance visual and physical access to shorelines.

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

Goal REC-1. Promote diverse, convenient, and adequate recreational opportunities along public shorelines for local residents and visitors.

Objective REC-1.1. Encourage cooperation among public agencies, non-profit groups, and private landowners and developers to increase and diversify recreational opportunities.

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.

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

2.4 Circulation Element

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.

Objective CIRC-1.2. Promote non-motorized travel and public access opportunities.

Objective CIRC-1.3. 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.

Objective CIRC-1.4. 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

Goal LU-1. Assure an appropriate pattern of sound development in suitable locations without diminishing the quality of the environment along shorelines.

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.

Objective LU-1.2. Encourage shoreline uses and development that enhance and/or increase public access to the shoreline or provide significant public benefit.

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.

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.

2.6 Conservation Element

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.

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.

Objective CONS-2.1. Ensure restoration and enhancement is consistent with and prioritized based on adopted watershed and basin plans.

2.7 Historic, Cultural, Scientific, and Educational Element

Goal HIST-1. Protect and restore areas having documented significant historic, cultural, educational or scientific values.

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.

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.

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.

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.

2.8 Flood Hazard Prevention Element

Goal FLOOD-1. Recognize the hydrologic functions of floodplains, and protect frequently flooded areas.

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.

Objective FLOOD-1.2. Implement the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

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.

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 20 acres or greater. The City of Leavenworth contains two shorelines: the Wenatchee River, a Shoreline of Statewide Significance, and Chumstick Creek.

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 Map included in Appendix A. The purpose of the Official Shoreline Map is to identify Environment Designations. The map 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 mark (OHWM), floodway, and presence of associated wetlands.

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 adopted planning and zoning ordinances.

3.2 Environment Designations

The following environmental designations reflect the State option to deviate the categories of designations giving the city an 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.

3.2.3 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 uses may be allowed in such situations where they do not conflict with or limit opportunities for 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.
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.
 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.
 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.
 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.

3.3 Use Matrix

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. Accessory uses shall be subject to the same shoreline permit process and SMP regulations as their primary use.
- 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 found consistent with the policies of the Shoreline Master Program.
- 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.

- 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.
- 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. 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, 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	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	SD/E	X
Water-enjoyment uses	CU	SD/E	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

The chart is coded according to the following legend. SD/E = Permitted, 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	Urban Parks	Shoreline Residential	High Intensity	Aquatic
Upland disposal outside of CMZ/ floodplain	CU	SD/E	SD/E	X
Upland disposal inside of CMZ/ floodplain	CU	CU	CU	X
Fill				
Outside of CMZ/ floodplain	SD/E	SD/E	SD/E	X
Inside of CMZ/ floodplain	CU	CU	CU	CU
Industrial Uses				
Water-dependent uses	X	X	CU	CU
Water-related uses	X	X	CU	X
Nonwater-oriented uses	X	X	CU	X
Institutional²				
Water-oriented	CU	CU	CU	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
Mining	X	X	X	X
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/Accessory Dwelling Unit	X	SD/E	SD/E	X
Multi-family	X	SD/E	SD/E	X
Over-water/ Floating/ Liveaboards	X	X	X	X

The chart is coded according to the following legend. SD/E = Permitted, 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	Urban Parks	Shoreline Residential	High Intensity	Aquatic
Shoreline habitat and natural systems enhancement or restoration 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	SD/E
Regional	CU	CU	CU	CU
Utilities				
Small	SD/E	SD/E	SD/E	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

