

# SHORELINE MANAGEMENT (Regulations)

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## Chapter 14.250 Snohomish Municipal Code SHORELINE MANAGEMENT

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**14.250.010 Purpose**

The purpose of this chapter is to:

- A. Implement the Washington State Shoreline Management Act (Chapter 90.58 RCW), the City of Snohomish Shoreline Master Program (SMP), and the City of Snohomish Comprehensive Plan (Comprehensive Plan).
- B. Promote public health, safety, and general welfare by providing regulations for protection, development and use of shorelines.
- C. Manage shorelines in an effective and equitable manner.
- D. Achieve the City’s responsibilities specified by the Shoreline Management Act.

**14.250.020 Shoreline Master Program Regulations and Relationship to other Regulations**

- A. The following regulations shall constitute the Snohomish Shoreline Master Program development regulations, are incorporated herein and provided in Appendix A for reference purposes, except as supplemented or modified under Sections 14.250.330, with the exceptions specified below.
  - 1. Chapter 14.250 SMC – Shoreline Development (Ordinance 2336, dated May 15, 2018)
  - 2. Chapter 14.255 SMC – Critical Areas; General (Ordinance 2083, dated May 3, 2005)
  - 3. Chapter 14.265 SMC – Critical Aquifer Recharge Areas (Ordinance 2083, dated May 3, 2005)
  - 4. Chapter 14.270 SMC – Flood Hazard Areas (Ordinance 2090, dated Aug. 16, 2005)
  - 5. Chapter 14.275 SMC – Geologically Hazardous Areas (Ordinance 2083, dated May 3, 2005)
  - 6. Chapter 14.280 SMC – Fish and Wildlife Habitat Conservation Areas (Ordinance 2083, dated May 3, 2005)
- B. Unless specifically stated, this chapter does not alter the provisions and requirements specified by other chapters of the Snohomish Municipal Code. In no case shall this chapter be construed to lessen the requirements of any other City regulation.
- C. The following sections and subsections of Snohomish Municipal Code are excluded from incorporation and do not apply in the Shoreline Jurisdiction.
  - 1. SMC 14.255.060 – Exemptions
  - 2. SMC 14, 255.130 – Variances
  - 3. SMC 14.265.020 – Exemptions
  - 4. SMC 14.275.030 – Exemptions
  - 5. SMC 14.255.120(G)
  - 6. SMC 14.260.040 – Substantive Requirements
  - 7. SMC 14.280.050 – Substantive Requirements
  - 8. SMC 14.280.060 – Habitat Conservation Area Buffers
- D. Any provisions of the City of Snohomish Critical Areas Code (Chapters 14.255-14.280 Snohomish Municipal Code) that are not consistent with the Shoreline Management Act Chapter, 90.85 RCW,

and supporting Washington Administrative Code chapters shall not apply in the Shoreline Jurisdiction.

- E. Where this Program makes reference to RCW, WAC, or other state or federal law or regulation, the most recent amendment or version shall apply.
- F. In the event of any conflict between the Shoreline Master Program development regulations and any other regulations of the City, the regulations that provide greater protection of the shoreline natural environment and aquatic habitat, as determined by the Planning Director or designee, shall prevail.
- G. The Planning Director, or designee, is authorized to issue permits and approvals for development and/or construction upon regulated shorelands after confirming that the proposed activity is consistent with this Master Program.
- H. Issuance of a substantial development permit, conditional use permit, and/or variance approval does not constitute approval pursuant to any other federal, State or City laws or regulations.

#### **14.250.030 Definitions**

In addition to the definitions provided in this section, the definitions contained in Title 14 SMC, Chapter 90.58 RCW, Chapter 173-26 WAC, and Chapter 173-27 WAC apply within the shoreline jurisdiction. Where definitions in this chapter conflict with definitions elsewhere in Title 14 SMC, the definitions provided in this section shall control.

**Access, public or public access** means the ability of the general public to reach, touch, and enjoy the water's edge, to travel on waters of the state, and/or to view the water and the shoreline from adjacent locations.

**Accessory structure** means a structure that is incidental to and on the same site as the principal structure.

**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; and

**Agricultural land** means those specific land areas on which agricultural activities are conducted as of the date of adoption of this SMP, 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.

**Aquaculture** means the culture or farming of fish, shellfish, or other aquatic plants and animals.

**Associated wetlands** means wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: proximity to a regulated shoreline, susceptibility to tidally-influenced geo-hydraulic processes, presence of a surface connection, including through a culvert or tide gate, location in whole or in part within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

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

**Base flood** – see Chapter 14.270 SMC and 44 CFR 59.1.

**Breakwater** means an in-water structure, either floating or not, designed and purposed to absorb, dampen, or reflect wave energy.

**Building height** – means the measurement from average grade level to the highest point of a structure except that television antennas, chimneys, and similar appurtenances that do not obstruct the view of the shoreline from a substantial number of residences shall not be used in calculating height. However, temporary construction equipment is excluded in this calculation.

**Buffer or shoreline buffer** means a non-clearing area adjacent to a wetland, river, or stream that, generally, functions to protect the integrity, function, and values of affected critical area or shoreline. Specifically, a buffer may:

- A. Physically isolate the water body from surrounding areas using distance, height, visual and/or sound barriers;
- B. Minimize risk to the public and property damage from the natural processes and occasional catastrophic actions of water bodies;
- C. Protect the functions and values of the water body from adverse impacts of adjacent development and activities;
- D. Provide shading, input of organic debris, and coarse sediments, room for variation and changes in natural wetland, river, or stream characteristics;

- E. Cleanse and recharge stormwater runoff to minimize sediment and chemical transport to the water body; and/or
- F. Provide habitat for wildlife.

Buffers may be modified and reduced to accommodate allowed uses when consistent with the Act and this Program, and when conducted so that no net loss of critical area or shoreline ecological functions occurs. Under optimal conditions, buffers are composed of intact native vegetation. Buffer widths are measured horizontally.

**Bulkhead** means a solid or open wall of rock, concrete, steel, timber, or other material erected generally parallel to the shoreline for the purpose of protecting upland areas from inundation, saturation, waves, current, etc. A bulkhead may have earthen fill placed upland of the wall structure.

**Channel migration zone** – 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.

**Commercial** means a use that involves wholesale or retail trade, or the provision of services.

**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; and/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 this chapter at any state of water level.

**Dock** means an anchored platform structure in or floating upon water to facilitate pedestrian access to the water or to watercraft. Docks may provide moorage for watercraft, and may include ancillary features such as piling, anchors, gangways, floats, fingers, etc. For the purposes of this chapter, “dock” is synonymous with “pier”.

**Dredging** means the removal, displacement, and/or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials, from the bottom of water bodies, ditches, or wetlands; maintenance dredging and/or support activities are included in this definition.

**Ecological functions or shoreline functions** means the work performed or role played by physical, chemical and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

**Feasible** means 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; and
- 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 determining an action's infeasibility, the Planning Director shall also consider the action's relative public costs and public benefits, considered in the short- and long-term time frames.

In cases where certain actions are required unless they are not feasible or infeasible, the burden of proving infeasibility is on the applicant.

**Fill** means the addition of soil, sand, rock, gravel, sediment, earth retaining structure or any other earthen or organic material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation of, or creates, dry land.

**Float** means a structure or device which is not a breakwater and which is moored, anchored, or otherwise secured in the water in a manner that allows the structure or device to remain at the surface of the water.

**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 act.

**Floodway** means the area, as identified in a master program, that either:

- A. Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or
- B. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**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.

**Groin** means a barrier-type structure extending from the backshore into the water across the beach. The purpose of a groin is to interrupt sediment movement along the shore.

**Hatchery** means a facility for the rearing and/or holding of fish, the design of which is compatible with the natural environment and contains minimal development necessary for fish propagation.

**In-water utility** means infrastructure related to public infrastructure for domestic water, stormwater, wastewater, power generation, etc. that by nature and common design must be located in or in the immediate vicinity of a river, stream, or lake.

**Jetty** means an artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excess sediment.

**Marina** means a water-dependent facility that provides launching, storage, supplies, moorage and other accessory services for five or more pleasure and/or commercial water craft.

