

City of Sedro-Woolley Shoreline Management Program Update



Shoreline Management Program SEPTEMBER 2013

City of Sedro-Woolley
Department of Ecology Grant No. G1100233

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Appendix A – Shoreline Characterization and Analysis & Cumulative Impacts (Not adopted as part of the SMP)

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Chapter 1 – Introduction

Washington’s Shoreline Management Act (SMA) was passed by the State Legislature in 1971 and adopted by the public in a referendum. The SMA was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the SMA was “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values.

The SMA has three broad policies:

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

Under the SMA, the shoreline jurisdiction includes water areas that have been designated as either “shorelines of statewide significance” or “shorelines” and their adjacent shorelands, defined as the upland area within 200 feet of the OHWM and floodways and contiguous floodplain areas landward two hundred feet from such floodways, as well as any associated wetlands (RCW 90.58.030). The Skagit River is regulated under the SMA and the City’s Shoreline Master Program (SMP). The Skagit River is also designated as “shoreline of statewide significance” under the SMA.

The primary responsibility for administering the SMA is assigned to local governments through the mechanism of local shoreline master programs, adopted under guidelines established by Ecology. The guidelines (WAC 173-26) establish goals and policies that provide a framework for development standards and use regulations in the shoreline. The SMP is based on state guidelines but tailored to the specific conditions and needs of individual communities. The SMP is also meant to be a comprehensive vision of how the shoreline area will be managed over time.

The SMP provides both policies and regulations to govern development and other activities in the City’s shorelines. The SMP (or “Master Program”) consists of environmental designations for the shoreline segments and goals, policies, and regulations applicable to uses and modifications within the Shoreline Management Zone

(SMZ – synonymous with shoreline jurisdiction). Appendices to the SMP include an inventory of existing shoreline conditions; analysis and characterization of the shorelines of the City; a shorelines restoration planning report; and shoreline critical area regulations. The restoration plan and critical area regulations are considered part of the officially adopted SMP.

In 2003, the state legislature established funding, timelines, and guidelines requiring all cities and counties to update their SMP. The City of Sedro-Woolley has developed a comprehensive SMP update with the assistance of a grant administered by the Washington State Department of Ecology. The document has been prepared consistent with the SMA and its implementing guidelines. The City's SMP provides goals, policies, development regulations, and permitting procedures for "shorelines of the state" in the city of Sedro-Woolley. RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under Chapter 36.70A RCW.

Consistent with state guidelines (WAC 173-26-201, Comprehensive Process to Prepare or Amend Shoreline Master Programs) a first step in the comprehensive Master Program update process is development of a shoreline inventory and characterization. The inventory and characterization documents current shoreline conditions and provides a basis for updating the City's Master Program goals, policies, and regulations. The characterization identifies existing conditions, evaluates existing functions and values of shoreline resources, and explores opportunities for conservation and restoration of ecological functions.

State guidelines also require that local governments develop Master Program policies that promote "restoration" of damaged shoreline ecological functions and develop a "real and meaningful" strategy to implement restoration objectives. Planning for shoreline restoration includes identifying opportunities (both programmatic and site-specific), establishing goals and policies, working cooperatively with other regional entities, and supporting restoration through other regulatory and non-regulatory programs.

This document has been reviewed to ensure that property rights shall not be infringed upon (as demonstrated by the use of such techniques as administrative reductions and variances) and meets the principals of the SMA (WAC173.26-186(5)).

During the development of the SMP update the City worked with a Citizen's Advisory Committee for several months. Special thanks go out to Committee members Pat Huggins, Rick Judd, Jim Johnson, Stephanie Lokkebo, Jennifer Aylor, Eric Johnson, and Joe Franett.

Chapter 2 – Definitions

“Accessory structure” means a structure, either attached or detached, from a principal or main building and located on the same lot and which is customarily incidental and subordinate to the principal building or use.

“Act” or **“SMA”** means the Washington State Shoreline Management Act, Chapter 90.58 RCW.

“Agricultural activities” means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

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

“Agricultural equipment” and **“agricultural facilities”** includes, but is not limited to:

(a) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

(b) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

(c) Farm residences and associated equipment, lands, and facilities; and

(d) Roadside stands and on-farm markets for marketing fruit or vegetables;

“Agricultural land” means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the

effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

"Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

"Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

"Associated wetlands" means those wetlands which are in proximity to and either influence or are influenced by a lake or stream subject to the Shoreline Management Act.

"Best available science" refers to information gathered, analyzed and presented based on professional experience, expertise, and judgment, and established scientific principles and practices. Such principles and practices include peer review, use of scientific methodology, logical analysis and reasonable inference, statistical analysis, rigorous referencing within the scientific literature, and conclusions drawn from within an accepted scientific framework and placed in an appropriate scientific context.

"Best management practices (BMPs)" refer to physical, structural, and/or managerial practices, that when used singly or in combination, prevent or reduce water pollution. Source control BMPs include those which keep the pollutant from ever coming in contact with stormwater, and stormwater treatment BMPs include those which consist of various methods of treating stormwater. See also Chapters 13.36 and 13.40 SWMC (Stormwater Management).

"Bioengineering" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

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

"Channelization" means the straightening, deepening, or widening of a stream channel for the purpose of increasing the stream's carrying capacity.

"City" means the city of Sedro-Woolley.

“Community pier” or **“community dock”** means a pier or dock including a gangway and/or float which is intended for use in common by lot owners or residents of a subdivision or residential planned development district.

Consumer Price Index means for any calendar year, that year's annual average consumer price index, Seattle Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor.

County is Skagit County outside the city limits of Sedro-Woolley.

"Critical areas" as defined under chapter 36.70A RCW includes the following areas and ecosystems:

- (a) Wetlands;
- (b) Areas with a critical recharging effect on aquifers used for potable waters;
- (c) Fish and wildlife habitat conservation areas;
- (d) Frequently flooded areas; and
- (e) Geologically hazardous areas.

"Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level.

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

“Director” means the city of Sedro-Woolley Planning Director or his/her designee.

“Dock” means a structure that abuts the shoreline and floats upon the water and is used as a landing or moorage place for recreational purposes.

"Ecological functions" or **"shoreline functions"** means 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**" means the Washington State Department of Ecology.

"**Ecosystem-wide processes**" means 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.

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

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

"**Feasible**" means, for the purpose of this chapter, 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 in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

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

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

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

"**Fill**" means 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.

"Flood hazard reduction" activities include actions taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

"Flood plain" is synonymous with one hundred-year flood plain 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 SMA.

"Floodway" means the area, as identified in this Master Program, that has been established in the most current federal emergency management agency flood insurance rate maps (FIRM) or floodway maps.

"Geotechnical report" or **"geotechnical analysis"** means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

"Grading" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

"Hazardous substances" means those wastes designated by WAC 173-340-200, and regulated as hazardous substances by the Department of Ecology.

"Hearings board" means the shorelines hearings board established by Chapter 90.58 RCW.

"Height" means a measurement from average grade level to the highest point of a structure: provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines,

or the master program specifically requires that such appurtenances be included: provided further, that temporary construction equipment is excluded in this calculation.

"In-stream structural uses" means a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. Instream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

"Master Program," "shoreline master program" or "SMP" means the City of Sedro-Woolley's Shoreline Master Program.

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

"Mineral resource lands" means lands primarily devoted to the extraction of minerals or that have known or potential long-term commercial significance for the extraction of minerals.

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

"Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

"Nonconforming use and development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the SMA or the applicable master program or amendments thereto, but which do not conform to present regulations or standards of the program.

"Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining freshwater shall be the line of mean high water.

"Permit" means a Substantial Development Permit, shoreline conditional use permit, or shoreline variance issued in compliance with the SMA and the Sedro-Woolley Shoreline Master Program.

"Pier" means a structure that abuts the shoreline and is built over the water on pilings and is used as a landing or moorage place for recreational purposes.

"Primary association" means the use of a habitat area by a species for breeding, nesting, rearing young, roosting, feeding, or foraging on a regular basis.

"Priority habitat" means 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;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

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

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

(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include

heron colonies, seabird concentrations, and marine mammal congregations.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

"Provisions" means policies, regulations, standards, guideline criteria or environment designations.

"Public interest" means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

"Public facilities" mean and include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreation facilities, and schools.

"Qualified expert" means a person having substantially demonstrated experience as a practicing specialist with a minimum of five years experience working full time in the profession and who has a degree in a related field from an accredited college or university or who has equivalent training.

"Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

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

"Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters that are subject to the provisions of RCW 90.58.030; the same as to location by the Department of Ecology.

"Shoreline areas" and "shoreline jurisdiction" is synonymous with **"Shorelines Management Zone"** (SMZ) as defined in this master program.

"**Shorelines of the state**" are the total of all "shorelines" and "shorelines of statewide significance" within the state.

"**Shorelines of statewide significance**" in Sedro-Woolley are identified as the Skagit River within the city limits, shorelands, and wetlands associated with the Skagit River (see RCW 90.58.030(2)(e)).

"**Shoreline Management Zone (SMZ)**" as used in this document, is meant to define the area of the City's shoreline jurisdiction as allowed by RCW 90.58.030. The SMZ extends a minimum of 200 feet upland from the line of the ordinary high water mark (OHWM) of the Skagit River and floodways and contiguous floodplain areas landward two hundred feet from such floodways. The floodplain and floodway are defined by the current effective US Army Corps of Engineers Flood Insurance Rate Maps (FIRM). The SMZ includes associated wetlands, but not wetland buffers. The SMZ extends waterward of the OHWM to mid-channel of the Skagit River.

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

"**Should**" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA, against taking the action.

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

"**State master program**" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

"**Structure**" means 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.

"**Substantially degrade**" means to cause significant ecological impact.

"**Substantial development**" shall mean any development of which the total cost or fair market value exceeds six thousand four hundred and sixteen dollars (or the value as amended or adjusted for inflation per RCW 90.58.030 (3) (e)), or any development which materially interferes with the normal public use of the water or shorelines of the

state. As further defined in Chapter 6, Section B, the following shall not be considered substantial developments for the purpose of this chapter:

(a) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

(b) Construction of the normal protective bulkhead common to single-family residences;

(c) Emergency construction necessary to protect property from damage by the elements;

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

(e) Construction or modification of navigational aids such as channel markers and anchor buoys;

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

(g) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple-family residences. This exception applies in freshwaters, if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

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

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

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

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

- (i) The activity does not interfere with the normal public use of the surface waters;
- (ii) 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;
- (iii) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
- (iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
- (v) The activity is not subject to the permit requirements of RCW 90.58.550;

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

"Unavoidable impacts" refer to affecting critical areas where site conditions preclude avoidance because of density requirements, critical areas that bisect parcels such as streams or linear wetlands, or parcels that contain many small wetlands.

"Vessel" includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

"Water-dependent use" means 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.

"Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

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

"Water quality" means the physical characteristics of water within shoreline jurisdiction,

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

"Water-related use" means 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.

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

Chapter 3 – Shoreline Management Goals

A. INTRODUCTION

The Shoreline Management Act recognizes that the shorelines and the waters they encompass are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. The SMA also recognizes that they are fragile in that they depend upon balanced physical, biological, and chemical systems that may be adversely altered by natural forces (earthquakes, volcanic eruptions, landslides, storms, droughts, floods) and human conduct. Sedro-Woolley's Shoreline Goals are intended to acknowledge and balance the conflicting nature of the shoreline use.

The SMA identifies eight program elements that must be addressed (if applicable) to effectuate the policies of the Act: Economic Development, Public Access, Recreational, Shoreline Land Use, Conservation, Circulation, Historic / Cultural / Scientific / Educational and Flood Hazard Management (RCW90.58.100(2)). For each of those program elements, the City of Sedro-Woolley has identified shoreline goals. These goals establish the basis from which the environmental designations, policies, regulations, and administrative procedures of the Shoreline Master Program are developed. The goal statements are listed below under their corresponding shoreline elements and have been reviewed for consistency with the Goals of the Comprehensive Plan.

B. SPECIFIC SHORELINE GOALS

1. Economic Development Element

Per RCW 90.58.100(2)(a) master programs shall include “an economic development element for the location and design of industries, projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state.” The city owns the majority of the land within the SMZ. The Sedro-Woolley SMZ does not contain any commercial or industrial development. However, there are a few residential parcels at the edge of the SMZ and a couple industrially zoned parcels that are adjacent to wetlands in the flood plain that may be jurisdictional.

Shoreline Economic Development Goals:

SED1: Promote tourism through park-oriented recreational opportunities in those shoreline areas that can reasonably tolerate such uses during peak use periods without destroying the integrity and character of the shoreline.

SED2: Increase economic opportunities in Sedro-Woolley by encouraging compatible recreational opportunities within the SMZ as a means to support local businesses.

SED3: Support the continued use of industrial properties for such purposes.