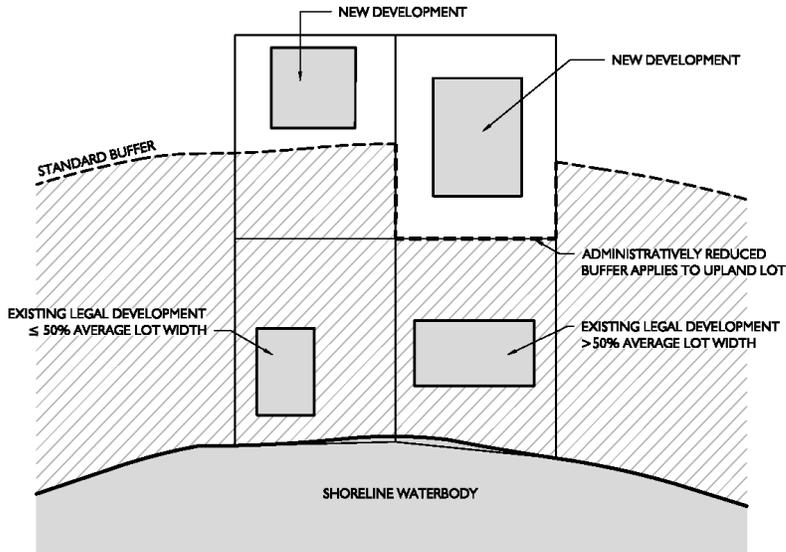
Standard	Urban Park	Shoreline Residential	High Intensity	Aquatic
Note: All dimensions are in feet. n/a = not applicable				
Shoreline Buffer**				
Standard Buffer	150	80	60	n/a
Reduced Buffer	112.5	60	40	n/a
Shoreline Lot Frontage Minimum – Residential	n/a	60	0	n/a
Height Limit Maximum	35	35	35 (50*)	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.

3.4.1 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.

3.5 Interpretation of Environment Designation Boundaries

- 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:
1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
 2. 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.
 3. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow the nearest right-of-way edge.

4. Boundaries indicated as approximately parallel to or extensions of features indicated in (1), (2), or (3) above shall be so construed.
- 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. All shoreline areas waterward of the OHWM shall be designated Aquatic.
 - 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").

3.6 Shorelines of Statewide Significance

In the City of Leavenworth, the Wenatchee River is a Shoreline of Statewide Significance.

Shorelines of Statewide Significance are subject to additional use preference policies 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.

Consistent with the use preferences, the Shoreline Administrator will base decisions administering this SMP on the following policies in order of decreasing priority:

- 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 Tribes to ensure proper salvage of such data.
- 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 Tribes and the Washington State Department of Archaeology and Historic Preservation, or that have been inadvertently uncovered.
- 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.
- 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).
- 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.

4.1.2 Regulations

- A. Known Archaeological Resources. Permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Tribes.
- 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 Tribes if archaeological resources are uncovered during excavation.
- 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 (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.

4.2 Ecological Protection and Critical Areas

4.2.1 Policies

- 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.
- B. Evaluating potential for adverse impacts. In assessing the potential for new uses and developments to cause adverse impacts on ecological functions or processes, 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. 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

- 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:
 - 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.

D. Cumulative effects.

1. In review of applications for Shoreline. 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. 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
 - 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. The Shoreline Administrator may add conditions as needed based on the findings 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 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.

4.3.1 Policies

- A. Implement flood hazard plans and regulations. 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 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.
- 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.
- 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.
- 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.
- 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.
- F. Bioengineered flood control works. 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 ecological processes, and provide more flexibility for long-term shoreline management.
- G. Avoid damage to other properties. Locate, design, construct and maintain 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.
- H. Utilize SEPA, this SMP, flood hazard reduction, and critical areas policies and regulations to ensure protection of the natural environment and critical resources.
- I. Discourage development in natural hazard areas such as those susceptible to landslide, flood, avalanche, unstable soils, and excessive slopes.
- J. Encourage development of floodplains to mitigate the loss of floodplain storage capacity.
- K. Prioritize nonstructural flood hazard reduction measures over structural measures.
- 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,

2. Recognize that seasonal flooding is an essential natural process, and
3. Consider removal or relocation of structures in flood prone areas.

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.
- B. Channel migration zone (CMZ) Maps.
 1. Channel migration zone maps prepared consistent with WAC 173-26-221(3)(b) are included in Appendix E. These map the potential for channel migration within shoreline jurisdiction.
 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 E.
- 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.
- 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:
 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.
 3. Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.
 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 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.
- 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.
- G. Public access. See Section 4.4.2.
- H. Gravel removal. The removal of gravel for flood management purposes shall be consistent with Section 5.8, Dredging and Dredge Material Disposal, and be allowed only after a biological and geomorphological 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.
- 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:
1. Floodway: New development and subdivisions shall be subject to applicable floodway regulations in Appendix B.
 2. Channel Migration Zone: New development on lots containing channel migration zones shall be consistent with the following standards and this SMP.
- 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 it 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.