**Nonconforming development or nonconforming structure** means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

**Nonconforming lot** means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

**Nonconforming use** means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

**No net loss** means that the Snohomish Shoreline Master Program provisions shall, to the greatest extent feasible, protect existing shoreline ecological processes and functions and avoid new adverse impacts to ecological processes and functions. The term “net” as used herein, recognizes that any development has potential for short-term or long-term impacts and that through application of appropriate development standards, avoidance of impacts and use of mitigation measures, those impacts will not diminish the shoreline resources and values as they currently exist. This standard is achieved through both the SMP planning process and by appropriately regulating individual developments through the permit review process.

**Non-water-oriented uses** means those uses that are not water-dependent, water-related or water-enjoyment.

**Normal protective bulkhead common to single-family residences** means a bulkhead constructed on a lot designated to permit one single-family residence and containing one single-family residence.

**Ordinary high water mark**, as defined in Chapter 90.58 RCW as now or hereafter amended and determined in the field, means on all lakes, streams, and tidal water the 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. In cases where the location of the ordinary high water mark is contested, its determination shall rest with the Washington State Department of Ecology.

**Park** means land maintained for purposes of active or passive recreation.

**Pier** - See “dock”.

**Planning Director** means the manager of the City of Snohomish Department of Planning & Development Services. Planning Director means the same as City Planner as provided for in Chapter 2.34 Snohomish Municipal Code.

**Principal use parking lot** means a parking lot that is not dedicated to serving the residents, customers, or employees of specific sites or uses but is available for general public use whether free or for a fee.

**Public access** – see “Access, Public”

**Recreational use** means a private or public facility designed and used to provide recreational opportunities to the public. Water-oriented recreation includes fishing, swimming, diving, hiking, and viewing. Recreational development provides the opportunity for the use and enjoyment of the shoreline by the public.

**Residential development** means the development of single-family residences, including appurtenant structures and uses. Residential development also includes multifamily development and the creation of new residential lots through land subdivision. Residential development does not include hotels, motels, or bed and breakfast facilities.

**Restoration or ecological restoration** means the reestablishment or upgrading of impaired or diminished 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.

**Riprap** means angular, quarry rock used for revetments or other bank stabilization projects.

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

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

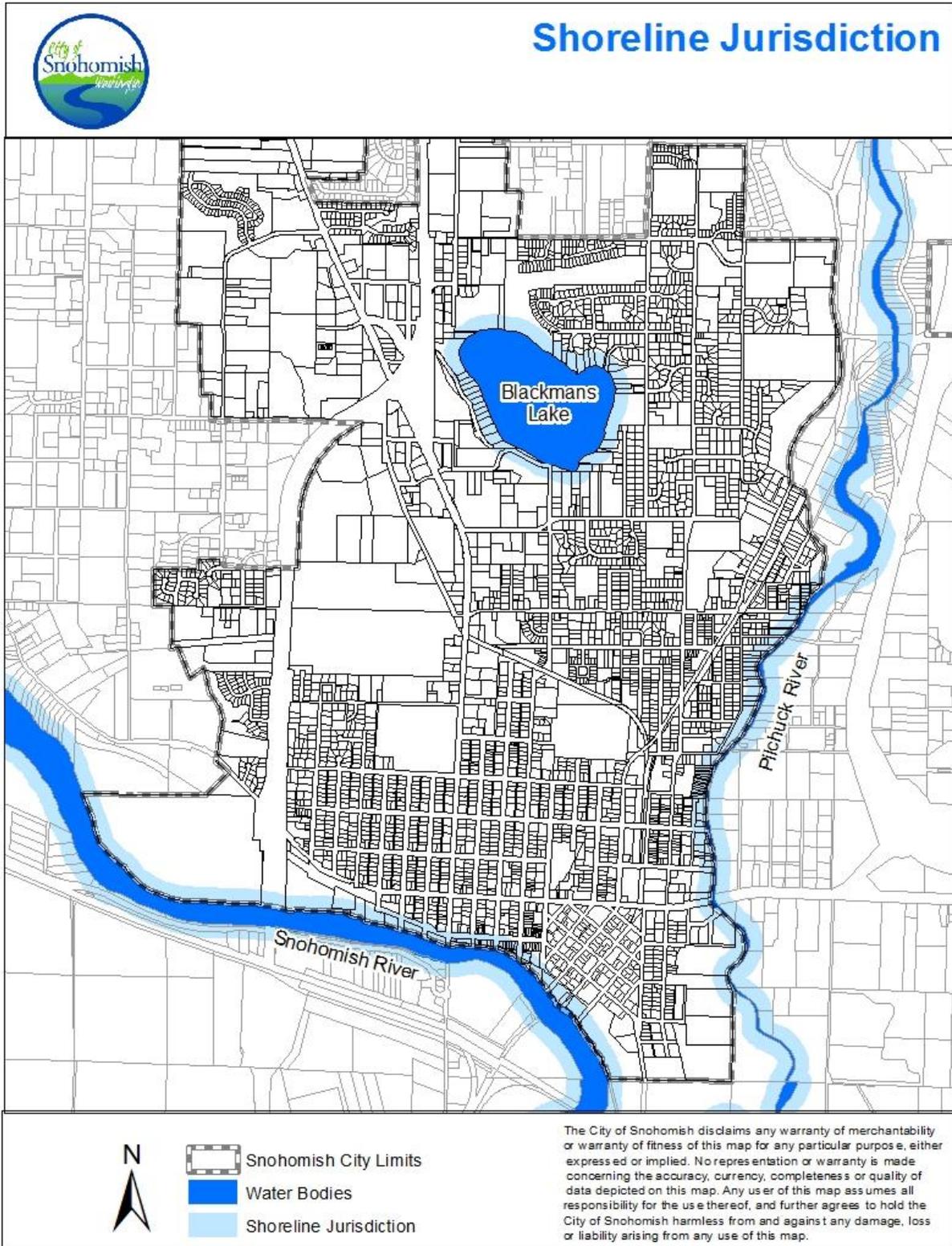
**Shorelands or shoreland areas** means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams and lakes that are subject to the provisions of Chapter 90.58 RCW.

**Shoreline environment designations** means a regulatory classification of shorelines of the state established in the Shoreline Master Program to differentiate between areas subject to differing objectives regarding their use and future development.

**Shoreline Management Act (Act):** the Washington State Shoreline Management Act, Chapter 90.58 RCW.

**Shoreline jurisdiction** means all “shorelines of the state” and “shorelands” as defined in RCW 90.58.030 and as depicted in Map A below.

Map B



**Shoreline modifications** means actions that change the physical configuration or qualities of the shoreline area, such as clearing, grading, or the application of chemicals; or the construction of physical elements such as a dike, breakwater, groin, jetty, fill, bulkhead, or similar shoreline structure.

**Shoreline stabilization** means actions taken to prevent or diminish erosion impacts to property or structures caused by natural hydrological processes, such as current, flood, tides, wind or wave action. These actions include installation or expansion of structures, such as bulkheads, jetties, groins, etc.; and nonstructural methods, such as the planting of vegetation.

**Shorelines** means all of the water areas within Snohomish and their associated shorelands, together with the lands underlying them, except:

- A. Shorelines of statewide significance; and
- B. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and
- C. Shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.

**Shorelines of statewide significance** means those shorelines described in RCW 90.58.030(2)(f). Within the City of Snohomish, the Snohomish River is designated as a shoreline of statewide significance.

**Shorelines of the state** means the total of all “shorelines” and “shorelines of statewide significance” within the state, as defined in RCW 90.58.030.

**Sign** means any device, structure, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, logos, or written copy for the purpose of advertising or identifying any establishment, product, good, service, or event.

**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 following do not constitute significant vegetation removal:

- A. Removal of invasive or noxious weeds;
- B. Tree pruning, not including tree topping, where it does not affect ecological functions;
- C. Mowing of established public and private lawn/grass areas; and
- D. Normal maintenance, including mowing and volunteer sapling clearing of utility maintenance corridors and active use recreation areas.

**Substantial development** means any development as defined in RCW 90.58.030(3)(e) as now or hereafter amended, and which requires a shoreline substantial development permit.