2. Public Access Element

Per RCW 90.58.100(2)(b) master programs shall include “a public access element making provision for public access to publicly owned areas.” The majority of the Sedro-Woolley SMZ is publicly owned. Public access is a major part of the shoreline plan.

Shoreline Public Access Goals:

SPA1: Increase and enhance public access to publicly-owned shoreline areas so the public may enjoy the amenities of the shoreline, consistent with the natural shoreline character, private rights, and public safety.

SPA2: Integrate public access to shorelines as a part of a public recreational system throughout Sedro-Woolley and Skagit County.

SPA3: Maintain the existing water access such as the boat launch and develop additional pedestrian-only river access.

3. Recreation Element

Per RCW 90.58.100(2)(c) master programs shall include “a recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas.”

Shoreline Recreation Goals:

SR1: Encourage diverse, water-oriented recreational opportunities in those shoreline areas that can reasonably tolerate such uses during peak use periods without destroying the integrity and character of the shoreline.

SR2: Maintain and improve Riverfront Park and adjacent recreational lands as a regional recreational destination.

SR3: Create public access to the Skagit River through the park and trail system that will not endanger life or property, nor impair the rights of owners of private property in the SMZ.

4. Circulation Element

Per RCW 90.58.100(2)(d) master programs shall include “a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element.”

Shoreline Circulation Goals:

SC1: Encourage routes for non-motorized transportation to and throughout the city-owned shoreline resources.

SC2: Maintain safe, reasonable, and adequate vehicular, bicycle, and pedestrian circulation systems to shoreline.

SC3: Maintain the existing circulation system through the SMZ while ensuring that routes accessing the SMZ will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems, and, when possible, contribute to the functional and visual enhancement of the shoreline.

5. Shoreline Land Use Element

Per RCW 90.58.100(2)(e) master programs shall include “a use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land.”

Shoreline Land Use Goals:

SLU1: Promote land and water uses that will honor the existing and ongoing human uses and protect the natural environment as intended by the Shoreline Management Act.

SLU2: Promote land and water uses consistent with the SMA, the Sedro-Woolley Comprehensive Plan, and Sedro-Woolley Zoning Code.

6. Conservation Element

Per RCW 90.58.100(2)(f) master programs shall include “a conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection.”

Shoreline Conservation Goals:

SCo1: Comply with SMA rules regarding restoration of areas which are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline.

SCO2: Protect and preserve the unique and nonrenewable resources and amenities of the shoreline for the use and enjoyment of present and future generations.

7. Historic/Cultural/Scientific/Educational Element

Per RCW 90.58.100(2)(g) master programs shall include “an historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.”

Shoreline Historical/Cultural/Scientific/Educational Goals:

SH1: Identify, protect, preserve, and restore important archaeological, historical, and cultural sites located in the city’s SMZ for their educational and scientific value, as well as for the recreational enjoyment of the general public.

SH2: Encourage organized educational projects and programs that use the city-owned shoreline resources.

8. Flood Hazard Management Element

Per RCW 90.58.100(2)(h) master programs shall include “an element that gives consideration to the statewide interest in the prevention and minimization of flood damages.”

Flood Hazard Management Goals:

FHM1: Comply with and complement the city’s Flood Damage Prevention regulations found in Chapter 17.66 SWMC.

FHM2: To safely accommodate compatible uses in the flood plain and flood way while protecting integrity and character of the shoreline.

Chapter 4 – Shoreline Environment Designations

I. General

Under the SMA, all shorelines of the state meeting the criteria established are categorized into a shoreline environment designation. These designations are used to plan and manage shoreline resources through the development of the SMP. This system applies appropriate policies and regulations to distinctively different shoreline areas.

The purpose of shoreline environment designations is to differentiate between areas whose geographical, hydrological, topographical, or other features imply differing objectives for the use and future development of the city's shorelines.

The assignment of each geographical area into an environmental category is based on, and is reflective of, the existing use pattern; the biological and physical character of the shoreline; the goals and aspirations of the local citizenry; and the criteria in the SMA guidelines (WAC 173-26-211).

Each environment designation represents a particular emphasis in the type of uses and development that should be allowed. The environment designation system is designed to encourage uses in each environment that enhance or are compatible with the character of the environment, while at the same time requiring reasonable standards and restrictions on development so that the character of the environment is not adversely impacted.

Each environment designation category includes: (1) a purpose statement which clarifies the meaning and intent of the designation; (2) criteria to be used as a basis for classifying a specific shoreline area with that environment designation; and (3) general management policies designed to guide management decisions and development consistent with the character of the environment.

The state recommends six basic environmental designations in WAC 173-26-211(5). Those designations are "high-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic."

There is only one reach of shoreline in the Sedro-Woolley SMZ. That reach is used almost entirely for park purposes and is shown in Figure 1- SMZ. Therefore the most appropriate designation for the terrestrial lands in this reach is urban conservancy. The regulatory jurisdiction, referred to herein as the Shoreline Management Zone (SMZ), extends a minimum of 200 feet upland from the line of the ordinary high water mark (OHWM) of the Skagit River and floodways and contiguous floodplain areas landward two hundred feet from such floodways. The floodplain and floodway are defined by the

US Army Corps of Engineers 1989 Flood Insurance Rate Maps (Firm). The SMZ includes associated wetlands within the flood plain, but not wetland buffers. Wetland buffers in the floodplain will be regulated under the city's critical areas ordinance and not the SMP. The City of Sedro-Woolley's SMZ extends beyond the ordinary high water mark to the approximately to the middle of the Skagit River. The submerged land waterward of the ordinary water mark shall be assigned the aquatic environment designation. WAC 173-26-211(5)(e) defines the urban conservancy environment designation. WAC 173-26-211(5)(c) defines the aquatic designation. Both of those designations are detailed below.

II. "Urban Conservancy" environment

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

B. Management policies.

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

(2) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" 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) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

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

C. Designation criteria. Assign an "urban conservancy" environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "limited areas of more intensive rural development" if any of the following characteristics apply:

(1) They are suitable for water-related or water-enjoyment uses;

(2) They are open space, flood plain or other sensitive areas that should not be more intensively developed;

(3) They have potential for ecological restoration;

(4) They retain important ecological functions, even though partially developed; or

(5) They have the potential for development that is compatible with ecological restoration.

Lands that may otherwise qualify for designation as urban conservancy and which are designated as "mineral resource lands" pursuant to RCW [36.70A.170](#) and WAC [365-190-070](#) may be assigned a designation within the "urban conservancy" environment that allows mining and associated uses in addition to other uses consistent with the urban conservancy environment.

D. Designated Area. The entirety of the Sedro-Woolley SMZ landward of the ordinary high water mark.

III. "Aquatic" Environment

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 ordinary high-water mark.

B. Management policies.

(1) New over-water structures allowed only for water-dependent uses, public access, 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 use 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 except where necessary to achieve the objectives of RCW [90.58.020](#), and then only when their impacts are mitigated according to the sequence described in WAC [173-26-201](#) (2)(e) as necessary to assure no net loss of ecological

functions.

(6) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

(7) Shoreline space should be reserved primarily for shoreline preferred uses. Such planning should consider upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish protection districts and critical habitats, aesthetics, public access and views.

C. Designation criteria. Assign an "aquatic" environment designation to lands waterward of the ordinary high-water mark.

D. Designated Area. The stretch of the Skagit River adjacent to the City of Sedro-Woolley, waterward of the ordinary high water mark extending half-way across the width of the river.

IV. Shoreline Environment Designation Maps

The City of Sedro-Woolley Shoreline Environment Designations Map (Map 4.1) indicates the location of both the Urban Conservancy and the Aquatic Environments under the jurisdiction of this SMP. The official copy of this map shall be kept by the Planning Department. This official copy shall be available for public inspection at all times during normal business hours. Unofficial copies shall be included as part of all distributed copies of this SMP.

Per WAC 173-27-211(2)(e), all areas within SMZ that are not mapped and/or designated are automatically assigned a "urban conservancy" designation if within a municipality or urban growth area, or the comparable environment designation of the applicable master program until the shoreline can be re-designated through a master program amendment.

V. Consistency with Comprehensive Plan

RCW 90.58.340 requires that policies for lands adjacent to the shorelines be consistent with the SMA, implementing rules, and the city's SMP. Conversely, local comprehensive plans constitute the underlying framework within which master program provisions should fit. The Growth Management Act, where applicable, designates shoreline master program policies as an element of the comprehensive plan and requires that all elements be internally consistent. The GMA also requires development regulations to be consistent with the comprehensive plan.

The Shoreline Guidelines identify three criteria for use in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and

development regulations to be internally consistent, all three of the conditions below should be met:

A. Provisions not precluding one another.

Comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

B. Use compatibility.

Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water oriented uses, especially water dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.

C. Sufficient infrastructure.

Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

VI. Preferred Uses

The SMA establishes policy that preference be given to uses that are unique to or dependent upon a shoreline location. Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," (see WAC 173-26-020), when discussing appropriate uses for various shoreline areas.

Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020 and WAC 173-26-171 through 173-26-186, local governments shall, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below:

A. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health. In reserving areas, local governments should consider areas that are ecologically intact from the uplands through the aquatic zone of the area, aquatic areas that adjoin permanently protected uplands, and tidelands in public ownership. Local governments should ensure that these areas are reserved consistent with constitutional limits.

B. Reserve shoreline areas for water-dependent and associated water-related uses. Harbor areas, established pursuant to Article XV of the state Constitution, and other areas that have reasonable commercial navigational accessibility and necessary support facilities such as transportation and utilities should be reserved for water-dependent and water-related uses that are associated with commercial navigation unless the local governments can demonstrate that adequate shoreline is reserved for future water-dependent and water-related uses and unless protection of the existing natural resource values of such areas preclude such uses. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

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

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

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

Evaluation pursuant to the above criteria, local economic and land use conditions, and policies and regulations that assure protection of shoreline resources, may result in determination that other uses are considered as necessary or appropriate and may be accommodated provided that the preferred uses are reasonably provided for in the jurisdiction (WAC 173-26-201(2)(d)).

VII. Shoreline Use Preferences and Shorelines of Statewide Significance

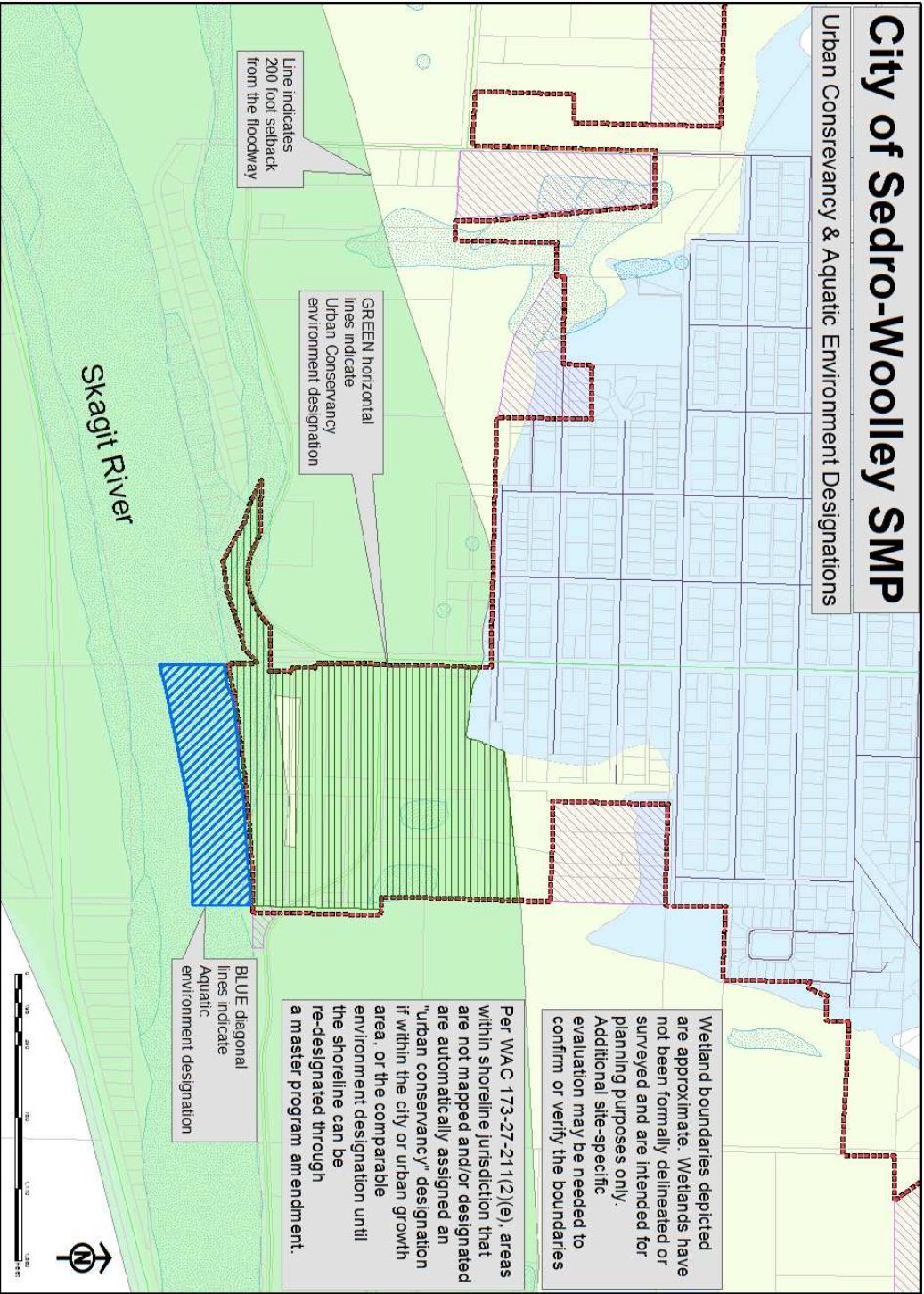
In addition to the preferences above, RCW 90.58.020 and WAC 173-26-181 also require that in developing master programs for shorelines of statewide significance, the local jurisdiction give preferences to uses in the following order:

- A. Recognize and protect the statewide interest over local interest;
- B. Preserve the natural character of the shoreline;
- C. Result in long term over short term benefit;
- D. Protect the resources and ecology of the shoreline;
- E. Increase public access to publicly owned areas of the shorelines;
- F. Increase recreational opportunities for the public in the shoreline;
- G. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (WAC 173-26-251(2))

Shoreline ecological resources are linked to other environments, thus implementation of ecological objectives requires effective management of whole ecosystems. The SMA requires adherence to the concept of “optimum implementation;” an imperative to identify, understand, and manage ecosystem-wide processes and ecological functions that sustain resources of statewide importance. Sedro-Woolley SMP provides for optimum implementation of the statewide interest as set forth in the policy of RCW 90.58.020 and the applicable guidelines.

City of Sedro-Woolley SMP

Urban Conservancy & Aquatic Environment Designations



Environmental Designations

Figure 1

Shoreline Management Plan

Designation	Symbol/Color
Urban Conservancy	Green horizontal lines
Aquatic	Blue diagonal lines
Wetland	Purple hatched pattern
200' Floodway	Red dashed line
City of Sedro-Woolley	Black outline
Skagit River	Blue area
State Route 1	Red line
County Road	Black line
Water	Light blue area
Land	Light green area
Urban Growth Area	Yellow area
Other	White area

Chapter 5 – Policies and Regulations

5.1 – General Policies and Regulations

A. Policies and Regulations Applicable to all Shorelines

1. Applicability

- a. The goals listed in Section III of this Master Program provide broad guidance and direction and have been used by the City in developing the following SMP policies.
- b. The goals and policies, taken together, constitute the Shoreline Element of the Sedro-Woolley Comprehensive Plan.
- c. It is through the regulations that the SMP policies are implemented. The regulations describe the standards required for all shoreline uses and modifications in the City's two environmental designations and are part of the Municipal Code.

2. Policies

- a. The Director of the Planning Department (Director) will periodically initiate review of conditions on the shoreline and conduct appropriate analysis to determine whether or not other actions are necessary to protect and restore the ecology, protect human health and safety, upgrade visual qualities, and enhance residential, commercial, and recreational uses on the City's shorelines. Specific issues to address in such evaluations include, but are not limited to:
 - i. Upland vegetation;
 - ii. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions);
 - iii. Water quality;
 - iv. Changing visual character as a result of new development, including redevelopment and individual vegetation conservation practices; and
 - v. Shoreline stabilization and modifications.
- b. Where appropriate, the Planning Department will implement the policies of this Master Program in all land use activities, such as development permitting, public construction, and public health and safety. Specifically, such activities include, but are not limited to:
 - i. Water quality and storm water management activities, including those outside SMZ, but affecting the shorelines of statewide significance;
 - ii. Aquatic vegetation management;
 - iii. Health and safety activities; and
 - iv. Public works and utilities development.
- c. The Planning Department will notify affected federal, state, county, and tribal governments when shoreline development permit applications are submitted.

3. Regulations

- a. All proposed shoreline uses and developments, including those uses and developments that do not require a shoreline permit, shall conform to the provisions of the Shoreline Management Act, Chapter 90.58 RCW, as such provisions are

implemented by the specific regulations of the Master Program applicable to such uses, as more fully described herein.

b. All new shoreline modifications must be in support of an allowable shoreline use that conforms to the provisions of the Master Program. Except as otherwise noted herein, all proposed shoreline modifications not associated with a legally existing or an approved shoreline use are prohibited.

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

d. Where regulations included in this Master Program appear to produce conflicting requirements, the shoreline regulations that are most consistent with the City's existing zoning requirements and its Comprehensive Plan shall be applied, absent clear and convincing evidence that application of such regulations would violate the provisions of the Shoreline Management Act, as expressed in RCW 90.58.020.

e. See Administrative Provisions (Section VI of SMP) for regulations pertaining to shoreline exemptions, variances, conditional uses, and nonconforming uses.

B. Archaeological and Historic Resources

1. Applicability

The following provisions apply to archaeological and historic resources that are either recorded with the Washington State Department of Archaeology and Historic Preservation (DAHP) or are revealed during the course of development or modification activity within the Sedro-Woolley SMZ.

2. Policies

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

3. Regulations

a. All shoreline permits shall contain provisions that require developers to immediately stop work and notify the Planning Department if any sites or items of possible archaeological value are uncovered during excavation. In such cases, the developer shall be required to provide a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data are properly salvaged or mapped.

b. Archaeological sites located in the Sedro-Woolley SMZ are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Resources) and shall comply with Chapter 25-48 WAC (Archaeological Excavation and Removal Permit), as well as the provisions of the Master Program.

c. All shoreline permits and exemptions issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected tribes.

- d. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office, and the DAHP of such a waiver.
- e. Archaeological excavations may be permitted, subject to the provisions of this program.

C. Critical Areas

1. Applicability

- a. Wetlands occurring in the City's SMZ, [Note: The City is not opting for the expansion of the SMZ, as provided for in RCW 90.58.030(2)(d)(ii)].
- b. Fish and wildlife habitat conservation areas are regulated by SWMC 17.65.500-530, "Article V. Fish and Wildlife Habitat Conservation Areas," which has been incorporated into Appendix C – "Shoreline Critical Areas Regulations."
- c. The main stem of the Skagit River, which is designated an Aquatic Environment in this SMP, and provides the critical ecological function of fish passage to upstream spawning and rearing habitats.
- d. The language adopted as part of this SMP has been reviewed and determined to meet the standard of no net loss of ecological functions.

2. Policies

- a. In implementing this Master Program, the Planning Department will take necessary steps to ensure compliance with Chapter 43.21C RCW, the Washington State Environmental Policy Act of 1971, and its implementing guidelines.
- b. All significant adverse impacts to the shoreline should follow recommended mitigation sequencing provided for in Appendix C.
- c. Applicable sections of the Critical Area Ordinance (CAO) pertaining to wetlands have been incorporated into the SMP and have been included as Appendix C.
- d. If provisions of the Shoreline Wetland Regulations (Appendix C), and other parts of the Master Program seem to conflict, the regulations most directly implementing the objectives of the Shoreline Management Act, as determined by the Planning Department, shall apply unless specifically stated otherwise.
- e. In as much as the main stem of the Skagit River serves the critical function of fish passage, the SMP shall be applicable for the purposes of protection of this function by minimizing and avoiding any adverse impacts waterward of the ordinary high water mark.

3. Regulations

- a. All project proposals that occur within the Shoreline Management Zone (see Figure 1), shall comply with Chapter 17.66 SWMC, Flood Damage Prevention and the provisions of this SMP.
- b. All project proposals that involve alteration of wetlands within the SMZ must comply with the wetland regulations in Appendix C of the SMP.

- c. All project proposals that may alter fish and wildlife conservation areas shall comply with Fish and Wildlife Habitat Conservation Areas regulations in Appendix C and the provisions of this SMP.
- d. All project proposals shall comply with Chapter 43.21C RCW, the Washington State Environmental Policy Act.

D. Flood Hazard Reduction

1. Applicability

- a. The provisions in this section apply to those areas within the SMZ lying along the Skagit River floodplain corridor and as identified on Federal Emergency Management Agency (FEMA) floodplain maps. The provisions in this section are intended to address two concerns especially relevant to river shorelines:
 - i. Protecting human safety and minimizing flood hazard to human activities and property; and
 - ii. Protecting and contributing to the restoration of ecosystem-wide processes and ecological functions found in the applicable watershed or sub-basin.

2. Policies

- a. Implement a comprehensive program to manage the City's floodplain corridor that integrates the following City ordinances and activities:
 - i. Regulations of the Master Program as codified in the SWMC;
 - ii. The Floodplain Management Prevention, Chapter 17.66 SWMC;
 - iii. The development standards of the underlying zoning district;
 - iv. The City stormwater management plan and implementing regulations; and
 - vii. The City's participation in flood risk management programs, including the Federal Emergency Management Act and the Washington State Flood Control Assistance Account Program.
- b. In regulating development on shorelines within SMA jurisdiction, endeavor to achieve the following:
 - i. Maintenance of human safety;
 - ii. Protection and, where appropriate, the restoration of the physical integrity of the ecological system processes;
 - iii. Protection of water quality and natural groundwater movement;
 - iv. Protection of fish, vegetation, and other life forms and their habitat vital to the aquatic food chain;
 - v. Protection of existing legal uses unless the City determines, in the exercise of its reasonable discretion, that relocation of an existing, non-conforming use or structure is the only feasible option based on a written determination of the State Department of Ecology that such use presents a substantial and imminent hazard to the shoreline, and violates the requirements of the Shoreline Management Act; and
 - vi. Protection of recreational resources and scenic values.
- c. Continue to undertake flood risk management planning in a coordinated manner with affected property owners and public agencies.
- d. In designing publicly financed or subsidized works, give consideration to providing public pedestrian access to the shoreline, particularly in the City-owned park properties.

3. Regulations

- a. Uses that may be appropriate and/or necessarily located in the channel migration zone or floodway include uses delineated in WAC 173-26-221(3)(c)(i) when consistent with language elsewhere in the SMP.
- b. New structural flood hazard reduction measures shall be allowed only where demonstrated to be necessary, and when non-structural methods are infeasible and mitigation is accomplished.
- c. New structural flood hazard reduction measures shall be allowed only landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis per WAC 173-26-221(3)(c)(ii) & (iii).
- d. Designs for flood hazard management and shoreline stabilization measures in river corridors must be prepared by qualified professional engineers, geologists, and/or hydrologists who have expertise in local riverine processes.
- e. Existing hydrological connections to the floodplain and associated wetlands shall be maintained where feasible.
- f. New publicly funded dikes or levees are required to dedicate and improve public access per WAC-173-26-221(3)(c)(iv).
- g. Removal of gravel from the Skagit River for purposes of flood risk reduction is not allowed unless a biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological functions, and extraction is part of a comprehensive flood management solution.

E. Public Access

1. Applicability

- a. Shoreline public access is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. Public access facilities may include picnic areas, pathways and trails, floats and docks, promenades, viewing platforms, boat launches, and improved street ends.
- b. The City owns most of the river's edge property in the SMZ. Public access to the shoreline is of high priority when and where access can be safely accommodated. The stretch of Skagit River through the SMZ is fast moving, cold and varies in bank height and volume. The bank is typically steep in the SMZ. These factors make recreation on the shores of or in the waters of the river perilous at times, thus direct access to the river should be carefully managed.

2. Policies

- a. Public access should be considered in the review of all private and public developments with the exception of the following:
 - i. Residential developments of four or fewer lots; or
 - ii. Where deemed inappropriate due to health, safety, and environmental concerns.
- b. Developments, uses, and activities on or near the shoreline should not impair or detract from the public's right to access the water or the rights of navigation.

- c. Public access should be provided as close as possible to the water's edge without causing significant ecological impacts or placing users in harms-way and should be designed in accordance with the Americans with Disabilities Act.
- d. Opportunities for public access should be identified on publicly-owned shorelines.
- e. Public access should be designed to provide for public safety and comfort and to ensure no adverse impacts on adjoining private property and the individual privacy of such property owners. Where public access is provided, a physical barrier or other means of separation should be utilized that clearly delineates public and private space, and which will discourage trespass onto adjoining private property.
- f. Views from the upland areas adjacent to the shoreline should be enhanced and preserved to the extent practical and where they do not conflict with other goals and provisions of the Master Program. Enhancement of views should not be construed to mean excessive removal of existing native vegetation that partially impairs views.
- g. Development projects should demonstrate that views from public properties, public streets, and/or a significant number of residences are not adversely impacted.
- h. Public access and interpretive displays should be provided as part of publicly-funded restoration projects where significant adverse ecological impacts can be avoided.
- i. The acquisition of suitable upland properties to provide access to publicly-owned shorelands should be encouraged where feasible and practical.