4.4 Public Access

4.4.1 Policies

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. Increase public access where appropriate. 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. 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.
- C. Findings. Promote public access in private development projects that demonstrate nexus, proportionality and reasonable necessity for the public access requirement.
- D. Public access planning standards. Partner with other federal, state, special district, and municipal agencies, aim for a shoreline public access system that results in:
 - 1. More than 90% of resident population within 15 miles of regional boating, fishing, trails, parks, and open space facilities.
 - 2. More than 50% of resident population within 1.5 miles of local/community shoreline parks and trails.

See Appendix F for current and future levels of service.

- E. Implementation. Support shoreline public access plans, contained in Appendix F, to meet growing resident and tourist populations.
- F. 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.
- G. 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.
- H. Respect private property. 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.
- I. 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.

- J. Visual access. Views to shorelines contribute to the quality of life, tourism economy, and property values. The Shoreline Administrator should consider the following sub-policies when considering new development:
 - 1. Views from Public Properties: 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 35 feet in height.
 - 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.
- K. 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 permitted consistent with RCW 35.79.035 (Streets and Alleys).
- L. Fishing easements. Encourage use and development of existing fishing easements on the Wenatchee River.
- M. Accessibility. Public access should be provided to the water's edge without causing significant ecological impacts, conserve open space and encourage open space considerations in future development.
 - 1. Enhance public recreational opportunities by providing a variety of year-round active and passive recreational activities for both residents and visitors.
 - 2. Develop and maintain parks and recreational facilities capable of serving the anticipated needs of Leavenworth, including the urban growth area.
 - 3. Where appropriate for recreation or open space purposes, encourage land exchange, purchase, development of, or long-term leases for recreation purposes.
 - 4. Encourage the planning, development and full utilization of trails and recreation facilities.
 - 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.
 - 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.

4.4.2 Regulations

- A. Review developments for a connected network of parks and open space and required connections by trails, when practicable, especially, those identified in the Shoreline Public Access Plan in Appendix 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;
 - 2. New structural public flood hazard reduction measures, such as dikes and levees;
 - 3. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and
- C. Where commercial use is proposed on land in public ownership.
- D. Private development. Shoreline development along designated trail routes per Appendix F shall be located and designed to the standards and specifications 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 an applicant/proponent demonstrates at least one of the following criteria are met and that alternatives have been considered per criteria 6.
 - 1. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
 - 2. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - 3. Significant environmental impacts will result from the public access that cannot be mitigated;
 - 4. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
 - 5. The subject site is separated from the shoreline waterbody by developed intervening public or private ownership;
 - 6. In making an exception determination, the Shoreline Administrator shall determine if all feasible alternatives have been exhausted, including, but not limited to:
 - a. Providing for visual access when physical access is not feasible;
 - b. Regulating access by such means as limiting hours of use to daylight hours;
 - c. Designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
 - d. Providing of an off-site public access at a site physically separated from, but capable of serving the proposal.
- F. Off-site Public Access.
 - 1. Off-site public access may be permitted 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 adopted plans; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.

2. Design Standards. Trail widths shall be in conformance with City standards except as may be modified due to geographic limitations.
 3. 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.
 4. 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.
 5. Environmental Protection. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required.
 6. Conditions of Approval. The Shoreline Administrator may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix 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 Shoreline Administrator may condition shoreline development to avoid impacts to view corridors. Developments proposing to exceed height limits are subject to a conditional use permit and a view corridor analysis.

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.
- B. Shoreline buffers. Shoreline buffers should be maintained 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. Native plants should be utilized in restoration or mitigation plantings. Property owners are encouraged to use 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 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.

4.5.2 Regulations

- A. Conserve vegetation. Shoreline developments shall address conservation and maintenance of vegetation. 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.
- 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.
- 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.
- C. Unauthorized vegetation removal. Vegetation removal within shoreline jurisdiction that is conducted without the appropriate review and approvals is prohibited, and subject to corrective action. Corrective action requires the submittal and approval of a restoration plan prepared by a qualified professional. The restoration plan shall utilize only native vegetation, and shall be designed to compensate for temporary loss of function and address the specific functions adversely impacted by the unauthorized vegetation removal.
 - D. 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 permitted in a shoreline buffer or critical area buffer shall be made by the Shoreline Administrator. 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.
 - E. Non-native vegetation removal outside of shoreline buffers or critical area buffers does not require mitigation, but must incorporate necessary erosion control measures, as necessary.
 - F. 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 addressed in this SMP. 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.