**Utilities or utility facilities** means services and facilities that produce, convey, store or process electric power, gas, sewage, water, communications, oil, and waste. This includes drainage conveyances and swales. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

For the purposes of this chapter, “utility facilities” does not mean infrastructure for administrative or support functions, such as professional offices, customer service centers, fleet maintenance facilities, storage yards, etc.

**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 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 any combination thereof.

**Water-related use** means a use or portion of a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent on 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.

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

#### **14.250.040 General Provisions**

- A. The City of Snohomish's Shoreline Master Program, prepared and adopted in compliance with the Shoreline Management Act, consists of:
  1. This chapter;
  2. The Shoreline Element of the City of Snohomish Comprehensive Plan; and
  3. The City of Snohomish Shoreline Restoration Plan;
  4. City of Snohomish Cumulative Impacts Analysis; and
  5. The City of Snohomish Shoreline Inventory and Characterization Report.
- B. This chapter shall be known as "the shoreline management code".
- C. This chapter shall be exempted from the rule of strict construction and shall be liberally construed to give full effect to the purposes for which the Shoreline Management Act was enacted.

- D. Unless specifically excluded by statute, all proposed uses and development occurring within the shoreline jurisdiction shall conform to Chapter 90.58 RCW, the Shoreline Management Act and this Shoreline Master Program whether or not a permit is required.
- E. Development prohibited by this chapter but otherwise permitted by the Land Use Development Code is prohibited within the shoreline jurisdiction.
- F. In the event of conflict between City regulations and the Shoreline Management Act, State regulations shall prevail.
- G. Mitigation and/or conditions of approval imposed by the Planning Director, or designee, pursuant to this chapter shall reflect reasonable proportionality to the potential adverse impact being mitigated.
- H. The Planning Director, or designee, is authorized to enforce, and if necessary in a cooperative effort with the state, the provisions of this chapter and any administrative rules enacted to implement this chapter. Enforcement shall be consistent with the provisions of Chapter 1.14 SMC and Chapter 14.85 SMC or WAC 173-27.
- I. Alteration or reconstruction of uses or structures that do not conform to the requirements of this Program shall be subject to SMC 14.250.070. Alteration or reconstruction of uses or structures that do not conform to the requirements of other chapters of Title 14 shall be subject to the provisions of Chapter 14.80 SMC and Chapter 14.82 SMC.
- J. The Planning Director is authorized to make administrative decisions and interpretations of the policies and regulations of this Program and the Act in accordance with Snohomish Municipal Code SMC 14.05.050. The City shall consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of Chapter 90.58 RCW, and Chapters 173-26 and 173-27 WAC.
- K. Applicability to federal lands and agencies.
  - 1. The Act and this Program, including the permit system, shall apply to all non-federal developments and uses undertaken on federal lands and on lands subject to non-federal ownership, lease or agreement, even though such lands may fall within the external boundaries of a federal ownership.
  - 2. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW or this Shoreline Master Program per WAC 173-22-070.
  - 3. Direct federal agency activities affecting the uses or resources subject to the Act must be consistent to the maximum extent practicable with the enforceable provisions of the Act as required by WAC 173-27-060.
  - 4. Pursuant to RCW 90-58-350, nothing in this chapter shall affect any rights established by treaty to which the United States is a party. The rights of treaty tribes to resources within their usual and accustomed areas should be accommodated.

**14.250.050 Permits, Decisions, and Appeals – General**

- A. The Planning Director, or designee, is authorized to create:
  - 1. Permit application form(s) as deemed necessary to ensure efficient and proper processing; and

2. A submittal checklist of all required submittals necessary for the application to be determined to be complete.
- B. A complete application for a shoreline substantial development, shoreline conditional use, or shoreline variance permit shall contain, as a minimum, the following documents and information:
1. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
  2. The name, address and phone number of the applicant's representative if other than the applicant.
  3. The name, address and phone number of the property owner, if other than the applicant.
  4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.
  5. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the act over the project is derived.
  6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
  7. A general description of the property as it now exists including its physical characteristics and improvements and structures.
  8. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.
  9. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
    - a. The boundary of the parcel(s) of land upon which the development is proposed.
    - b. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.
    - c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that

will not be altered by the development may be indicated as such and contours approximated for that area.

- d. A delineation of all wetland areas that will be altered or used as a part of the development.
  - e. A general indication of the character of vegetation found on the site.
  - f. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
  - g. Where applicable, a landscaping plan for the project.
  - h. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
  - i. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
  - j. Quantity, composition and destination of any excavated or dredged material.
  - k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
  - l. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.
  - m. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.
- C. Permit application and review fees shall be as specified by the City of Snohomish Fee Schedule as established by resolution of the Snohomish City Council.
- D. The applicant shall have the burden of proving the application/request satisfies the applicable criteria.
- E. The Planning Director, or designee, may impose conditions of approval to a shoreline permit or determination of exemption as necessary to ensure the proposal is consistent with the City's Shoreline Master Program and the Act.
- F. When a shoreline substantial development permit and a shoreline conditional use permit or variance are required for a development, the submittal on the permits shall be made concurrently.
- G. For development where a permit decision by the Hearing Examiner is required in addition to an administrative shoreline permit, the Hearing Examiner shall conduct an open-record public hearing and issue decisions for all land use permits related to development of the site. In such instances, the Planning Director, or designee, shall provide a written analysis of the development's consistency with applicable regulations and provide a recommendation whether to approve, approve with conditions, or deny the permit application.
- H. Any decision on an application for a shoreline permit, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department of Ecology and the attorney general.

- I. As specified by RCW 90.58.140, the “date of filing” of the City’s decision on a shoreline substantial development permit shall be the date of actual receipt with the Department of Ecology. The “date of filing” of shoreline conditional use permits and shoreline variance permits shall be the date the Department of Ecology transmits the permit decision to the City and the applicant. When the City simultaneously transmits to Ecology its decision on a shoreline substantial development with its decision of either a shoreline conditional use permit or variance, or both, the shoreline substantial development permit shall have the same "date of filing" as the shoreline conditional use permit or variance.
- J. Any person aggrieved by the granting, denying, or rescinding of a permit or permit revision on shorelines of the state pursuant to RCW 90.58.140 and this chapter may seek review from the shorelines hearings board by filing a petition for review within twenty-one (21) days of the date of filing the decision, pursuant to RCW 90.58.180 and WAC 461-08-340.

**14.250.060 Substantial Development Permit, Conditional Use Permit and Variance**

- A. Review criteria for all development.
  - 1. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the City, documenting compliance with bulk and dimensional policies and regulations of this Program. The City may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this Program.
  - 2. All uses and development on shorelines of the state shall be determined consistent with the policy and provisions of the Act and this Shoreline Master Program. Any new or expanded building or structure of more than thirty-five feet above average grade level shall only be permitted if it will not obstruct the view of a substantial number of residences and when the public interest will be served.
- B. Substantial development
  - 1. Permit required. A substantial development permit is required prior to commencement of construction of a structure or commencement of a use or activity constituting “substantial development” as defined in WAC 173-27-040, which is not exempt, within the shorelines of the city. No development shall be undertaken within the shoreline jurisdiction unless such development is authorized by a substantial development permit or an exemption.
  - 2. A substantial development permit shall be granted only when the development proposed is consistent with:
    - a. The policies and procedures of the Act;
    - b. The provisions of WAC 173-27; and
    - c. The applicable policies and regulations of this Shoreline Master Program.
- C. Developments exempt from the substantial development permit process
  - 1. A development or activity determined by the Planning Director, or designee, to meet the provisions of WAC 173-27-040 or to otherwise be specifically exempt under the Shoreline Management Act is not considered shoreline substantial development and a shoreline substantial development permit is not required.

2. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
3. All exempt development and activities within the shoreline jurisdiction shall be consistent with the provisions of the Shoreline Management Act and the Shoreline Master Program. An exemption from the substantial development permit process is not an exemption from compliance with the Act or this master program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this master program and the Act.
4. A development or use that is listed as a conditional use pursuant to the local master program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.
5. Applicants requesting a determination of exemption pursuant to this section shall submit a written justification and provide adequate documentation of consistency with the applicable exemption provision(s). The burden of proof that a development or use is exempt from the permit process is on the applicant.
6. Where an exemption is granted for a development or activity meeting the conditions in subsections a and b below, the City shall prepare and issue a written determination that cites the applicable exemption provision and contains the findings of the Planning Director regarding the proposal's consistency with the Shoreline Management Act and the Shoreline Master Program. This letter of exemption shall be provided to the applicant and the department of Ecology.
  - a. The activity will occur waterward of the ordinary high water mark; or
  - b. The project will require either of the following federal permits:
    - i. For a project on or over navigable waters, a U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899; or
    - ii. For a project involving discharge of dredge or fill material to any water or wetland, a section 404 permit under the Federal Clean Water Act.

#### D. Conditional Use Permit

1. The purpose of a CUP is to provide flexibility in authorizing uses in a manner consistent with RCW 90.58.020. Accordingly, special conditions may be imposed to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this Program.
2. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.
3. A shoreline conditional use permit may be approved as provided by RCW 90.58.140, RCW 90.58.143, and WAC 173-27-160, provided the applicant can demonstrate all of the following:

- a. That the proposed use is consistent with the policies of RCW [90.58.020](#) and the master program;
  - 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 shoreline master program;
  - 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.
4. 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.
  5. Uses which are specifically prohibited by this master program may not be authorized with a conditional use permit.
  6. When a conditional use is requested, the Hearing Examiner shall be the approval authority for the City. However, shoreline conditional use permits are subject to review and final approval by the Washington State Department of Ecology per RCW 90.58.140(10) and WAC 173-27-200.
- E. Variance Permit
1. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Master Program will impose unnecessary hardship on the applicant or thwart the policies set forth in RCW 90.58.020.
  2. A development or use that does not comply with the bulk, dimensional and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.
  3. As provided by RCW 90.58.140 and WAC 173-27-170, a shoreline variance should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
  4. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), and/or landward of any wetland, may be authorized provided the applicant can demonstrate all of the following:
    - a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
    - b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features

and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

- c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
  - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
  - e. That the variance requested is the minimum necessary to afford relief; and
  - f. That the public interest will suffer no substantial detrimental effect.
5. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM) or within any wetland may be authorized provided the applicant can demonstrate all of the following:
    - a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
    - b. That the proposal is consistent with the criteria established under subsection (4)(b) through (f) of this section; and
    - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
  6. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW [90.58.020](#) and shall not cause substantial adverse effects to the shoreline environment.
  7. A variance from City Land Use Development Code requirements approved pursuant to Chapter 14.70 SMC shall not be construed to mean a variance from the Shoreline Master Program development regulations. Similarly, a variance from the Shoreline Master Program development regulations granted pursuant to this chapter shall not be construed to mean a variance from development standards in other chapters of Title 14 SMC.
  8. Consistent with WAC 173-27-170(5), shoreline variances may not authorize a land use that is otherwise prohibited by this Program.
  9. When a shoreline variance is requested, the Hearing Examiner shall be the approval authority for the City. However, shoreline variance permits are subject to review and final approval by the Washington State Department of Ecology per RCW 90.58.140(10) and WAC 173-27-200.
- F. Permit Revisions
1. A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Shoreline Management Program, and/or the policies and provisions of Chapter 90.58 RCW. Changes that are not substantive in effect do not require approval of a revision. A request to revise a Substantial Development, Conditional Use, or Variance Permit shall be accompanied by detailed plans and text describing the proposed changes to the permit.

2. If the Planning Director, or designee, determines that the proposed changes are within the scope and intent of the original permit and consistent with the Shoreline Master Program and the Shoreline Management Act, the revision may be approved. Within the scope and intent of the original permit shall mean all of the following:
  - a. No additional over-water construction is involved except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten percent (10%) from the provisions of the original permit, whichever is less;
  - b. Ground area coverage and height may be increased by a maximum of ten percent (10%) from the provisions of the original permit;
  - c. The revised permit does not authorize development to exceed any standard approved by variance for the original permit;
  - d. Additional or revised landscaping is consistent with any conditions of the original permit;
  - e. The use authorized with the original permit is not changed; and
  - f. No adverse environmental impacts 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 in Section 2 above, a new shoreline substantial development permit, conditional use permit, or variance, as appropriate, shall be required.
4. When a shoreline permit revision is requested, the City shall make a decision to approve, approve with conditions, or disapprove the request. However, if the original permit involved a conditional use or variance, the revision shall be subject to review and final approval by the Washington State per WAC 173-27-100.

#### **14.250.070 Nonconforming Shoreline Uses and Structures**

##### **A. General Nonconforming Provisions**

1. All legally established uses and structures that do not conform to the requirements of this chapter shall be allowed to continue and remain in the form and location in which they existed prior to the effective date of this chapter.
2. All nonconforming uses authorized through a conditional use permit and nonconforming structures authorized through a variance shall be considered legal nonconforming uses and structures and the requirements of this section shall apply as they apply to pre-existing nonconformities.
3. For nonconforming situations not addressed by this chapter, the “Nonconforming use and development standards” in WAC 173-27-080 shall apply.

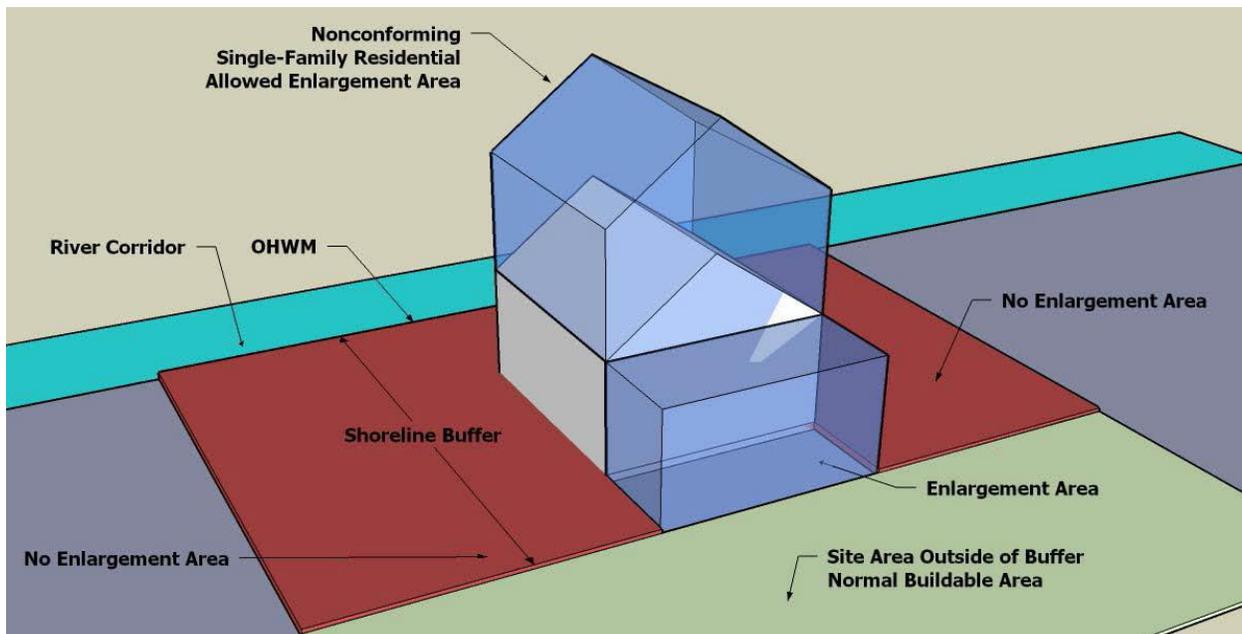
##### **B. Nonconforming Uses**

1. Uses that were legally established and are nonconforming with regard to the use regulations of this chapter shall not be expanded or intensified, with the exception of nonconforming single-family residential uses that are located landward of the ordinary high water mark.