3. Regulations

- a. Except as provided in regulations 'b' and 'c' below, shoreline substantial developments and/or shoreline conditional uses shall provide public access based on nexus and proportionality where any of the following conditions are present:
 - i. Where a development or use will create increased demand for public access to the shoreline, the development or use shall provide public access to mitigate this impact;
 - ii. Where a development or use will interfere with existing public access, the development or use shall provide public access to mitigate this impact. Impacts to public access may include blocking access or discouraging use of existing on-site or nearby accesses;
 - iii. Where a use that is not a priority shoreline use under the Shoreline Management Act locates on a shoreline of statewide significance, the use or development shall provide public access to mitigate this impact;
 - iv. Where a use or development will interfere with a public use of lands or waters subject to the Public Trust Doctrine, the development shall provide public access to mitigate this impact; or
 - v. Where the development is proposed by a public entity or on public lands.
- b. An applicant need not provide public access where the Planning Department determines that one or more of the following conditions apply:
 - i. Residential developments of four or fewer lots;
 - ii. The new use is accessory to an existing primary permitted use;
 - iii. If access were provided, unavoidable health or safety hazards to the public would exist that cannot be prevented by any practical means;
 - iv. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

- v. The cost, as determined by the Planning Department, of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
 - vi. Significant ecological impacts would result from the public access that cannot be mitigated;
 - vii. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated; or
 - viii. Public access requirements have already been satisfied via prior transfer of property rights to the City by the applicant, or the applicant's predecessor in interest, which property rights have been or will be used, to provide public access to the Skagit River.
- c. In order to meet any of the conditions 'i' through 'viii' above, the applicant must first demonstrate, and the Planning Department determine in its findings, that all reasonable alternatives have been exhausted, including, but not limited to:
- i. Regulating access by such means as maintaining a gate and/or limiting hours of use;
 - ii. Designing separation of uses and activities (e.g. fences, terracing, use of one-way glazing, hedges, landscaping, etc.); and
 - iii. Developing provisions for access at a site geographically separated from the proposal such as a street end, vista, or trail system.
- d. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished.
- e. Public access sites shall be connected directly to the nearest public street or public right-of-way and shall include provisions for physically impaired persons, where feasible.
- f. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition of approval of the authorized land use, in perpetuity.
- g. Minimum width of public access easements shall be 20 feet, unless the City determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.
- h. Approved signs that indicate the public's right of access and hours of access shall be installed, and maintained by the applicant in conspicuous locations at public access sites. Signs may control or restrict public access as a condition of permit approval.
- i. Future actions by the successors in interest or other parties shall not diminish the usefulness or value of the public access provided.
- j. Building heights shall be limited to protect view corridors where applicable and shall be consistent with bulk restrictions of the underlying zoning designation; 35 feet is the standard maximum height in all zoning designations.
- h. Public access shall be required for all shoreline development by public entities, including the City, Port District, county and state agencies, and public utility districts, unless the public access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

F. Vegetation Conservation

1. Applicability

a. The following provisions apply to any activity that results in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit, except as noted herein. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities.

2. Policies

a. Vegetation within the City shoreline areas should be enhanced over time to provide a greater level of ecological function, human safety, and property protection. To this end, shoreline management activities, including the provisions and implementation of the Master Program, should be based on a comprehensive approach that considers the ecological functions currently and potentially provided by vegetation on different sections of the shoreline, as described in the Shoreline Inventory and Characterization Report of the SMP (Appendix A).

b. The Master Program, in conjunction with other City development regulations, should establish a coordinated and effective set of provisions and programs to protect and restore functions provided by shoreline vegetation.

c. Aquatic weed management should stress prevention first. Where active removal or destruction is necessary, it should be the minimum to allow water-dependent activities to continue, minimize negative impacts to native plant communities, and include appropriate handling or disposal of weeds.

3. Regulations

a. All development, including clearing and grading, shall minimize vegetation removal in areas of SMZ to that necessary to accommodate the proposed development. In order to implement this regulation, applicants proposing development that includes significant vegetation removal, clearing, or grading within areas of SMZ must provide, as a part of a Substantial Development Permit application or a shoreline exemption certificate application, a site plan drawn to scale, indicating existing and proposed land contours, dimensions and locations of all existing and proposed structures and improvements, a general indication of the character of vegetation found on the site, and the extent of proposed clearing and/or grading. (WAC173-27-180(9)) The City may require that the proposed development or extent of clearing and grading be modified to reduce the impacts to ecological functions. Note that this provision does not apply to the removal of noxious and invasive plant species.

b. Vegetation restoration of disturbed shorelines shall use diverse native plant material similar to that which originally occurred on-site, unless the City finds that such material is not appropriate.

c. A condition of all development shall be that those shorelands on the site not occupied by structures, city park-uses, landscaping, accessory uses, or other areas dedicated to human activities shall be revegetated with native vegetation, to the extent reasonably practicable given the applicable shoreline conditions and the likelihood of long term survival of such vegetation if it is reintroduced; except that such revegetation is not required landward of a flood risk reduction structure.

- d. The enhancement of vegetation shall be a condition of all development in the shoreline environments, except where the City finds that:
 - i. Vegetation enhancement is not feasible on the project site when such enhancement will impede views of the river from city parks or will impede the recreational uses of city parks.
 - ii. The restoration of ecological processes and functions can be better achieved through other measures.
 - iii. Sufficient native vegetation already exists.
- e. Selective pruning and removal of trees for purposes of safety and protection of public views of the river is allowed, provided such pruning is the minimum necessary.
- f. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.
- g. The control of aquatic weeds by hand pulling, mechanical harvesting, or placement of aqua screens shall be considered normal maintenance and repair and, therefore, exempt from the requirement to obtain a shoreline substantial development permit.
- h. Use of herbicides to control aquatic weeds shall be prohibited, except where no reasonable alternative exists and weed control is demonstrated to be in the public interest. A conditional use permit shall be required in such case.

G. Water Quality

1. Applicability

The following section applies to all development and uses in areas of SMZ that may affect water quality.

2. Policies

- a. All shoreline uses and activities should be located, designed, constructed, and maintained to avoid significant ecological impacts by alteration of water quality, quantity, or hydrology.
- b. The City should require reasonable setbacks, buffers, stormwater storage and, where appropriate, encourage low impact development techniques and materials to achieve the objective of lessening negative impacts on water quality.
- c. All measures for controlling erosion, stream flow rates, or flood waters through the use of flood risk reduction works should be located, designed, constructed, and maintained so that net off-site impacts related to water do not degrade existing water quality.
- d. As a general policy, the City should seek to improve water quality, quantity, and flow characteristics in order to protect and restore ecological functions and ecosystem-wide processes of shorelines within the SMZ.
- e. All measures for the treatment of runoff for the purpose of maintaining and/or enhancing water quality should be completed on-site before shoreline development impacts waters off-site.

3. Regulations

a. All shoreline development, both during and after construction, shall avoid or minimize significant ecological impacts, including any increase in surface runoff, through control, treatment, and release of surface water runoff so that the receiving water quality and shoreline properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, and planted buffers.

b. All development shall conform to local, state, and federal water quality regulations, provided the regulations do not conflict with the Master Program.

5.2 – Shoreline Use and Modification Tables

A. Permitted Use and Modification Table

Shoreline Use	Shoreline Environment Designations	
	Aquatic	Urban Conservancy
Agriculture	N/A	Permitted
Aquaculture	Not Permitted	Not Permitted
Boating Facilities	Permitted	Permitted
Commercial Development	Permitted	Permitted
Forest Practices	N/A	Not Permitted
Industry	Not Permitted	Not Permitted
In-Stream Structural Uses	Permitted	N/A
Mining	Not Permitted	Not Permitted
Recreational Development	Permitted	Permitted
Residential Development	Not Permitted	Permitted
Transportation and Parking	Permitted	Permitted
Utilities	Permitted	Permitted

B. Shoreline Modification Table

Shoreline Modifications	Shoreline Environment Designations	
	Aquatic	Urban Conservancy
Piers and Docks	Permitted	Permitted
Shoreline Stabilization	Conditional	Permitted
Fill	Conditional	Conditional
Breakwaters, Jetties and Weirs	Conditional	Not Applicable
Dredging	Conditional	Not Applicable
Dredge Material Disposal	Not Permitted	Conditional
Enhancement Projects	Permitted	Permitted

5.3 – Specific Shoreline Use Policies and Regulations

A. Introduction

Shoreline use activities are developments or activities that exist or are anticipated to occupy shoreline locations. Regulations are developed on the premise that all appropriate shoreline uses require some degree of control to minimize adverse effects to the shoreline environment and adjoining properties. Each proposed development within the Shoreline Management Act's jurisdiction will be evaluated to determine its conformance with the use activity policies and regulations, as well as the Shoreline Management Element goals and policies, the SMA, and the SMP.

Even uses and activities that are exempt from the requirements for a shoreline substantial development permit must be consistent with the policies and regulations of the SMP, the SMA, and its provisions.

B. Prohibited Uses

The following uses are prohibited in all shoreline environments unless addressed separately in this shoreline master program under another use.

1. Aquaculture. There are no aquaculture activities in the SMZ. Per zoning regulations on the lands within the SMZ, aquaculture is not a permitted use, therefore aquaculture is not allowed in the SMZ;
2. Mining. There are no mining activities or mining lands in the SMZ, therefore mining is not allowed in the SMZ;
3. Forest Practices. There are no forestry lands in the SMZ, therefore forest practices are not allowed in the SMZ; and
4. Industrial development. There is no industrially zoned property in the SMZ, therefore there are no industrial activities allowed in the SMZ.

C. Agriculture

1. Applicability

a. Agriculture includes, but is not limited to, the production of horticultural, vinicultural, floricultural, livestock, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees; the operation and maintenance of farm and stock ponds, drainage ditches, or irrigation systems; normal crop rotation and crop change; and the normal maintenance and repair of existing structures, facilities, and lands currently under production or cultivation. Excluded are agricultural processing industries.

b. Uses and shoreline modifications associated with agriculture that are identified as separate use activities in this program, such as industry, shoreline stabilization, and flood risk management, are subject to the regulations established for those uses in addition to the standards established in this section.

- c. new agricultural uses shall be located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other shoreline resources and values.
- d. Conversion of agricultural land to non-agricultural uses is consistent with the environment designation, and regulations applicable to the proposed use do not result in a net loss of ecological functions.

2. Policies

- a. A vegetative buffer should be maintained between agricultural lands and water bodies or wetlands in order to reduce harmful bank erosion and resulting sedimentation, enhance water quality, reduce flood risk, and maintain habitat for fish and wildlife.
- b. Animal feeding operations, retention and storage ponds associated with agricultural activities, and feedlot waste and manure storage should be located out of the SMZ and constructed to prevent contamination of water bodies and degradation of the adjacent shoreline environment.
- c. Appropriate farm management techniques and new development construction should be utilized to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life from fertilizer and pesticide use and application.
- d. Where ecological functions have been degraded, new development should be conditioned with the requirement for ecological restoration.

3. Regulations

- a. Agricultural uses are allowed in the Urban Conservancy environment as a permitted use.
- b. Agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this Master Program.
- c. New manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within the SMZ.
- d. A buffer of natural or planted native vegetation shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters, channel migration zones, and wetlands. The City's critical areas regulations (Appendix C) will be used to determine the extent and composition of the buffer when the application for a permit or letter of exemption is submitted.
- e. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
 - i. Suitable bridges, culverts, or ramps for stock crossing.
 - ii. Ample supplies of clean fresh water in tanks on dry land for stock watering.
 - iii. Fencing or other grazing controls to prevent bank compaction, bank erosion, or the overgrazing of or damage to buffer vegetation.
- f. Agricultural practices shall prevent and control erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
- g. Agricultural chemicals shall be applied in a manner that prevents the direct runoff of chemical-laden waters into water bodies or aquifer recharge areas.

- h. The creation of new agricultural lands by diking, draining, or filling channel migration zones and associated wetlands shall be prohibited.
- i. Development on agricultural land that does not meet the definition of agricultural activities and the conversion of agricultural land to nonagricultural uses, shall be consistent with the environment designation, and the general and specific use regulations applicable to the proposed use and do not result in a net loss of ecological functions associated with the shoreline per WAC 173-26-241(3)(a)(iv).

D. Boating Facilities

1. Applicability

- a. Existing boat launches and future piers, docks and boat launches.
- b. For the purposes of this section, the term “boating facilities” excludes docks serving four or fewer single-family residences. Shoreline master programs shall contain provisions to assure no net loss of ecological functions as a result of development of boating facilities while providing the boating public recreational opportunities on waters of the state.