- G. 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.
- H. 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 is subject to this SMP.

- I. 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.
- J. 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 this SMP. Stairs associated with a public use trail, may be permitted in the shoreline buffer with a shoreline conditional use permit.

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 effects 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. 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.
- B. Requirements for new development. New development shall manage stormwater to avoid and minimize 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.

- 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. 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. 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. Wood treated with creosote or pentachlorophenol is prohibited in shoreline waterbodies and other waters.
- 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.

5.1 Upland Shoreline Modification and Use

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.
- 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.
- 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.

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:
 - 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 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. **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.

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.

D. Soil disturbance. All disturbed areas shall be restored and protected from erosion using vegetation and other means.

E. View corridors.

1. Heights Greater than 35 Feet: 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.

In order to determine appropriate view corridor location, applicants and the 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.

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.

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.

- G. Sign regulations. See Appendix G.

5.2 Aquatic Shoreline Modification and Use

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 maintain or improve watershed functions and processes or when protecting and restoring priority habitat and species. Modifications and uses located in the Aquatic environment shall be the minimum size necessary.
- B. Structure removal. Removal of existing structures shall be accomplished so the structure and associated material does not re-enter the waterbody.
- 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.
- 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.
- E. Over- and In-water Materials. See SMP Section 4.6.2.F.

- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.

5.3 Agriculture

5.3.1 Policies

- A. Maintain Agriculturally Productive Lands. Lands well suited for agriculture may be maintained in agricultural production.
- 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.
- 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.
- D. Avoid Water Pollution. Agricultural activities should be conducted and buildings designed to avoid surface or groundwater pollution.
- 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.
- F. Manage Water Resources. Water resources should be managed in accordance with federal and state laws and adopted County watershed plans.

5.3.2 Regulations

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;
 - 3. Conversion/development on agricultural land that does not meet the definition of agricultural activities; and
- B. Development Standards. Agricultural-Commercial Uses. Agricultural-commercial uses are allowed when consistent with Commercial use standards in Section 5.7.

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 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.
- 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 with mitigation sequencing requirements. 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. 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.

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.

- 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.
- G. 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.
- 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 termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.
- 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. Materials that are not necessary for the immediate and regular operation of the facility shall be stored outside of the shoreline buffer.
- 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.
- 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.
- 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).
- 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. 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.

- 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.
- 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.
- 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.

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.
- C. Minimize modifications. Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred.
- D. Balance public access and ecological functions. New boating facilities should provide public shoreline access, to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use.
- 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.
- 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.

1. Boating facilities shall not be permitted within the following shoreline habitats:
 - 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 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.
 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 minimizes the need for shoreline stabilization.
 5. Boating facilities within 200 feet of beaches commonly used for public swimming, valuable public fishing areas, aquaculture facilities, or commercial navigation areas shall use appropriate measures or best management practices 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. 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.
- C. 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 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.
- D. Additions to Boating Facilities. Proposals involving the modification and/or enlargement of existing boating facilities shall be reviewed as new boating facilities.
- E. 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.
 2. 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 limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.

- F. **Parking and Vehicle Access.** 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.
- G. **Waste Disposal.**
 - 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.

5.6 Breakwaters, Jetties, Groins, Weirs and Barbs

Breakwaters, jetties, groins, weirs and barbs are generally intended to protect 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.
- 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.
- 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.
- 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.
- 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).

5.6.2 Regulations

- 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.

- C. Limit size of structures. The size of groins weirs and barbs shall be limited to the minimum necessary as determined by a qualified professional to provide protection for the structure or use it is intended to protect.
- 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.

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.
- 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.
- C. Location in existing commercial areas. New commercial development should be encouraged to locate in those areas where current commercial uses exist.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- K. Encourage the development of additional tourist commercial facilities.
- L. Encourage a pattern of mixed-use development in the commercial areas with residential uses as supportive, secondary development to the primary commercial areas.

- 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.

5.7.2 Regulations

- 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 the Shoreline Administrator that proposed uses meet the definitions of water-dependent, water-related or water-enjoyment (water-oriented use).
- B. Residential uses as part of 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 and/or ecological restoration is provided as a public benefit.
- 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 public benefit, such as providing public access and ecological restoration and is part of a mixed-use project that includes water-dependent uses.
- 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.
- 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.
- 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.
- G. Public access. See Section 4.4

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.