2. For the purposes of this chapter, a nonconformity is intensified if:
  - a. The total floor area used by the nonconforming use is increased; or
  - b. The amount of floor area used for non-water oriented use is increased; or
  - c. The amount of floor area used for water-oriented use is decreased.
3. An existing nonconforming use may be replaced with another nonconforming use only upon a finding that:
  - a. No reasonable alternative nonconforming use is practical; and
  - b. The proposed use will be at least as consistent with the Snohomish Shoreline Master Program and as compatible with the uses in the area as the preexisting use.
4. If a nonconforming use is changed to a conforming use, the nonconforming use is abandoned and shall not be resumed.
5. If a nonconforming use is discontinued for twelve consecutive months the nonconforming rights shall be considered abandoned and subsequent use shall be conforming. The following shall not be included in calculating the period of discontinuance:
  - a. Normal seasonal cessation of use; and
  - b. Temporary discontinuance of a use for purposes of maintenance or improvements; and
  - c. Time when property is being marketed for sale or rent for the same nonconforming use.

C. Nonconforming Structures

1. Structures that were legally established and are nonconforming with regard to setbacks, height, or buffers described in this Program may be maintained and repaired and may be enlarged or expanded provided that the enlargement/expansion does not increase the extent of the nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.



2. A nonconforming structure which is moved or relocated either elsewhere on the same parcel or to another shoreland parcel shall be brought as closely as practicable into

conformance with this Program, the Shoreline Management Act, and any applicable sections of Snohomish Municipal Code.

3. If a nonconforming structure is damaged or destroyed, it may be reconstructed to the configurations existing immediately prior to the time the development was damaged or destroyed, provided that application is made for the permits necessary to restore the development within two years of the date the damage occurred.

D. Nonconforming lots

A nonconforming lot may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.

**14.250.080 Shoreline Environments**

A. Purpose.

1. The purpose of the individual shoreline environment designations is to provide for different regulations applicable to different shoreline areas in response to the specific shoreline conditions of each area such as geography, hydrology, topography, habitat, infrastructure, and existing and envisioned land uses. The purpose of each designation is as provided in the goals and polices in the City of Snohomish Comprehensive Plan's Shoreline Element.
2. The purpose of the regulations applicable to individual environment designations is to encourage development and land uses that enhance or are compatible with the desired character of the environment while establishing reasonable standards and restrictions so that the environment is not adversely impacted.

B. In order to accomplish the goals, policies, and regulations of the Shoreline Management Act and the Snohomish Shoreline Master Program, the following shoreline environment designations are hereby established:

1. Aquatic Environment.
2. Rural Utility Environment.
3. Shoreline Residential Environment.
4. Historic Riverfront Environment.
5. Urban Conservancy Environment.

C. The shoreline environment designations are depicted on the Shoreline Environment Designation Map within the Shoreline Element of the Comprehensive Plan and below (Map A). The mapped designations are based upon and implement the designation criteria provided in the Shoreline Element of the Comprehensive Plan. In the event of conflict between the Shoreline Environment Designation Map and adopted designation criteria, the criteria shall control. Any land located within the shoreline jurisdiction without a shoreline environment designation shall be regulated as Urban Conservancy environment until the Shoreline Environment Designation Map is amended.

D. Shoreline Buffers

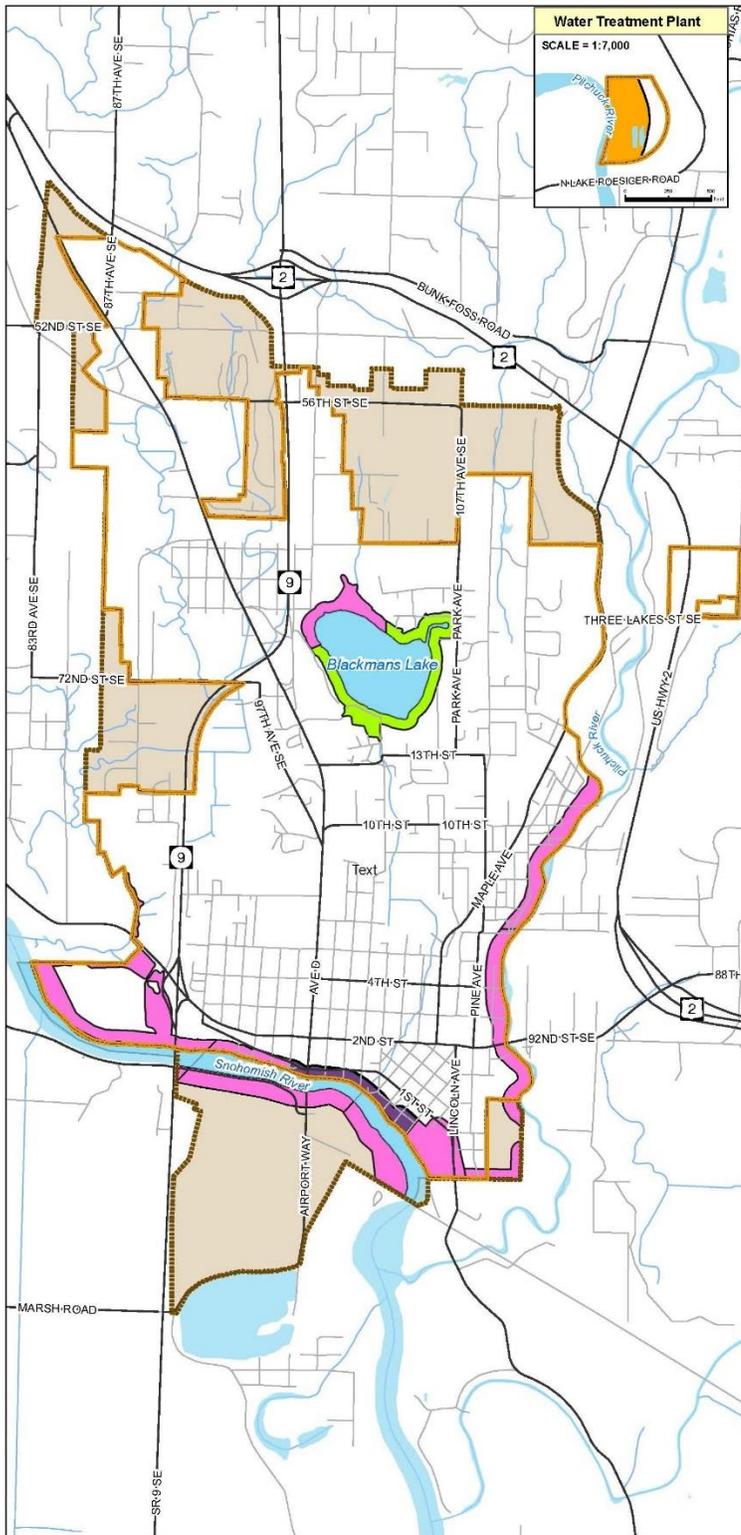
1. Shoreline buffers shall be measured perpendicularly to the OHWM. Where wetland buffers also apply as specified by this chapter, the widest buffer width shall be required.
2. Except on agricultural lands existing on the January 1, 2018, buffer restoration to meet the minimum requirements of this chapter may be required for any shoreline conditional use and shall be required as part of a substantial development if any of the following criteria apply:

- a. Removal of improvements within the minimum prescribed buffer whether through intent or natural causes, except where determined to constitute maintenance and repair of existing improvements and except where voluntary partial restoration is proposed to improve the ecological function of the shoreline.
  - b. A change of the primary use of the site in combination with construction of new building floor area within the shoreline jurisdiction.
  - c. Where disturbance of the existing buffer is unavoidable due to the requirements of the use or activity.
  - d. Where required as a condition of approval of a shoreline conditional use or variance.
3. Where the Planning Director, or designee, determines that ecological benefit of strict compliance with the buffer requirements of this chapter is negligible due to separation of sites from the shoreline by an intervening and lawfully created public road or other existing substantial off-site improvements, an intervening parcel under separate ownership, or a publicly maintained flood levee, requirements for a vegetated buffer may be modified or waived by the Planning Director, or designee, irrespective of prescribed buffer widths. A critical area report may be required to substantiate that a buffer would provide minimal or no ecological benefit.
4. Within the Rural Utility environment, a 100' shoreline buffer shall be maintained except for utility facilities and where necessary to provide direct shoreline access by water-dependent uses. Except for utility facilities necessary for the operation of a utility and for water-dependent uses within the buffer, no structures shall be closer than 10 feet to the buffer boundary.
5. Within the Urban Conservancy environment, a 100-foot shoreline buffer and 10-foot structural setback from the buffer boundary shall be maintained except:
  - a. Where direct shoreline access is necessary for water-dependent uses.
  - b. For facilities exclusively designed for public access.
  - c. Where existing pavement or other impervious surfaces encroach into the standard shoreline setback. In such cases, no further encroachment shall occur. Redevelopment of parcels with existing buffer encroachments shall maintain the existing vegetated buffer or provide a minimum 50-foot buffer, whichever is greater. In all cases where a buffer less than 100 feet is proposed, a vegetation management plan shall be submitted and implemented. No structures shall be constructed within 10 feet of a buffer boundary.
  - d. Where existing levees are maintained. In such cases, management of woody vegetation is permitted where determined by the City or flood control district to be necessary for the integrity and continued function of the levee. Unpaved maintenance roadways are allowed along the top of levees.
6. Within the Shoreline Residential environment, a 15-foot shoreline buffer shall be provided and structures and other impervious surfaces shall be set back 50 feet from the shoreline, except as follows:
  - a. On a lot containing an existing, legally-established residential structure or public recreation use, new structures and impervious surfaces may be located within the setback area without a variance, provided that if such modification adds more than 200 square feet of impervious surface within the setback, an equivalent area of the setback shall be enhanced with native vegetation. Where provided, the enhanced area shall abut the

OHWL, shall be a minimum of 10 feet from any path or structure, except fences, and shall be permanently maintained in native vegetation.

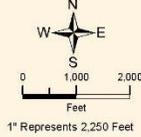
- b. Development of a lot without an existing residential structure or public recreational use may modify the buffer to provide useable area along the shoreline. A buffer so modified shall provide an equivalent in area to a standard buffer and shall abut the OHWM. Impervious surfaces may encroach into the setback provided that an equivalent area of buffer is provided in addition to the standard buffer requirement. All designated buffer area shall abut the OHWM, shall be a minimum of 10 feet from any path or structure, except fences, and shall be permanently maintained in native vegetation.
7. Within the Historic Riverfront environment, the regulated buffer shall be that area waterward of the Riverfront Trail, where applicable, and for all other areas shall be the first 100 feet from the OHWM, except where direct shoreline access is necessary for water-dependent uses or for public access to the shoreline.

Map C



**SEDs**

- Legend**
- Shoreline Environment Designations**
- Aquatic
  - Rural Utility
  - Shoreline Residential
  - Urban Conservancy
  - Historic Riverfront
- Streams
  - Major Roads
  - Minor Roads
  - City Limits
  - Urban Growth Area



May 2017

SOURCE: Snohomish County, 2008.

Prepared by: ESA, 2011 (updated 2017)



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**Shoreline Master Program**

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**14.250.090 Shoreline Environment - Designation Change**

- A. Shoreline environments established by the Shoreline Master Program may be amended by the City Council where the designation change is consistent with the provisions of Chapter 173-26 WAC, Chapter 14.15 SMC, and this chapter.
- B. A change in shoreline environment designation shall be processed and considered as an amendment of the Shoreline Master Program and the Comprehensive Plan. In conjunction with the procedural requirements of Chapter 14.15 SMC, the proposed designation change shall conform to the procedural requirements for shoreline master program amendments specified by Chapter 90.58 RCW and Chapter 173-26 WAC.
- C. Proposed shoreline environment designation changes shall include information specified by Chapter 14.55 SMC, as determined by the Planning Director, or designee. The application shall include written explanation of how the proposed change satisfies applicable criteria and written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and policies of the Comprehensive Plan.

**14.250.100 Development Regulations - General**

- A. As provided by WAC 173-26-186(8), land development, land uses, and modifications within the shoreline jurisdiction shall not result in a net loss of shoreline ecological functions and processes. Mitigation for impacts resulting from development, uses, and modifications shall comply with the priorities specified in the Shoreline Restoration Plan and Appendices C, E and F of the City of Snohomish Shoreline Master Program.
- B. Maximum structure height in the shoreline jurisdiction areas shall be 35 feet, except in the following circumstances:
  - 1. Bridges located in any shoreline environment may exceed 35 feet.
  - 2. In the Historic Riverfront environment, structure height for buildings fronting on First Street shall not exceed 40 feet.
- C. For work at or below the ordinary high water mark, a field determination of the ordinary high water mark shall be made no more than one year prior to submittal of a complete application. The field determination may be subject to verification by the Washington State Department of Ecology.
- D. All shoreline uses and developments shall conform to the following standards:
  - 1. Consistency with the Comprehensive Plan and applicable provisions of the Land Use Development Code.
  - 2. All shoreline uses and development shall be located, constructed and operated so as to preserve and protect public health, safety and welfare.
  - 3. All shoreline uses and development shall protect the quality and quantity of surface and ground water. New permits and development shall comply with the provisions of Chapter 15.16 SMC, including the Department of Ecology Stormwater Management Manual for Western Washington, as adopted or hereafter amended.
  - 4. Shoreline uses and development shall not release solid or liquid waste, oil, hazardous materials, or untreated effluent to any water bodies or shorelands.

5. The use of chemicals to control invasive aquatic weeds is prohibited, except that milfoil and other aquatic weeds recognized as noxious weeds by the Noxious Weed Control Board of Washington State may be removed using chemicals, provided that the chemicals are applied by a licensed pesticide applicator and approved for aquatic use.
6. Heating and cooling equipment shall not be placed in waters of the state.
7. All shoreline uses and development shall be located, designed, constructed and managed to avoid and minimize adverse impacts to critical areas to the greatest extent practical consistent with the standard in SMC 14.250.330(C).
8. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. It shall be the applicants' responsibility to obtain all required state and federal approvals prior to beginning work within wetlands or below the ordinary high water mark. To the extent practical, native vegetation and native topsoils shall be preserved and re-used on-site. Areas cleared of vegetation but not developed shall be replanted with appropriate native species as determined by the Planning Director or designee.
9. Shoreline uses and development shall be located, designed, constructed, and managed to minimize adverse impacts to natural shoreline processes such as water circulation, erosion and accretion.
10. All shoreline uses and development shall be located and designed to minimize reliance upon shoreline defense and stabilization measures and flood protection works such as bulkheads, bank stabilization, landfills, levees, dikes, groins, jetties or substantial site re-grading.
11. All development in the 100-year floodplain designated on the current flood insurance rate map issued by FEMA shall include an assessment prepared by a qualified professional regarding the potential effects of the project would have on channel migration, and shall incorporate measures to mitigate significant adverse impacts on channel migration.
12. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
13. Navigation channels shall be kept free of hazardous or obstructing development or uses.
14. Within shoreline environments, archeological, historic, and cultural resources shall be assessed and protected as provided below:
  - a. Sites with known or suspected resources:
    - i. Disturbance of known archaeological sites shall be consistent with applicable state requirements, including Chapter 27.44 RCW, Chapter 27.53 RCW, and Chapter 68.50 RCW;
    - ii. If a development proposal may adversely impact a known or suspected archaeological, historic, or cultural resource, the Planning Director, or designee, shall require a site inspection or evaluation by a professional archaeologist and shall consult with the Washington State Department of Archaeology and Historic Preservation (DAHP) and affected tribe or tribes; and
    - iii. In considering shoreline permits or shoreline exemptions, the Planning Director, or designee, may impose conditions of approval or provide a specified period of time for the Planning Director, or designee, to consult with the DAHP and affected tribes to ensure that resources are properly assessed and protected.
  - b. Inadvertent discovery of archeological, historical, or cultural resources:

- i. Consistent with the provisions of Chapter 27.44 RCW, Chapter 27.53 RCW, and Chapter 68.50 RCW, whenever potentially-significant archeological, historical, or cultural resources are discovered in the process of development on shorelines, work on that portion of the development site shall stop immediately and the discovery shall be reported within 24 hours to the DAHP and the Planning Director, or designee. The Planning Director, or designee, shall report such discovery to affected tribes; and
  - ii. Upon consultation with the DAHP and affected tribes, the Planning Director, or designee, may require the preparation of a historic property assessment by a qualified professional, such as an archaeologist, ethnographer, historic preservation professional, etc., to determine the significance of the discovery in accordance with Chapter 27.53 RCW and Chapter 25-48 WAC. The written historic property assessment shall be provided to the Planning Director, or designee,, the DAHP, and affected tribes.
  - iii. Following the review of the historic property assessment and consultation with DAHP and affected tribes, the Planning Director, or designee, may require that a historic property management plan be prepared by a qualified professional archaeologist or other appropriate professional before construction activity is authorized to resume. The historic property management plan may include provisions for public access to the resource area.
15. Shoreline development on publicly-owned land or that is publicly funded shall include improvements to incorporate shoreline public access.