2. Policies

- a. Boating facilities should be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.
- b. Boating facilities should meet health, safety, and welfare requirements.
- c. Boating facilities should be sited and designed to avoid or minimize potentially significant ecological impacts, including impacts on sediment movement, water circulation and quality, and fish and wildlife habitat.
- d. The proposed size of the structure and intensity of use or uses of any boating facility should be compatible with the surrounding environment and land and water uses.
- e. Signage in the Aquatic Designation should be limited non-commercial, directional type signs.
- f. Public access is required for new boating facilities.

3. Regulations

- a. Proposals for boating facilities shall include, at a minimum, the following information:
 - i. Description of the proposed structure, including its size, location, design, and any shoreline stabilization or other modification required by the project;
 - ii. Ownership of shorelands and/or bedlands;
 - iii. Proposed location of piers or docks relative to property lines and the OHWM; and
 - iv. Location, width, height, and length of piers or docks on adjacent properties within 300 feet.
- b. Piers and docks shall not be allowed in critical freshwater aquatic habitats, unless it can be established that the dock or pier project, including auxiliary impacts and established mitigation measures, will not be detrimental to the natural habitat or species of concern, and will not result in loss of ecological function.
- c. Regulations specific to piers and docks are found in Section 5.4(D) of this chapter.
- d. Boating facilities may not be used for extended moorage and/or live aboard vessels.
- e. Boating facilities shall not significantly interfere with use of navigable waters.

- f. Boating facilities shall be allowed only for water-dependent uses or public access.
- g. Boating facilities shall use construction techniques and be constructed of materials and use coatings that conform to best management practices for the situation as recommended by the appropriate state and federal agencies, as well as conform to City building codes.
- h. All boating facilities shall be maintained in a safe and sound condition so as to not constitute a hazard to the public.
- i. Pilings employed shall be installed so that the top elevation is at least one foot above extreme high water.
- j. When potentially toxic or hazardous materials are used in boating facilities construction, precautions shall be taken to ensure their containment.
- k. Signs on boating facilities shall be limited to water craft navigation information and directional and/or public safety information.
- l. Lighting shall be the minimum necessary to locate the boating facilities at night. Lights shall be directed to prevent light spillage onto water surfaces.
- m. No boating facilities shall be designed or constructed without consulting with all local flood risk reduction authorities.
- m. Permit applications for boating facilities shall demonstrate that no increase in potential flood damage would result from construction, use, or maintenance of the proposed structures, including during seasonal changes in stream flow.
- n. No boating facilities proposed on beds or shores owned by the State of Washington shall be designed or constructed without prior authorization of the Department of Natural Resources, which is the leasing authority. (RCW 79.105.210)
- o. All boating facilities must comply with the Clean Water Act and the Endangered Species Act.

E. Commercial Development

1. Applicability

- a. Commercial development means those uses that are involved in business trade including, but are not limited to, occupied building space used for the conducting of retail, office, artisan, restaurant, lodging, childcare, professional business, government services, entertainment, and privately operated recreational uses.
- b. Because current access to the Skagit River within Sedro-Woolley is publicly owned, commercial activities on the water may include public-private partnerships between the public entity and private commercial entity.
- c. At the time of adoption of the SMP, existing commercial uses in the SMZ consist of non-water-oriented uses.
- d. Piers and docks, bulkheads, shoreline stabilization, flood risk management measures, and other shoreline modifications are sometimes associated with commercial development and are subject to shoreline modification regulations, in addition to the standards for commercial development established herein.
- e. Temporary activities such as events, fairs and shows (and activities associated with such events) are not considered commercial development for the purposes of this section.

2. Policies

- a. New commercial development, either private or public/private partnerships, on shorelines should be reviewed and permitted by the City of Sedro-Woolley.
- b. Commercial development should be encouraged to utilize existing transportation corridors and minimize the number of ingress/egress points. Ingress/egress should be designed to minimize potential conflicts with and impact on regular corridor traffic.
- c. Multiple use concepts, which include open space and recreation, should be encouraged in commercial developments.
- d. Commercial development should be visually compatible with the surrounding area.
- e. Preference should be given first to water-dependent uses, then to water-oriented commercial uses.

3. Regulations

- a. The Planning Department shall require and utilize the following information in its review of commercial development proposals:
 - i. The nature of the commercial activity (e.g., water-dependent, water-related, water-enjoyment, non-water-oriented), including an accounting of specific shoreline use components;
 - ii. The economic and land use justification for a shoreline location;
 - iii. Design measures to take advantage of the proposed location;
 - iv. Provisions for public visual and/or physical access to the shoreline;
 - v. Provisions to ensure that the development will not cause significant adverse environmental impacts;
 - vi. Layout, size, height, materials, colors, and general appearance, including massing, bulk, and relative scale of all proposed structures; and
 - vii. Pedestrian and vehicular circulation, public access, site furniture and other features, such as pavement, landscaping, view corridors.
- b. Non-water-oriented commercial developments shall be permitted in accordance with the provisions of the Master Program, where at least two of the following three criteria are satisfied:
 - i. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, applicable zoning code restrictions, incompatible surrounding land uses, physical features, or the site's separation from the water;
 - ii. The proposed development does not displace existing, authorized water-oriented uses;
 - iii. The proposed development will be of appreciable public benefit by improving or providing public use, enjoyment, or access to the shoreline.
- c. Commercial development shall be designed to avoid or minimize ecological impacts, to protect human health and safety, and to avoid significant adverse impacts to surrounding uses and the area's visual qualities. To this end, the Planning Department may adjust the project dimensions and/or prescribe operation intensity and screening standards as deemed appropriate. Need and special considerations for landscaping and buffer areas shall also be subject to review.
- d. Non-water-dependent commercial development shall be required to provide physical or visual access to the shoreline or other opportunities for the public to enjoy the shorelines of the state.

e. All new commercial development and redevelopment proposals will be reviewed by the Planning Department for ecological restoration and public access opportunities where practical and feasible. When restoration and/or public access plans indicate opportunities exist, the Planning Department may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

f. All commercial loading and service areas shall be located on the upland side of the commercial activities, or provisions must be made to set back and screen the loading and service area from the shoreline and water body.

F. In-Stream Structures

1. Applicability

a. In-stream structures are constructed waterward of the OHWM and either cause or have the potential to cause water impoundment or diversion, obstruction, or modification of water flow.

b. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood risk reduction, transportation, utility service transmission, fish habitat enhancement, or other purpose. (WAC 173-26-241(3)(g))

c. This section is applicable to both the structures themselves and their support facilities and applies to their construction, operation, and maintenance, as well as the expansion of existing structures and facilities.

2. Policies

In-stream structures should provide for the protection, preservation, and restoration of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, hydrogeologic processes, and natural scenic vistas.

3. Regulations

a. Unless specifically allowed elsewhere in the SMP, in-stream structures are permitted only for the purposes of environmental restoration and bridge maintenance.

b. In-stream structures may be required to provide public access, if public access improvements do not create significant ecological impacts or other adverse environmental impacts to and along the affected shoreline or create a safety hazard to the public.

c. Public access provisions shall include, but not be limited to, any combination of trails, vistas, parking, and any necessary sanitation facilities.

d. In-stream structures shall be designed and constructed to protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, fish and fish passage, wildlife and water resources, hydrogeologic processes, and natural scenic vistas.

G. Recreational Development

1. Applicability

- a. Recreational development includes public and private (commercial) facilities for passive recreational activities such as hiking, fishing, photography, viewing, and bird-watching. It also includes facilities for active or more intensive uses, such as parks with sports facilities, and other outdoor recreation areas.
- b. This section applies to both public and privately-owned shoreline facilities intended for use by the public or private club, group, association or individual.

2. Policies

- a. Shoreline recreational development should be given priority and should be primarily related to access, enjoyment, and use of the water and shorelines.
- b. Recreational developments and plans should promote the primacy of preserving the natural character, resources, and ecological functions and processes of shoreline environments.
- c. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.
- d. Water-dependent recreational uses (such as fishing and boating) and water-enjoyment uses (such as viewing and picnicking) should have priority over non-water-oriented recreational uses, such as baseball or soccer.
- e. The linkage of shoreline parks, recreation areas, and public access points with linear systems, such as hiking trails, bicycle paths, and easements should be encouraged.
- f. Recreational facilities should be integrated with public access systems.
- g. Due to steep banks and swift currents in the stretch of the Skagit River in Sedro-Woolley, in-water recreation such as swimming and wading should be discouraged.

3. Regulations

- a. Non-water-oriented recreational developments may be permitted only where it can be demonstrated that:
 - i. A water-oriented use is not reasonably expected to locate on the proposed site due to topography and/or other physical features, surrounding land uses, or the site's separation from the water.
 - ii. The proposed use does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.
 - iii. The proposed use will be of appreciable public benefit by maintaining ecological functions together with public use, enjoyment, or access to the shoreline.
- b. Accessory structures and parking associated with recreational uses shall not be located in the SMZ unless the City determines there is no other practical option.
- c. All new recreational development proposals will be reviewed by the City for ecological restoration and public access opportunities. When restoration and/or public access plans indicate opportunities exist, the City may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

- d. All new non-water-oriented recreational development, where allowed, shall be conditioned with the requirement to provide public access and ecological restoration where practical.
- e. Recreation facilities shall demonstrate that they are located, designed and operated in a manner consistent with the purpose of the environmental designation in which they are located and will result in no net loss of shoreline ecological functions or ecosystem-wide processes (WAC 173-26-241(3)(i)).

H. Residential Development

1. Applicability

- a. The Shoreline Management Act identifies single-family residences as a priority use when (and only when) developed in a manner consistent with the control of pollution and prevention of damage to the natural environment. Although some owner-occupied, single-family residences are exempt from the substantial development permit process, they still must comply with all of the provisions of the Master Program. Subdivisions and short subdivisions must also comply with all of the provisions of this section and the Master Program. All development is subject to the variance and conditional use requirements and permit processes, when indicated.
- b. Existing single-family residential development along the shoreline is limited in extent..

2. Policies

- a. Recognizing the single-purpose, irreversible, and space-consuming nature of single-family, detached residential development in the SMZ, new development of this type should provide adequate setbacks and natural buffers from the water and ample open space between structures to provide space for outdoor recreation, to protect and restore ecological functions and ecosystem-wide processes where feasible, to preserve views, and to minimize use conflicts.
- b. New residential development should be designed so as to not cause significant ecological impacts or significant adverse impacts to shoreline characteristics, public access and views, and to improve public use of the shoreline and the water.
- c. Multi-family and single-family attached residential development should be designed to take advantage of public access opportunities to the shoreline, including joint use for community recreation facilities, provided such access does not conflict with residential privacy, and does not present a life safety or security issue.
- d. Access, utilities, and public services shall be available and adequate to serve existing needs and/or planned future development.

3. Regulations

- a. Over-water residences and floating homes are prohibited.
- b. Multi-family and single-family attached residential uses are allowed where identified as permitted uses in the underlying zoning district. Community and/or public access shall be provided for new multi-family residential development and for subdivision of land for more than four parcels consistent with the Public Access section of this Master Program.

- c. The creation of new lots shall be prohibited unless all of the following can be demonstrated.
 - i. A primary residence can be built on each new lot without any of the following being necessary:
 - a.) New structural shoreline stabilization;
 - b.) New structures in the required shoreline setback, geologically hazardous areas, wetland, required wetland buffer, critical habitat, or critical habitat buffer;
 - c.) Causing significant erosion or reduction in slope stability; and
 - d.) Causing increased flood risk or erosion in the new development or to other properties.
 - ii. Adequate sewer, water, access, and utilities can be provided.
 - iii. The intensity and type of development is consistent with the Comprehensive Plan and development regulations.
 - iv. Potential significant adverse environmental impacts (including significant ecological impacts) can be avoided or mitigated to achieve no net loss of ecological functions.

I. Transportation Facilities

1. Applicability

- a. Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, and railroad facilities.
- b. The policies and regulations identified in this section pertain to any project, within any environment, that proposes to change existing transportation facilities or introduce new such facilities.

2. Policies

- a. Circulation routes to and on shorelands should include systems for pedestrian, bicycle, and public transportation where appropriate.
- b. Circulation systems should support existing and proposed shoreline uses that are consistent with the Master Program.
- c. Trail and bicycle paths should be encouraged along shorelines and should be constructed in a manner compatible with the natural character, resources, and ecology of the shoreline.
- d. When existing transportation corridors are abandoned, they should be reused for water-dependent use or public access.
- e. Abandoned or unused road or railroad rights-of-way that offer opportunities for public access to the water should be acquired and/or retained for such use.