5.8.1 Policies

- 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. Prohibited. Dredging of bottom materials for the primary purpose of obtaining material for fill, construction, or beach nourishment should not be permitted.
- 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. 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. 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. 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. 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

- 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. Dredging activities shall only be permitted for the following activities:
 - 1. Development of new or expanded water-dependent industrial uses when there are no feasible alternatives or other alternatives may have a greater ecological impact and 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.
 - 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. 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. The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.
 - c. Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.
- 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. 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. Maintain ecological functions and processes. 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.
 - 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. 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. Disposal of dredge material within channel migration zone is prohibited.

5.9 Fill and Excavation

Fill regulations in this section apply to fills anywhere in shoreline jurisdiction, in both aquatic and upland environments.

5.9.1 Policies

- 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. Location. Fills and excavation should be located and developed so that water quality, hydrologic and runoff patterns are not altered.
- C. Shoreline stabilization. Fill should not be allowed where shoreline stabilization would be required to maintain the materials placed.
- 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. 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. 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. 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

- 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 extent practicable and necessary to accommodate approved shoreline uses and development activities that are consistent with this SMP.
- B. Permissible fill and excavation. Fill and excavation within wetlands, floodways, channel migration zones, or waterward of the OHWM is permitted in limited instances for the following purposes, with due consideration given to specific site conditions, 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. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
 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
 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 Tribes.
 6. All other upland fills are permitted provided they are conducted outside required buffers and 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.

- 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. 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. 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. 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.
- 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.
- 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.
- 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.
- E. Water Quality. Timber harvesting practices on shorelines should be conducted to maintain State and Federal water quality standards as appropriate.
- 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.
 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.
- 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.
 - 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.

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.
- B. Industries requiring navigable water. Water-dependent industries which require frontage on navigable water should be given priority over other industrial uses.
- C. Environmental limitations. Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas.
- 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.
- 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.
- F. Encourage the development of water-oriented small light industrial sites with adequate infrastructure.
- G. New industrial developments should be reviewed as planned industrial developments.

5.11.2 Regulations

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 is part of a mixed-use project that includes water-dependent uses.

- A. Accessory uses 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.
- B. Public access. See SMP Section 4.4.
- 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.

5.12 In-Water Structures

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.
- C. Water quality. In-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. 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.
- 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.
- 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.
- 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.
- 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.

5.13 Mining

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.

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.
- 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.
- 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.
- 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.
- 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. 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.
- G. Scenic views and vistas. Scenic views and vistas should be preserved in the design of recreational facilities, wherever practical.
- 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.
- I. Maintain and/or increase the amount of publicly owned park properties by protecting the existing facilities from land conversions.
- J. Encourage the preservation of areas that are environmentally sensitive or have historic, cultural, or scenic value.

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.
- 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.
- 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.
- D. Public access. 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.
- 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.
- 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.
- G. Adequate utilities and services. Proposals for recreational development shall include facilities for water supply, wastewater, and garbage disposal. Designs shall include techniques for water conservation, low-impact stormwater management and erosion control measures.
- H. Public Recreation Performance Standards in-lieu-of Buffers: The following standards shall guide new development and redevelopment of public access and public recreation facilities when development is within the shoreline buffer.

Table 4: Recreational Development

Design Element	Design and Management Standards
1. Category of Use	<p>Only water-dependent uses and water-enjoyment trails, parks, viewing and other forms of public access, 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 parking, per design element “3” below.</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>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>
2. Impervious Surface and Stormwater	<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</p>

Design Element	Design and Management Standards
Management	<p>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 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. Trail design shall be proposed with the following considerations, in priority order: 1) upland outside required buffers, 2) landward of existing trail and 3) laterally.</p>
3. Parking	<p>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>
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>Significant vegetation removal shall be mitigated to achieve no net loss for the project.</p> <p>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.</p> <p>Public projects shall aim to enhance ecological function of the shoreline.</p> <p>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>
5. Chemical Applications	<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</p>

Design Element	Design and Management Standards
	applications.
6. Pools	Pools 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.
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 river, unless it is a navigational light subject to state or federal regulations.</p>

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.
- 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.
- 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.
- D. Aesthetics. All subdivisions and residential development should be designed to adequately protect and/or improve the water and shoreline aesthetic qualities.
- E. Overwater residential development. New over-water residential development should be prohibited.
- F. Floating homes and liveaboards are prohibited.
- G. Adequate utilities. Residential development should have adequate provision for sanitary sewage disposal, storm drainage, and water supply which minimizes harmful effects on shorelines.
- 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.
- 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.
- J. Scenic views. Residential development should be designed to avoid impacts to scenic views and vistas.