**14.250.110 Use Regulations - General**

- A. Within the shoreline jurisdiction, uses shall conform to all applicable provisions of this chapter.
- B. In the shoreline jurisdiction of the Snohomish River, a shoreline of statewide significance, preference shall be given, in the following order, to new uses that:
  - 1. Recognize and protect the statewide interest over local interest;
  - 2. Preserve the natural character of the shoreline;
  - 3. Result in long-term over short-term benefit;
  - 4. Protect the resources and ecology of the shoreline;
  - 5. Increase public access to publicly owned areas of the shorelines; and
  - 6. Increase recreational opportunities for the public in the shoreline.
- C. For a use to be allowed in the shoreline, it must be a permitted use or conditional use in the underlying land use designation and in this chapter. Within the shoreline jurisdiction, the provisions of this chapter may impose conditions or limitations in addition to those specified by other chapters of Title 14, SMC, Land Use Development Code.
- D. Uses not specifically addressed in the shoreline use table may be permitted as conditional uses in the shoreline jurisdiction, provided the use is not otherwise prohibited by the Program and the applicant can demonstrate that the use meets the criteria for a shoreline conditional use permit.
- E. The Shoreline Use Table provided herein specifies whether a use is permitted, allowed as a conditional use, or is prohibited in the shoreline jurisdiction.
  - 1. Permitted Use. The letter “P” at the intersection of a column and row indicates that the use specified in that row is permitted in that shoreline environment.

2. Conditional Use. The letter “C” at the intersection of a column and row indicates that the use specified in that row is allowed only upon the approval of a shoreline conditional use permit. The scope, type, and intensity of the use shall be limited to the terms of the conditional use permit.
  3. Specific Regulations Pertaining to a Use. A number specified with a “P” or “C” corresponds to a particular regulation or limitation provided as a footnote to the table. Additional use-specific regulations are specified in the sections following the Shoreline Use Table.
  4. Prohibited Use. The letter “X” at the intersection of a column and row indicates that the use specified in that row is prohibited in that shoreline environment designation.
  5. Not Applicable. The letters “NA” at the intersection of a column and the row indicate that the use specified in that row is by definition not applicable to that shoreline environment designation, and is not permitted.
- F. Utilities, roads, parking areas, and signs associated with development shall be allowed as accessory to the principal use.

**14.250.120 Table 1: Shoreline Uses**

P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use NA – Not Applicable	Shoreline Environment				
	Historic Riverfront <sup>1</sup>	Shoreline Residential	Urban Conservancy	Rural Utility	Aquatic
<b>Agriculture</b>					
Agriculture and agricultural sales	P	P	P	P	X
Agricultural accessory uses, including agri-tourism uses	P <sup>2</sup>	X	C <sup>2</sup>	X	X
Feedlots	X	X	X	X	X
<b>Aquaculture</b>	X	X	X	X	C <sup>3</sup>
<b>Commercial</b>					
General sales and service	P <sup>4</sup>	X	P <sup>4</sup>	X	C <sup>5</sup>
Eating and drinking establishments	P <sup>4</sup>	X	P <sup>4</sup>	X	X
Hotels, motels, and other forms of temporary lodging; excludes recreational vehicle parks	P	X	P	X	X
<b>Industrial</b>					
Industrial uses, except mining, lumber mills, and log storage	X	X	P <sup>6</sup>	X	C <sup>6</sup>
Mining	X	X	X	X	X
Lumber mills and log storage	X	X	C	X	C
<b>Residential Development</b>					
Single-family dwellings	P <sup>7</sup>	P <sup>7</sup>	P <sup>7</sup>	X	X

P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use NA – Not Applicable	Shoreline Environment				
	Historic Riverfront <sup>1</sup>	Shoreline Residential	Urban Conservancy	Rural Utility	Aquatic
Multi-family dwellings	P <sup>7</sup>	X	P <sup>7</sup>	X	X
Mobile home park	X	P	P	X	X
Group residences	P	P	P	X	X
Accessory dwellings	P	P	P	X	X
<b>Park/Recreation Uses</b>					
Recreational/cultural facilities, except boat launches	p <sup>8</sup>	p <sup>9</sup>	p <sup>9</sup>	p <sup>10</sup>	P
Recreational vehicle parks	X	X	X	X	X
<b>Boat launches and marinas</b>	P	P	p <sup>11</sup>	C	P
<b>Transportation Uses</b>					
Airport/heliport or helistop	X	X	X	X	X
Facilities for water transportation of passengers	P	X	P	X	P
Highway, street, and railroad, except in-water and over water uses	p <sup>12</sup>	p <sup>12</sup>	p <sup>12</sup>	p <sup>12</sup>	p <sup>12</sup>
Parking, principal use, except vehicle impound and storage	X	X	X	X	X
<b>Utilities</b>					
Domestic water production, except in-water uses	p <sup>13</sup>	p <sup>13</sup>	p <sup>13</sup>	p <sup>13</sup>	NA
Wastewater treatment, except in-water uses	X	X	P	X	NA
Stormwater management, except in-water uses	p <sup>13</sup>	p <sup>13</sup>	p <sup>13</sup>	p <sup>13</sup>	NA
Utility facility, except in-water uses	p <sup>13</sup>	p <sup>13</sup>	p <sup>13</sup>	p <sup>13</sup>	NA
Major communication facility	X	X	X	X	X
<b>In-Water Uses</b>					
In-water municipal water production, in-water wastewater treatment	C <sup>14</sup>	C <sup>14</sup>	C <sup>14</sup>	C <sup>14</sup>	C <sup>14</sup>
New dams and new hydroelectric generation	X	X	X	X	X
Other in-water utility facilities	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>	C <sup>15</sup>
In-water and over-water highway and street facilities	C <sup>16</sup>	C <sup>16</sup>	C <sup>16</sup>	C <sup>16</sup>	C <sup>16</sup>
In-water fish and wildlife management, except aquaculture	p <sup>17</sup>	p <sup>17</sup>	p <sup>17</sup>	p <sup>17</sup>	p <sup>17</sup>
<b>Public Facilities (other than above)</b>	p <sup>18</sup>	p <sup>18</sup>	p <sup>18</sup>	p <sup>18</sup>	p <sup>18</sup>

Footnotes to shoreline use table:

1. In addition to the Permitted and Conditional Uses provided for in the Shoreline Use Table, all Permitted and Conditional Uses allowed in the Historic Business District pursuant to Chapter 14.207 SMC, Land Use Tables, shall be allowed in the Historic Riverfront District
2. Where located with and accessory to ongoing agricultural uses, new agri-tourism uses including, but limited to, lodging or a farm restaurant may be permitted in the shoreline jurisdiction if designed to include patron access to the shoreline.
3. Aquaculture shall be located so as not to impede or restrict established commercial navigational lanes, and shall not materially interfere with the normal public use of the water, provided that unlimited recreational navigation over the water surface shall not be construed as normal public use.
4. Commercial uses on parcels that are physically separated from the water by a developed public roadway or a parcel under separate ownership with existing commercial, industrial or residential development shall be subject to the underlying zoning and do not have to be a water-oriented use. For all other parcels:
  - a. Water-oriented commercial uses are permitted.
  - b. Nonwater-oriented commercial uses shall be allowed if any one of the following criteria is met:
    - i. The use is part of a project that includes a water-dependent use and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration; or
    - ii. The capability of the waterbody adjacent to the site to support a water-dependent commercial use is severely limited; or
    - iii. There is not a feasible physical access point between the site and the waterbody to support a water-oriented use; or
    - iv. The commercial use will provide a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration;
    - v. The proposed use or development does not conflict with or displace existing water-oriented uses;
5. Commercial development may be located on or over water only if the portion of use that is over water is a water-dependent use.
6. Limited to water-dependent or water-related uses.
7. Residential development over water is prohibited.
8. In the Historic Riverfront environment, only water-oriented, public recreational uses such as parks, docks, and public access trails and facilities may be allowed, provided that minor, non-water-oriented, accessory uses such as children's play equipment, picnic tables, or similar equipment may also be allowed if they meet the other requirements of this chapter. All other recreational uses are prohibited in the Historic Riverfront environment.
9. Limited to parks, trails, overlooks, and athletic fields, subject to any limitations in this chapter.
10. In the Rural Utility environment, water-oriented passive and low-impact recreational uses shall be allowed. All other recreational uses are prohibited.