3. Regulations

- a. Applications for redevelopment of transportation facilities in the SMZ shall include the following information:
 - i. Demonstration of the need for the facility.
 - ii. An analysis of alternative alignments or routes including, where feasible, alignments or routes outside the SMZ.

- iii. An analysis of potential impacts complying with the State Environmental Policy Act, including an analysis of comparative impacts of feasible alternative routes.
- iv. Description of construction, including location, construction type, and materials.
- v. If needed, description of mitigation and restoration measures.
- b. All new and expanded transportation facilities development shall be conditioned with the requirement to mitigate significant adverse impacts consistent with this Master Program.
- c. All redeveloped transportation facilities in the SMZ shall be consistent with the Comprehensive Plan and applicable Capital Improvement Plans.
- d. Redeveloped transportation facilities shall include provisions for pedestrian, bicycle, and public transportation where appropriate as determined by the City.
- e. Circulation planning and projects shall support existing and proposed shoreline uses that are consistent with the Master Program.
- f. Redeveloped transportation facilities shall not diminish, but may modify public access to the shoreline.
- g. Parking is only allowed in support of an allowed use.

J. Utilities

1. Applicability

- a. Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, natural gas, water, sewage, solid waste, telecommunications, etc.
- b. The provisions in this section apply to primary uses and activities, such as solid waste handling and disposal, sewage treatment plants and outfalls, public high tension utility lines on public property or easements, power generating or transfer facilities, gas distribution lines and storage facilities, and wireless telecommunications.

2. Policies

- a. New utility facilities should be located so as not to require extensive shoreline protection works.
- b. Utility facilities and corridors should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or alongside or under bridges.
- c. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

3. Regulations

- a. Applications for new or expanded utility facility development in areas of shoreline jurisdiction shall include the following:
 - i. Demonstration of the need for the facility;
 - ii. An analysis of alternative alignments or routes including, where feasible, alignments or routes outside the SMZ;
 - iii. An analysis of potential impacts complying with the State Environmental Policy Act, including an analysis of comparative impacts of feasible alternative routes or locations;
 - iv. Description of construction, including location, construction type, and materials;

- v. Location of other utility facilities in the vicinity of the proposed project and plans to include the facilities of other types of utilities in the project;
 - vi. Plans for reclamation of areas disturbed during construction;
 - vii. Plans for control of erosion and turbidity during construction and operation; and
 - viii. Identification of potential for locating the proposed facility at an existing utility facility site or within an existing utility right-of-way.
- b. All utility facilities shall be designed and located to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth. The Planning Department may require the relocation or redesign of proposed utility development in order to ensure no net loss of ecological functions.
 - c. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located to cause minimum harm to the shoreline and shall be located outside of the SMZ where feasible.
 - d. Utilities should be located in existing rights-of-way and corridors whenever possible.
 - e. Restoration of ecological functions shall be a condition of new and expanded non-water-dependent utility facilities.
 - f. Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.
 - g. Existing above-ground lines shall be moved underground during normal replacement processes.
 - h. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
 - i. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition or better.
 - j. Wireless telecommunication towers, such as radio and cell phone towers, are specifically prohibited in the SMZ.

5.4 Shoreline Modification Provisions

A. Introduction

1. Shoreline modifications are actions that modify the physical configuration or qualities of the shoreline area. They are typically construction activities such as building a dike or dredging a basin, but they can include other actions such as clearing, grading, or application of chemicals.

2. Shoreline modifications are undertaken in support of or in preparation for shoreline uses. Shoreline uses generally are ongoing and the policies and regulations related to them must deal with functional relationships inherent in the individual uses, and pertain to long term management. Modifications represent a physical alteration of the shoreline so the regulations related to them must deal with more immediate, time-limited physical impacts. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a cargo terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use). Generally, shoreline modification activities are undertaken for the following reasons:

- a. To prepare a site for a shoreline use
- b. To provide shoreline stabilization or shoreline protection
- c. To support developed upland areas

3. The policies and regulations in this section are intended to prevent or mitigate the adverse environmental impacts of proposed shoreline modifications. General provisions, which apply to all shoreline modification activities, are followed by provisions tailored to specific shoreline modification activities. This chapter provides policies and regulations that apply to all shoreline modifications within shoreline jurisdiction including shoreline stabilization measures, piers and docks, fill, breakwaters, jetties and weirs, dredging and dredging material disposal and SMZ.

B. General Policies and Regulations

1. Applicability

The following provisions apply to all shoreline modification activities, whether such proposals address a single property or multiple properties.

2. Policies

a. Structural shoreline modifications should be limited in number and extent and allowed only where they are demonstrated to be necessary to support or protect an allowed primary structure or existing development and uses that are in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

b. The Planning Department should ensure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on

ecological functions and by requiring mitigation of identified impacts resulting from shoreline modifications.

c. Where applicable, the Planning Department should require provisions be based on “best available science,” scientific and technical information, and a comprehensive analysis of site specific conditions for river and stream systems.

d. Ecological functions impaired by development activities should be enhanced and/or restored where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, the Planning Department should incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.

e. When shoreline modifications are necessary, they should be as compatible as possible with ecological shoreline processes and functions.

3. Regulations

a. In reviewing shoreline permits, the Planning Department shall require steps to reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201(2)(e) (Environmental Impact Mitigation).

b. In areas where the river system is not constrained by existing flood risk reduction structures, structural shoreline modification measures shall be permitted only if nonstructural measures are unable to achieve the same purpose. Nonstructural measures considered shall include alternative site designs, increased setbacks, drainage improvements, relocation, and vegetation enhancement.

c. Proponents of shoreline modification projects shall obtain all applicable federal and state permits and shall meet all permit requirements.

d. In addition to the permit information required by WAC 173-27-190 (Permits for Substantial Development, Conditional Use, or Variance), the City shall require and consider the following information when reviewing shoreline modification proposals:

i. Construction materials and methods;

ii. Project location relative to the ordinary high water mark;

iii. General direction and speed of prevailing winds;

iv. Profile rendition of beach and uplands;

v. Upland soil type, slope, and material;

vi. Physical or geologic stability of uplands; and

vii. Potential impact to natural shoreline processes, adjacent properties, and upland stability.

e. Shoreline modification materials shall be only those approved by applicable state agencies. No toxic (e.g. creosote) or quickly degradable materials, or those that deteriorate under ultraviolet exposure (plastic or fiberglass) shall be used.

f. Only shoreline activities that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed shall be allowed.

C. Shoreline Stabilization

1. Applicability

- a. Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, or essential structures caused by natural processes, such as current, flood, wind, or wave action. These include both nonstructural and structural methods.
- b. Nonstructural methods include building setbacks, relocation of the structure to be protected, groundwater management, and planning and regulatory measures to avoid the need for structural stabilization.
- c. New stabilization measures include the enlargement of existing stabilization structures. WAC 173-27-040(2)(b) (Developments Exempt from Substantial Development Permit Requirement) defines normal replacement and repair of existing structures and notes that normal maintenance and repair actions are not exempt from substantial development permits if they are anticipated to “cause substantial adverse effects to shoreline resources or the environment.”

2. Policies

- a. Shoreline stabilization and flood risk management measures would be allowed only when adequate evidence is presented that one of the following conditions exist:
 - i. High water or erosion threatens public works and properties, including roads, bridges, railroads, and utility systems.
 - ii. High water or significant erosion damages or threatens existing homes and residential areas.
 - iii. High water or significant erosion damages or threatens to damage existing commercial and industrial uses and developments.
- b. Dikes, levees, revetments and other flood risk reduction structures should be the minimum size necessary and be designed and constructed primarily as a means to minimize damage to existing development.
- c. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.
- d. Structural or “hard” shoreline stabilization techniques and structures should be allowed only after it is demonstrated that non-structural or “soft” shoreline protection measures are not feasible.
- e. New development (including newly created parcels) is to be designed and located to prevent the need for future shoreline stabilization, based upon geotechnical analysis.
- f. Impacts to sediment transport should be avoided or minimized.

3. Regulations

- a. Shoreline stabilization measures along the shoreline that incorporate ecological restoration through the placement of rocks, gravel or sand and native shoreline vegetation may be allowed.
- b. New or enlarged structural shoreline stabilization measures for an existing development shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion. The

geotechnical report must include estimates of erosion rates and damage within three years and must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The project design and analysis must also evaluate vegetation enhancement as a means of reducing erosion and promoting bank stability. The report must demonstrate that “soft” shoreline protection measures or bioengineering erosion control designs will not provide adequate upland protection of existing structures or would pose a threat or risk to adjacent property.

c. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is need to protect primary structures from erosion caused by currents or waves. At the discretion of the City Engineer, the demonstration of need does not necessarily require a geotechnical report by a licensed geotechnical engineer or related licensed professional. The replacement structure shall be designed, located, sized, and constructed to minimize harm to ecological functions. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structures unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure and be the minimum size necessary. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM.

d. Provided that regulation #3c above has been met, the replacement of lawfully established, existing bulkheads or revetments shall be allowed, subject to the following priority system:

i. First priority. The first priority for replacement of bulkheads or revetments shall be to install “soft” shoreline protection measures or bioengineering erosion control designs.

ii. Second priority. The second priority for replacement of existing bulkheads or revetments shall be to install “hard” shoreline protection measures only when “soft” measures would not provide adequate upland protection of existing structures or would pose a threat or risk to adjacent property.

iii. Third priority. The third priority for replacement of bulkheads or revetments shall be landward of the existing bulkhead.

iv. Fourth Priority. The fourth priority for replacement of existing bulkheads or revetments shall be to replace in place (at the bulkhead’s existing location).

v. Fifth Priority. The fifth and last priority for replacement of existing bulkheads shall be a one-time replacement no greater than three feet waterward of the existing bulkhead. Under this fifth priority, documentation must be provided that habitat will not be adversely impacted and habitat friendly materials shall be used. The property owner shall also demonstrate that removing the existing structure would either cause irreversible environmental damages, or undermine and damage the residential structure on the property.

e. When evaluating a proposal against the above priority system, at a minimum the following criteria shall be considered:

i. Existing topography;

ii. Existing development;

iii. Location of abutting bulkheads; and

iv. Impact to habitat.

- g. Whenever feasible, trees and vegetation shading streams and rivers shall be retained when riprap is placed.
- h. No work may commence without the responsible person or agency having obtained either a shoreline permit or statement of exemption from the Planning Department.
- i. Flood risk reduction structures shall conform to all City, state, and federal policies and regulations including the U.S. Army Corps of Engineers criteria for design.
- j. Bulkheads or revetments shall be designed, constructed and maintained in a manner that does not degrade ecological function including fish habitat, and shall conform to the requirements of the Washington State Department of Fish and Wildlife criteria and guidelines.
- k. The City may require and utilize the following information, in addition to the standard permit information required by WAC 173-27 (Shoreline Management Permit and Enforcement Procedures), in its review of all bioengineering projects:
 - i. Proposed construction timing;
 - ii. Hydrologic analysis, including predicted flood flows;
 - iii. Site vegetation, soil types, and slope stability analysis;
 - iv. Proposed project materials, including rock size, shape, and quantity; plant types; and soil preparation;
 - v. Existing and proposed slope profiles, including location of OHWM;
 - vi. Proposed designs for transition areas between the project site and adjacent properties; and
 - vii. Documentation (including photographs) of existing (preconstruction) shoreline characteristics.
- l. Bioengineering projects shall use native trees, shrubs, and/or grasses, unless such an approach is infeasible.
- m. All bioengineering projects shall include a program for monitoring and maintenance.
- n. No structures will be permitted or constructed without consulting with all local flood agencies (i.e. City of Sedro-Woolley, Dike Districts, and Skagit County).

D. Piers and Docks

1. Applicability

- a. Piers are built on fixed platforms above the water, while docks float upon the water.
- b. The beds and shores (aquatic lands) of all navigable waters in the state, except those sold according to law, are under the ownership of the State of Washington. Prior authorization for their use must be obtained from the Department of Natural Resources.

2. Policies

- a. Pier and dock construction should be restricted to the minimum size necessary to meet the needs of the proposed use.
- b. Multiple-use and expansion of legally existing piers, wharves, and docks should be encouraged over the addition of new facilities. Joint-use facilities are preferred over new single-use piers, docks, and floats.
- c. Piers and docks should be sited and designed to avoid or minimize potentially significant ecological impacts, including impacts on sediment movement, water circulation and quality, and fish and wildlife habitat.

d. The proposed size of the structure and intensity of use or uses of any pier or dock should be compatible with the surrounding environment and land and water uses.