- K. Infilling compatible with surrounding neighborhoods should be encouraged on remaining buildable lands. Encourage the infill of vacant, partially used, and underutilized land in existing residential developments located within urban growth areas.
- L. New residential developments should include provisions for paved streets, curbs, and gutters at the time of development and be consistent with City development standards.
- M. Cluster developments with density mixes should be encouraged.

5.16.2 Regulations

- A. Subdivisions and plats. Subdivisions and plats shall:
 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 which do not result in harmful effects on the shoreline or waters.
 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.
 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 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.
- B. Residential development including accessory uses and appurtenant structures shall:
 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, the Shoreline Administrator may require larger buffers than identified in the SMP to protect health and safety based on a geotechnical analysis or other best available science.
 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.
- D. Accessory uses. The primary use shall be established prior the accessory use.
- 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.

5.17.1 Policies

- 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. 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. 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

- 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 the City may require additional monitoring) shall be arranged by the project applicant and included in restoration or enhancement proposals.
- D. Adverse affects. The project applicant must demonstrate 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. 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.
- F. 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.

5.18.1 Policies

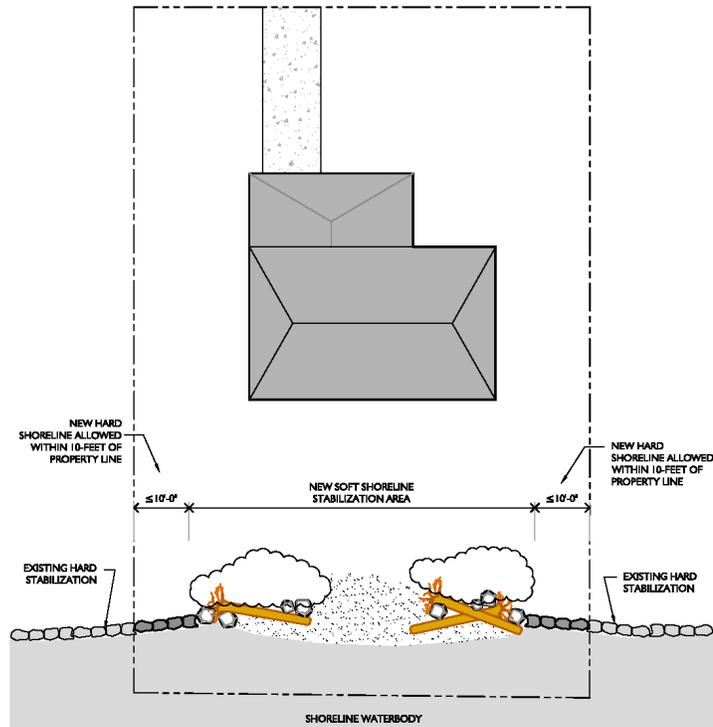
- A. Ecological functions and processes. Shoreline stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing stream or lake processes and the probable effects of proposed 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.

- 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. New or enlarged structural shoreline stabilization. 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.
 - 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.
 - 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.
 - 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.
 - 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 Tribes and comply with applicable provisions of Section 4.1.2 of this SMP.
- B. Repair of existing shoreline stabilization measures. 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.
 - 1. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.
 - 2. 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.
- 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 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 hard and soft structural shoreline stabilization 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. Conduct excavation and fill activities landward of the existing OHWM to the maximum extent practicable.

Where 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. Minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. 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. 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 shoreline stabilization landward and/or sloping the hard-structural shoreline stabilization landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.
5. 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.

- 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 the Shoreline Administrator, or State or Federal agencies, depending on the level of impact.
 6. Designed to not significantly interfere with normal surface and/or subsurface drainage into the adjacent waterbody.
 7. 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. 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. 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 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.
 - 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.
- D. Specific hard-structural shoreline stabilization design standards. In those limited instances when hard-structural shoreline stabilization measures, such as bulkheads, are demonstrated to be necessary they shall include the following design components:
1. 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. Tie in flush with existing stabilization measures on adjoining properties or 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 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 fill regulated under Section 5.9.
- E. 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. 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.
 3. 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.

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.
- 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.
- D. Erosion and groundwater. Roads in shoreline areas should be designed and maintained to prevent erosion and to permit a natural movement of groundwater.
- 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. 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.
- 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.

- H. Maintain old highways. Extensive loops or sections of old highways with high aesthetic quality or multi-use potential should be kept in service.
- 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*.
- 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
- 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.
- N. Maintain and improve the system of collectors, subcollectors, and local streets to serve present and future needs.
- O. Existing City right-of-way above the minimum right-of-way requirement should be surplus and sold.
- P. Bicycle, pedestrian, and cross-country ski trails should be recognized and supported for their value as part of the local transportation system.

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.
- 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:
 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.
- 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.
- 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.
- 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:
 - 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.
 - 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 requirements 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 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 be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
- 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. Private Driveways: A driveway for an individual 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 parcel are subject to the standards of Section 5.19, Transportation and Parking.

- 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, 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. Essential public facilities. If identified as an essential public facility, preclusion of siting is not allowed. 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.

- I. Encourage the consolidation of utility and communication facilities where reasonably feasible.

5.20.2 Regulations

- A. Design considerations. Utility systems are permitted provided such systems:
 - 1. Are designed and constructed to meet all adopted engineering standards of City of Leavenworth;
 - 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.
- 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.
- 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.
- 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, consistent with this SMP.
- F. Underwater utilities. If an underwater location is necessary, the following performance standards apply:
 - 1. The design, installation and operation shall minimize impacts to the waterway or the resident aquatic ecosystems.
 - 2. Seasonal work windows may be made a condition of approval.
 - 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. A maintenance schedule and emergency repair protocol shall be prepared and recorded.
- G. Nonwater-oriented utilities shall not be placed in the shoreline buffer unless it can be demonstrated that no other feasible option is available. Where no other practical alternative exists, a mitigation plan must be prepared by a qualified professional, and must be consistent with 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.

6 NONCONFORMING STRUCTURES AND USES

6.1 Policies

The following policies on nonconforming structures, uses, and lots are intended to guide the Shoreline Administrator:

- A. Nonconforming existing legal uses and structures may continue.
- B. Transitions from nonconforming structures and uses to conforming structures and uses should be encouraged. Owners of nonconforming structures may expand the structure in a manner which does not increase the nonconformity.
- C. 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 lots. This objective may be addressed in an area-wide manner consistent with the SMP cumulative impacts analysis.
- D. 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.
- 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 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. 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.
- 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.
- C. Damaged, demolished or destroyed nonconforming use.
 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.
- 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.
- 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.

- F. Abatement. 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.
- G. Limitations on expansion of nonconforming structures. Nonconforming structures may expand those portions of the structure which conforming to the required buffers and SMP regulations.

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.

6.2.5 Nonconforming Signs

Existing nonconforming signs shall be replaced with conforming signs.

7 SHORELINE PERMITS, PROCEDURES AND ADMINISTRATION

7.1 Roles and Responsibilities

- A. The Administrator 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. The Shoreline 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. 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, after consideration of the recommendation of the City of Leavenworth Planning Commission.
- E. The Leavenworth Planning Commission shall make recommendations for amendments 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

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.
- B. Grant or deny conditional uses under this SMP not issued administratively.
- C. Grant or deny variances from this SMP.

7.1.4 Planning Commission

Planning Commission is 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 City Council.

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.

- B. Adopt all amendments to this SMP, after consideration of the recommendation of the planning commission. 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

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 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 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.

- 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.

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

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 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.

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 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

The following types of development are exempt from the Shoreline Substantial Development Permit requirement, 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.