3. Regulations

a. Proposals for piers or docks shall include, at a minimum, the following information:

i. Description of the proposed structure, including its size, location, design, and any shoreline stabilization or other modification required by the project;

ii. Ownership of shorelands and/or bedlands;

iii. Proposed location of piers or docks relative to property lines and the OHWM; and

iv. Location, width, height, and length of piers or docks on adjacent properties within 300 feet.

b. Piers and docks shall not be allowed in critical freshwater aquatic habitats, unless it can be established that the dock or pier project, including auxiliary impacts and established mitigation measures, will not be detrimental to the natural habitat or species of concern, and will not result in loss of ecological function.

c. Piers and docks shall not significantly interfere with use of navigable waters.

d. Boating facilities may not be used for extended moorage and/or live aboard vessels.

e. The length of piers and docks shall be limited in constricted water bodies to assure navigability and protect public use of the river. The Planning Department may require reconfiguration of pier and dock proposals, where necessary, to protect navigation, public use, or ecological functions.

f. New piers and docks shall be allowed only for water-dependent uses or public access. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated. New pier or dock construction shall be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses.

g. New residential development of more than two dwellings shall provide joint use or community docks, rather than individual docks.

h. Piers and docks shall use construction techniques and be constructed of materials and use coatings that conform to best management practices for the situation as recommended by the appropriate state and federal agencies, as well as conform to City building codes.

i. All piers and docks shall be maintained in a safe and sound condition so as to not constitute a hazard to the public.

j. Abandoned or unsafe piers and docks shall be removed or repaired promptly by the owner. No over-water field applications of paint, preservative treatment, or other chemical compounds shall be permitted, except in accordance with best management practices set forth by applicable state agencies.

j. Pilings employed shall be installed so that the top elevation is at least one foot above extreme high water.

k. When potentially toxic or hazardous materials are used in pier or dock construction, precautions shall be taken to ensure their containment.

l. Overhead wiring or plumbing is not permitted on piers or docks.

- m. Lighting shall be the minimum necessary to locate the dock at night. Lights shall be directed to prevent light spillage onto water surfaces.
- n. Other than safety railings and safety equipment and lighting, no structures are allowed on over-water portions of piers and docks.
- o. No piers or docks shall be designed or constructed without consulting with all local flood risk reduction authorities (City of Sedro-Woolley, Dike Districts, and Skagit County).
- p. Permit applications for new piers or docks shall demonstrate that no increase in potential flood damage would result from construction, use, or maintenance of the proposed structures, including during seasonal changes in stream flow.
- q. No piers or docks proposed on beds or shores owned by the State of Washington shall be designed or constructed without prior authorization of the Department of Natural Resources, which is the leasing authority. (RCW 79.105.210)
- r. All piers and docks must comply with the Clean Water Act and the Endangered Species Act.

E. Fill

1. Applicability

- a. Fill is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shore lands in a manner that raises the elevation or creates dry land.
- b. Any fill activity conducted within the SMZ must comply with the provisions herein.

2. Policies

Fills waterward of OHWM should be allowed only when necessary to facilitate water-dependent and/or public access uses, cleanup and disposal of contaminated sediments, consistent with this Master Program.

3. Regulations

- a. Applications for fill permits shall include the following:
 - i. Proposed use of the fill area;
 - ii. Physical, chemical and biological characteristics of the fill material;
 - iii. Source of fill material;
 - iv. Method of placement and compaction;
 - v. Location of fill relative to natural and/or existing drainage patterns and wetlands;
 - vi. Location of the fill perimeter relative to the OHWM;
 - vii. Perimeter erosion control or stabilization means; and
 - viii. Type of surfacing and runoff control devices.
- b. Fill waterward of OHWM may be permitted only when:
 - i. In conjunction with a water-dependent use or public access permitted by this Master Program;
 - ii. In conjunction with a bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or
 - iii. As part of an approved shoreline restoration project.

- c. Waterward of OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven infeasible.
- d. Fills landward of the OHWM should be allowed as part of the construction and reconstruction of public recreational uses in the Urban Conservancy environment.
- e. Fills landward of the OHWM should be allowed as part of the construction and reconstruction of dikes, levees, revetments and other flood risk reduction structures consistent with plans approved by the Dike District and the City of Sedro-Woolley SMP.
- f. Fills landward of flood risk reduction measures may be permitted.
- g. Shoreline fill shall be designed and located so there will be no significant ecological impacts and no alteration of local currents, surface water drainage, channel migration, or flood waters that would result in a hazard to adjacent life, property, and natural resource systems.
- h. Environmental cleanup action involving excavation/fill, as part of an interagency environmental clean-up plan, as authorized by the Planning Department, may be permitted.
- i. Sanitary fills shall not be located in areas of the SMZ.
- j. A shoreline conditional use permit is required for fill in the Urban Conservancy shoreline environment. Fill is not permitted in the Aquatic environment.
- k. Proposed fills on beds and/or shores of navigable waters owned by the State of Washington shall require prior authorization of the Washington Department of Natural Resources.

F. Breakwaters, Jetties and Weirs

1. Applicability

- a. Jetties are structures that are generally perpendicular to shore extending through or past the intertidal zone. They are built singly or in pairs at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents, and stabilize inlets through barrier beaches.
- b. Breakwaters are an offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.
- c. Groins are a barrier type structure extending from back shore into the water, the purpose of which is to interrupt sediment movement along the shore.

2. Policies

Breakwaters, jetties, groins, and weirs located waterward of the OHWM are allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose, such as fish and wildlife habitat enhancement.

3. Regulations

- a. A conditional use permit shall be required, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams.
- b. Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-26-201(2)(e).

G. Dredging and Dredge Material Disposal

1. Applicability

Dredging is the removal or displacement of earth or sediment (gravel, sand, mud, silt and/or other material or debris) from a river, stream, or associated wetland.

2. Policies

- a. Dredging operations should be planned and conducted to so as to avoid adverse impacts to other shoreline uses, properties, and values.
- b. When allowed, dredging and dredge material disposal within the SMZ should be limited to the minimum amount necessary.

3. Regulations

- a. Dredging will only be permitted in the following situations:
 - i. In conjunction with a water-dependent use of water bodies or adjacent shorelands. New development siting and design shall avoid the need for new and maintenance dredging; and
 - ii. For projects associated with MTCA or CERCLA habitat restoration, or
 - iii. Any other significant restoration effort approved by a shoreline CUP.
- b. Dredging in wetlands is prohibited unless it is part of an approved habitat restoration or enhancement project.
- c. Dredged materials must be deposited on an approved upland site.
- d. Dredging and dredge disposal within the SMZ shall be permitted only where it is demonstrated that the proposed actions will not:
 - i. Result in significant and/or ongoing damage to water quality, fish, and other essential aquatic biological elements;
 - ii. Adversely alter natural drainage and circulation patterns, currents, river flows or significantly reduce flood water capacities; or
 - iii. Cause other significant adverse ecological impacts.
- e. Dredging shall utilize techniques that cause minimum dispersal and broadcast of bottom material.
- f. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use and unavoidable impacts shall be mitigated.
- g. Permit applications for shoreline dredging and dredge material disposal may be required to include the following information:
 - i. Physical, chemical, and biological assessment of the proposed dredged material applicable to the particular dredging site.
 - ii. Specific data to be considered include:
 - a) Physical - Grain size, clay, silt, sand, or gravel as determined by sieve analysis;

- b) Chemical - Including conventional parameters, metals, and organics;
- c) Biological - Bioassays to determine the suitability of dredged material for a selected disposal option;
- d) Dredging volumes, methods, schedule, frequency, hours of operation and procedures;
- e) Method of disposal, including the location, size, capacity, and physical characteristics of the disposal site, transportation method and routes, hours of operation, schedule;
- f) Stability of bedlands adjacent to proposed dredging area;
- g) Hydraulic analyses, including current flows, direction and projected impacts. Hydraulic modeling studies are required for large scale, extensive dredging projects, in order to identify existing hydrological and geological patterns and probable effects of dredging;
- h) Assessment of water quality impacts; and
- i) Biological assessment including migratory, seasonal, and spawning use areas.

h. New development shall be located and designed to avoid or minimize the need for new or maintenance dredging where feasible.

i. Maintenance dredging of established navigation channels, public access facilities, and basins is restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

j. Dredging of beds or shores of navigable waters owned by the State of Washington shall require prior authorization of the Washington Department of Natural Resources.

k. Disposal of dredge material in the Urban Conservancy requires a shoreline conditional use permit.

H. Shoreline Habitat and Natural Systems Enhancement Projects

1. Applicability

a. Shoreline restoration and/or enhancement is the improvement of the natural character and ecological functions of the shoreline.

b. Where appropriate, using native vegetation is encouraged. The materials used are dependent on the intended use of the restored or enhanced shoreline area.

c. The Shoreline Restoration Plan (Appendix B) identifies ecological enhancement and restoration measures.

2. Policies

a. Shoreline enhancement and/or restoration should be considered as an alternative to structural shoreline stabilization and protection measures where feasible.

b. All shoreline restoration and/or enhancement projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.

c. Where possible, shoreline restoration and/or enhancement should use maintenance-free or low-maintenance designs.

d. The recommendations of the Shoreline Restoration Report, prepared as part of the SMP, should be promoted wherever feasible.

e. Shoreline restoration and/or enhancement should not extend waterward more than necessary to achieve the intended results.

3. Regulations

a. Shoreline enhancement may be permitted if the project proponent demonstrates that no significant change to sediment transport or river current will result that would adversely affect ecological processes, properties, or habitat.

b. Shoreline restoration and/or enhancement projects shall use best available science and best management practices.

c. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided:

i. The project's purpose is the restoration of natural character and ecological functions of the shoreline, and

ii. It is consistent with the implementation of an approved comprehensive restoration plan, or the project will provide a proven ecological benefit and is consistent with this Master Program.

d. Shoreline restoration and ecological enhancement must meet the U.S. Army Corps of Engineers PL8499 flood structure maintenance regulations.

Chapter 6 – Administrative Provisions

A. General

1. All proposed uses and development occurring within the SMZ must conform to Chapter 90.58 RCW, the Shoreline Management Act and the provisions of this SMP, whether or not a permit is required.
2. The City will periodically review the cumulative effect of actions taken within the shoreline to ensure that the goal of no net loss of shoreline environmental functions is being met.
3. “The City,” for the purposes of making administrative decisions and processing permits as may be required by the SMP, means the Planning Department and its Director or Administrator.
4. The process of reviewing proposals shall be designed to assure that regulatory or administrative actions do not unconstitutionally infringe upon private property rights in accordance with WAC 173-26-186(5).
5. As per RCW 36.70B.110(11), the City of Sedro-Woolley has adopted procedures for administrative interpretation of its development regulations (SWMC 2.90.070 and SWMC 17.04.040). Such procedures shall include Shoreline Master Program regulations. Administrative interpretations are Type I processes.
6. Substantial development applications are subject to Type II permit review; shoreline exemptions and substantial development permit revisions are Type I permits; and conditional use permits and variances require Type III review.
7. The regulations of the SMP shall be used in conjunction with the regulations contained in the Sedro-Woolley Municipal Code (SWMC). Where there is a conflict between the SWMC and the SMP, the SMP shall control.

B. SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS

1. A shoreline substantial development permit shall be required for projects occurring within the City’s shoreline jurisdiction pursuant to the requirements and procedures contained in Chapter 173-27 WAC (Shoreline Management Permit and Enforcement Procedures); except that:
 - a) A substantial development permit is not required for projects that are below the threshold levels established in WAC 173-27-040(2), “Developments Exempt from Substantial Development Permit Requirement,” as follows:
 - i. Any development of which the total cost or fair market value, whichever is higher, does not exceed \$6,416, if such development does not materially interfere with the normal public use of the water or shorelines of the state. [Note: The State of Washington requires that every five years the dollar threshold for this exemption be adjusted for inflation by the Washington Office of Financial Management (OFM). The adjustment is based upon changes in the Consumer Price Index during that time period. (see Chapter 2, Definitions) The OFM must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the

- Washington State Register* at least one month before the new dollar threshold is to take effect. WAC 173-27-040(2)(a)] For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;
- ii. 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;
 - iii. 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 the applicable chapter (Chapter 173-27 WAC);
 - iv. 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 process 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;
 - v. Construction or modification of navigational aids such as channel markers and anchor buoys;
 - vi. 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 jurisdiction thereof, other than requirements imposed pursuant to Chapter 90.58 RCW;
 - vii. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or

- contract purchaser of single-family and multiple-family residences. This exception applies if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;
- viii. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as 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;
 - ix. 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;
 - x. 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;
 - xi. Any project with a certification from the governor pursuant to Chapter 80.50 RCW;
 - xii. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization, if:
 - a. The activity does not interfere with the normal public use of the surface waters;
 - b. The activity will have no significant adverse impact on the environment including, but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
 - e. The activity is not subject to the permit requirements of RCW 90.58.550.
 - xiii. 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;
 - xiv. Watershed restoration projects as defined within the SMP (See Sedro-Woolley Restoration Plan);
 - xv. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply;