- A. Any development of which the total cost or fair market value, whichever is higher, does not exceed seven thousand forty-seven dollars (\$7,047) or 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 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.
- 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;
- J. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- K. Operation and maintenance of 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;
- L. Any project with a certification from the governor pursuant to chapter 80.50 RCW, Energy Facilities -Site Locations;
- M. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - 1. The activity does not interfere with the normal public use of the surface waters;
 - 2. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - 3. The activity does not involve the installation of 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. 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. The activity is not subject to the permit requirements of RCW 90.58.550, Oil or natural gas exploration in marine waters;
- 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;
- 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 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. 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. 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 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;
- 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. The project has been approved in writing by the State of Washington department of Fish and wildlife;
 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. 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
 - 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.
- 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 the Shoreline Administrator, when required.

7.6.5 Letters of Exemption – Application

Applications for proposals that meet shoreline exemptions 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 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?
 - 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. 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 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

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 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. 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. 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. 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. 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. 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. How will the variance not constitute a grant of special privilege not enjoyed by the other properties in the area?
 5. How is the variance requested the minimum necessary to afford relief?
 6. How will the public interest suffer no substantial detrimental effect?
- 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. 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. How is the proposal consistent with the criteria established under subsection 7.8.2.B.2 through B.6 of this section?
 3. How will the public rights of navigation and use of the shorelines not be adversely affected?
- 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. 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 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, 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.

7.10 Duration of Permits

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.

- 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.
- 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.
- 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.
- E. Effective date. The effective date of a permit shall be the date of filing as provided in RCW 90.58.143.
- 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.
- 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

- A. Amortization to begin construction. Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, 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 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 filing of the decision, except as provided in RCW 90.58.140 (5)(a) and (b). The 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 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).

7.14 Amendments to Permits

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 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 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 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 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;
- 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.
- 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.

7.14.4 Effective Date of Revised Permit

The revised permit is effective immediately upon final decision by the 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

Enforcement shall be done in compliance with 173-27 WAC Part II, Shoreline Management Act Enforcement, except where otherwise outlined in this SMP, include, but are not limited to, Section 4.5, 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 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.
- 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. 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.
- 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. 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 and WAC 173-06-090.
- 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, who shall approve or deny the proposed amendment consistent with Section 7.1.5.
- 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. The proposed amendment would make this Program more consistent with the Act and/or any applicable Department of Ecology Guidelines;
 - 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. 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. 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 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.

ACT. The Washington State Shoreline Management Act, chapter 90.58 RCW.

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. See also EXISTING AND ONGOING AGRICULTURAL ACTIVITIES.

AGRICULTURAL-COMMERCIAL. The following activities are considered agricultural-commercial activities:

- 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. "Nursery" means land or structures, such as greenhouses, used to raise plants, flowers and shrubs for sale.
- 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.

- 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. "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. 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. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
- C. Farm residences and associated equipment, lands, and facilities; and
- D. Roadside stands and on-farm markets for marketing fruit or vegetables.

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.

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.

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.

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.

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 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.

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. **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. **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.

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.

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.

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

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.

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. 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 mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.”

B

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. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
- 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. 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.

BOATING FACILITIES. Developments and uses that support access to shoreline waters for purposes of boating, 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, PUBLIC. Boat launch facility operated and/or owned by 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. Bulkheads are not buildings under this definition. For structures waterward of the OHWM, see OVER-WATER STRUCTURES.

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. 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.

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.

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.

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.

COUNTY. Chelan County, Washington.

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.

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. Development does not include the following activities:

- 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;
- C. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
- D. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
- E. 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.

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. 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.

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 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.

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.

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.

ENHANCEMENT. 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 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.

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 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. See also AGRICULTURAL 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.

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.

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. 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.

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-propulsion and use as a means of transportation is a floating home, not a vessel.

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.

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.

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.

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.

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.

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;

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.

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.

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. 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.

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 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. 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, or other purpose.

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**.

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**.

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. 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**.

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.

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.

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, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals.

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. 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.

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 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.

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.

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.

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.

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.

PRIORITY SPECIES. Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below:

- A. 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.

PROVISIONS. Policies, regulations, standards, guideline criteria or designations.

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. See also **COMMUNITY ACCESS**.

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.

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.

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, or at least 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.

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.

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.

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 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.

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.

SHALL. A mandate; the action must be done. 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.

SHORELINE AREAS. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

SHORELINE BUFFER. See BUFFER OR 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.

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.

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.

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. 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**.

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.

STREAM. Any portion of a channel, bed, bank, or bottom waterward of the ordinary 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. 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

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.

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.

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.

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-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:

- 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 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.

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.