- a. The project has been approved in writing by the Department of Fish and Wildlife;
 - b. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and
 - c. The project has been determined to be substantially consistent with the Sedro-Woolley Shoreline Master Program.
 - xvi. Standard subdivisions and short plats; however, physical improvements being made as part of a plat's conditions of approval that meet the definition of substantial development, require a shoreline permit before any construction activities can occur.
- b) A substantial development permit is not required for those actions described in WAC 173-27-045 (Developments Not Subject to the Shoreline Management Act), as follows:
- i. Pursuant to RCW 90.58.485, regarding Environmental Excellence Program agreements, notwithstanding any other provision of law, any legal requirement under the Shoreline Management Act, including any standard, limitation, rule, or order is superseded and pre-placed in accordance with the terms and provisions of an Environmental Excellence Program agreement, entered into under Chapter 43.21K RCW.
 - ii. Pursuant to RCW 90.58.355 regarding hazardous substance remedial actions, the procedural requirements of the SMA shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW.
 - iii. The holder of a certification from the governor pursuant to Chapter 80.50 RCW shall not be required to obtain a permit under Chapter 90.58 RCW.
2. A shoreline substantial development permit application is a Type II permit, as per SWMC 2.90.070, "Permit Classifications."
 3. All projects proposed within the SMZ require a pre-application meeting in accordance with the requirements of SWMC 2.90.070.
 4. Applications for Shoreline Substantial Development Permits shall be accompanied by the materials listed in SWMC 2.90.100, unless waived by the Planning Department according to the process outlined within SWMC 2.90.050.
 5. The "effective date of a Substantial Development Permit" is the date of receipt. The date of receipt is the date the Department of Ecology receives the City's final decision. The date of receipt starts the two-year clock for beginning of construction and establishes the appeal period of the permit to the Shoreline Hearings Board. The effective date does not include periods of pendency for other related permits or legal actions.
 6. Upon the review of materials submitted by an applicant, the Director can, at his or her discretion, require peer review be completed by a consultant chosen by the Director, at the sole expense of the applicant.
 7. Notification of the public shall be as required by SWMC 2.90.075, "Public notice requirements."

8. Type II applications are those applications where a final decision is made by the Director or the Director's designee after public notice, but without a public hearing. The decision may be appealed in an open record appeal hearing to the Hearing Examiner. (SWMC 2.90.090)
9. Time requirements for Substantial Development Permits are as follows (See WAC 173-27-090 for complete language.):
 - a) Construction activities shall commence, or where no construction activities are involved, the use or activity shall commence within two years of the effective date of a Substantial Development Permit.
 - b) The period for commencement of construction or use may be extended once for a one year period, if a request based on reasonable factors is filed before the expiration date and notice of the proposed extension is given to parties of record.
 - c) The authorization to conduct development activities shall terminate five years after the effective date of a Substantial Development Permit.
 - d) The authorization period to conduct development activities may be extended once for a one year period, if a request based on reasonable factors is filed before the expiration date and notice of the proposed extension is given to parties of record.
 - e) The time periods in sections (a) and (c), above, do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.
10. Permit Review Procedures shall be as follows:
 - a) The Planning Department maintains records of project review actions resulting in issuance of permits, including shoreline substantial development permits.
 - b) Copies of Shoreline Management Act Permit Data Sheet and Transmittal Letters forwarded to the Department of Ecology shall be utilized for evaluation of the potential cumulative effects of previous and proposed actions in shoreline areas.
11. Appeals to the Shorelines Hearings Board, as per SWMC 2.90.090(G), shall be consistent with RCW 90.58.140.

C. CONDITIONAL USE PERMITS

1. The purpose of a conditional use permit is to allow greater flexibility in administering the use regulations of the Master Program in a manner consistent with the policies of the SMA. Conditional use permits may also be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA.
2. A shoreline conditional use permit is a Type III permit, as per SWMC 2.90.070.

3. The Hearing Examiner shall, following an open record public hearing, have the authority to make the final decision. The Hearing Examiner decision may be appealed in a closed record appeal to the City Council.
4. The application for a shoreline conditional use permit shall be processed pursuant to:
 - a) The legislative policies stated in the Shoreline Management Act, RCW 90.58.020 (Legislative Findings—State Policy Enunciated—Use Preference) and
 - b) The Shoreline Master Program of the City of Sedro-Woolley
5. The criteria for approving conditional uses shall be consistent with WAC 173-27-160 (Review Criteria for Conditional Use Permits) and include the following:
 - a) That the proposed use is consistent with the policies of RCW 90.58.020, the Master Program, and the SWMC;
 - b) That the proposed use will not interfere with the normal public use of public shorelines;
 - c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and the SMP;
 - d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - e) That the public interest suffers no substantial detrimental effect.
6. To ensure compliance with the applicable criteria stated in the Sedro-Woolley Municipal Code, the Hearing Examiner shall have the authority to require and approve a specific plan for a proposed use, to impose performance standards in the form of conditions of approval that make the use compatible with other permitted uses in the area, and to expand the requirements set forth in the Sedro-Woolley Municipal Code, by means of conditions that are applicable to the proposed use. In no case shall the City have the authority to decrease the requirements of the City's municipal code when considering an application for a conditional shoreline development permit; any such decrease shall only be granted upon the issuance of a variance.
7. Where plans are required to be submitted and approved as part of the application for a shoreline conditional use permit, modifications of the original plans may be made only after a review has been conducted and approval granted by the Hearing Examiner.
8. 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.
9. Other uses which are not classified or set forth in the Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of WAC 173-27-160 and the requirements for conditional uses contained in the Master Program.

10. After approval of a conditional use permit, the Planning Department shall submit the permit to Ecology for the Ecology's approval, approval with conditions, or denial. Ecology shall render and transmit to the Planning Department and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by local government pursuant to WAC 173-27-110.
11. The "effective date of variances and conditional use permits" is the date of the Ecology's decision letter.
12. The Planning Department shall provide notification of the Ecology's final decision to those interested persons having requested notification.

D. VARIANCES

1. The purpose of a shoreline variance is strictly limited to granting relief to specific bulk, dimensional, or performance standards set forth in the Master Program where there are extraordinary or unique circumstances relating to the physical character or configuration of the property such that the strict implementation of the Master Program would impose unnecessary hardship on the applicant or thwart the policies set forth in the SMA.
2. Variances from the use regulations of the Master Program are prohibited.
3. Shoreline variances are Type III permits, as per SWMC 2.90.070.
4. The Hearing Examiner shall, following an open record public hearing, have the authority to make the final decision. The Hearing Examiner decision may be appealed to the City Council.
5. The criteria for granting shoreline variances shall be consistent with WAC 173-27-170 (Review Criteria for Variance Permits) and include the following:
 - a) Shoreline variances should be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in the SMA. In all instances, extraordinary circumstances should be shown, and the public interest shall suffer no substantial detrimental effect.
 - b) Variances for development that will be located landward of the ordinary high water mark may be authorized provided the applicant can demonstrate all of the following:
 - i. That the strict application of the bulk, dimensional, or performance standards as set forth in the Master Program precludes or significantly interferes with reasonable permitted use of the property.
 - ii. That the hardship is specifically related to the property and is the result of unique conditions, such as irregular lot shape, size, or natural features, and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions.
 - iii. That the design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environmental designation.
 - iv. That the variance authorized does not constitute a grant of special privilege not enjoyed by other properties in the area.

- v. That the variance requested will be the minimum necessary to afford relief.
 - vi. That the public interest will suffer no substantial detrimental effect.
 - c) Variances for development that will be located waterward of the OHWM may be authorized, provided the applicant can satisfy all of the criteria specified in Subsection 'b' of this section. The applicant must also demonstrate that the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance, and that the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes all reasonable use of the property.
 - d) In granting of all shoreline variances, consideration shall be given to the cumulative impact of additional requests or like actions in the area.
6. After approval of a variance permit, the Planning Department shall submit the permit to Ecology for the Ecology's approval, approval with conditions, or denial. Ecology shall render and transmit to the Planning Department and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by local government pursuant to WAC 173-27-110.
 7. The "effective date of variances and conditional use permits" is the date of the Ecology's decision letter.
 8. The Planning Department shall provide notification of the Ecology's final decision to those interested persons having requested notification.

E. NONCONFORMING USE AND DEVELOPMENT

1. The following definitions and standards shall apply to nonconforming structures and uses regulated by this Master Program:
 - a) "Nonconforming use or development" means a shoreline use or development that was lawfully constructed or established prior to the effective date of the Sedro-Woolley Shoreline Master Program or amendments thereto, but does not conform to current regulations or standards of the program.
 - b) Structures that were legally established and are used for a conforming use, but are nonconforming with regard to shoreline setback requirements may be maintained and repaired and may be enlarged or expanded provided that any such enlargement or expansion:
 - i. will not extend the footprint of the structure any closer to the shoreline than the current design;
 - ii. will not interfere with, or obstruct dedicated public access routes to the shoreline, per applicable requirements set out herein;
 - iii. will meet any construction standards enacted by the City to protect adjacent flood risk management structures,
 - iv. will be consistent with the current, or another authorized, conforming use; and
 - v. will adhere to underlying Municipal Code and building regulations.

- c) Uses and development that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded unless otherwise permitted in Subsection E except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040(2)(g), "Developments Exempt from Substantial Development Permit Requirement, Single-family Residence," upon approval of a shoreline conditional use permit.
- d) A use that is listed as a shoreline conditional use, but existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
- e) A use that is listed as a shoreline conditional use, but existed prior to the applicability of the Master Program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
- f) A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
- g) A structure that is being used, or has been used for a nonconforming use, may be used for a different nonconforming use only upon the approval of a shoreline conditional use permit. A shoreline conditional use permit for any such new nonconforming use may be approved only upon a finding that:
 - i. No reasonable alternative conforming use is practical; and
 - ii. The proposed use will be at least as consistent with the policies and provisions of the SMA and the Master Program and as compatible with the uses in the area as the preexisting use.

In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act, and to assure that the use will not become a nuisance or a hazard.
- h) A nonconforming structure that is moved any distance within the SMZ must be brought into conformance with the Master Program, unless such relocation has been expressly authorized through a previous shoreline permit.
- i) If a nonconforming development in the SMZ is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all

permits are obtained and the restoration is completed within two years of permit issuance.

- j) An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM that was established in accordance with local and state subdivision requirements prior to the effective date of the Sedro-Woolley Shoreline Master Program, but does not conform to the present lot size standards or is not configured to allow for reasonable use that would meet current shoreline setback requirements, may be developed if permitted by other land use regulations of the SWMC and so long as such development conforms to all other requirements of the Master Program and the SMA. In this case, a SMP variance shall be required.

F. REVISIONS TO PERMITS

1. When an applicant seeks to revise a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance, whether such permit or variance was granted under this SMP, or under the Skagit County SMP utilized prior to adoption of the Sedro-Woolley SMP, the Planning Department shall request from the applicant detailed plans and text describing the proposed changes to the project. If the staff determines that the proposed changes are within the general scope and intent of the original substantial development permit, conditional use permit or variance, as the case may be, the revision may be approved by the Planning Director, without the need for the applicant to file a new Substantial Development Permit application, provided the development is consistent with the SMA, WAC 173-27-100 (Revisions to Permits), and the Master Program.
2. "Within the scope and intent of the original permit" means the following:
 - a) No additional over-water construction will be involved, except that pier, dock, or float construction may be increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less.
 - b) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the original permit,
 - c) The revised permit shall not authorize development to exceed height, lot coverage, setback, or any other requirements of the Master Program except as authorized under a variance granted as the original permit or a part thereof.
 - d) Additional or revised landscaping is consistent with the conditions attached to the original permit and with the Shoreline Master Program.
 - e) The use authorized pursuant to the original permit is not changed.
 - f) No adverse environmental impact will be caused by the project revision.
3. If the revision, or the sum of the revision and any previously approved revisions, will violate the criteria specified above, the Planning Department shall require the applicant to apply for a new shoreline substantial development or conditional use permit or variance, as appropriate, in the manner provided for herein.
4. If proposed revisions to the original permit involve a conditional use or variance, the Planning Department shall submit the proposed revision to the Ecology for review.

The Planning Department shall indicate that the revision is being submitted under the requirements of WAC 173-27-100. Ecology shall respond with its final decision on the proposed revision request within 15 days of the date of receipt by the DOE. WAC 173-27-100(6).

G. ENFORCEMENT

1. In the event of failure to comply with the plans approved by the Planning Department or with any conditions imposed upon the shoreline development permit, the permit shall immediately become void and any continuation of the use activity shall be construed as being in violation of Sedro-Woolley Municipal Code and subject to the provisions of Title 18 SWMC, "Code Enforcement."

Any person failing to conform to the terms of a permit issued in accordance with the SMP or who undertakes development on the shorelines of the state without first obtaining any permit required by the SMP shall be subject to a civil penalty as per RCW 90.58.210 and WAC 173-27-280.