11. Long-term moorage and vehicular boat launches are prohibited on the Pilchuck River.
12. Highway, street, and railroad, except in-water and over water uses, may be permitted where:
  - a. There is no feasible alternate location;
  - b. The alternative would result in unreasonable and disproportionate cost; and/or
  - c. The facility is necessary to serve adjacent shoreline uses.
13. Utility facilities may be located within the shoreline jurisdiction if there is no feasible alternative location and where no net loss of shoreline ecological functions will occur. On-site utility features serving a primary use shall be considered a part of and accessory to the primary use.
14. Limited to water-dependent facilities/processes.
15. May be permitted as conditional use where: a) there is no feasible alternate location; b) the alternative would result in unreasonable and disproportionate cost; or 3) the facility is necessary to serve adjacent shoreline uses.
16. In-water or over-water transportation facilities may be permitted as conditional use where:
  - a. There is no feasible upland location;
  - b. The substantive requirements of Chapter 14.255 SMC are satisfied; and
  - c. The priorities of the City of Snohomish Shoreline Restoration Plan are addressed in the project's mitigation plan.
17. In-water structures that are part of habitat restoration projects require approved by state and federal resource agencies are permitted.
18. Public facilities other than utilities and parks as regulated herein may be permitted in the shoreline jurisdiction only if the portion of the facility located in the shoreline is water-dependent.

#### **14.250.130 Regulations Specific to Agriculture Uses**

- A. No modification to existing, legally-established agricultural activities occurring on agricultural lands shall be required for compliance with this chapter. New agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities shall be subject to the provisions of this chapter. In all cases, a substantial development permit shall be required for new non-exempt development.
- B. Creation of new agricultural areas and new structures for accessory uses on agricultural lands are subject to the requirements for structure setbacks and critical areas regulations specified by this chapter, and shall be located and designed to ensure no net loss of ecological function.
- C. The keeping of animals is subject to the provisions of Title 7 SMC.
- D. Agricultural plowing and cultivation, where legally established and maintained consistent with all applicable regulations, shall not be regulated as grading. Modification of land contours in a manner that alters drainage patterns, including conversion of areas not currently in cultivation, shall be regulated as grading.

#### **14.250.140 Regulations Specific to Aquaculture Uses**

- A. Applications for new aquaculture facilities or operations shall be accompanied by a report by a qualified biologist on the effects the proposal would have on the ecological functions of the shoreline.
- B. Aquaculture structures shall not detract from the aesthetic qualities of the surrounding environment.
- C. Floating aquaculture structures are prohibited.
- D. In addition to any development establishing a new aquaculture use, the following aquaculture activities require the issuance of a Substantial Development Permit:
  - 1. Construction and expansion of facilities.
  - 2. Disposal of solid or liquid wastes such as may result from confined rearing operations for salmon or other aquatic life.
  - 3. Construction of dikes or the dredging of bottom materials.
  - 4. The propagation of non-native stocks of aquatic plants and animals.
- E. The following operations/activities shall be conducted in a manner consistent with the authorizing Substantial Development Permit and Hydrologic Project Approval (HPA) and applicable provisions of this chapter.
  - 1. Propagation, cultivation, feeding.
  - 2. Harvesting provided that such harvesting does not result in a significant alteration to the natural ecosystems of the area.
  - 3. Routine maintenance activities and procedures.
- F. Processing of aquaculture products, other than on a tending boat or barge, shall be governed by applicable regulations for industrial uses.

#### **14.250.150 Regulations Specific to Commercial Uses**

- A. Except for commercial structures that are dependent on direct, contiguous access to the water, all commercial structures shall be located outside the shoreline buffer area as provided in this chapter.
- B. Applications for commercial development shall include a detailed statement explaining the nature and extent of water orientation of the proposed activity. Such statement shall include:
  - 1. Nature of the commercial activity;
  - 2. Need for shoreline frontage (where appropriate); and
  - 3. Provisions for public visual and/or physical access to the shoreline.
- C. New commercial developments and expansions of existing commercial developments shall be designed and constructed so that the site and/or building(s) provide visual or physical public access to the shoreline, except where adequate public access improvements exist between the proposed structures and the water or where the site is separated from the shoreline so that visual or physical access is infeasible. Where required, public access shall be implemented by the following means:
  - 1. A pedestrian trail with a minimum width of six feet within a public easement located between the development and the water where the improvement and associated public activities can occur without a net loss of ecological function;
  - 2. A pedestrian overlook accessible by the public that provides shoreline views. An overlook may be incorporated into a building, e.g., as an exterior deck, or may be a separate improvement; or
  - 3. An alternative measure determined by the Planning Director, or designee, to provide comparable physical or visual public access to the shoreline.

#### **14.250.160 Regulations Specific to Industrial Uses**

- A. Industrial uses in the shoreline shall provide public visual and/or physical access to the shoreline, or public access improvements in accordance with the regulations specific to commercial uses contained in SMC 14.250.150.
- B. Outdoor storage areas shall be designed in accordance with Chapter 15.16 SMC and the Snohomish Engineering Design and Construction Standards.
- C. The following regulations shall apply to lumber mills and forestry uses:
  - 1. Except where no practical alternative exists, log storage shall occur on land.
  - 2. Log storage shall not be permitted in waters of the State where water quality standards cannot be met or where log storage precludes the public's use and navigation of waters of the State.
  - 3. Free-fall dropping of logs into water is prohibited.
  - 4. Bark and wood debris from mill operations shall be kept out of water bodies.
  - 5. Logs shall not be dumped, stored, or floated in areas where grounding will occur.

#### **14.250.170 Regulations Specific to Residential Uses**

- A. Applications for subdivisions and short subdivision for land within the shoreline jurisdiction shall include the following information (in addition to the application materials required by Chapter 14.55 SMC and Chapter 14.215 SMC):
  - 1. Detailed statement (graphic and textual) of any proposed alteration of the natural character of the shoreline.
  - 2. Provisions for lot owner access to the water body (for shoreline lots).
  - 3. Provisions for public access to the shoreline as required by this chapter.

4. Delineation of the channel migration zone upon the plat, if applicable, and demonstration that shoreline stabilization or structural flood control measures will not be necessary.
  5. Demonstration that the design, configuration, and development of the subdivision or short subdivision at full build-out of all the lots will result in no net loss of ecological function.
  6. Demonstration that the subdivision or short subdivision is consistent with the underlying shoreline environment designation criteria and management policies.
  7. Demonstration that the subdivision or short subdivision is consistent with the requirements of WAC 173-26-241(3)(j).
- B. All critical areas and/or buffers shall be placed in a critical area tract or conservation easement, the purpose of which is to set aside and protect the critical area. The delineation of critical areas and their buffers shall be shown on the final recorded plat.
- C. Residential accessory structures shall meet the following standards:
1. Below-grade swimming pools shall be sited and designed so that they do not adversely affect the flow of groundwater or endanger unstable slopes.
  2. Accessory structures shall be sited to preserve visual access to the shoreline from adjacent properties and public rights-of-way to the maximum extent practical;
  3. Non-water-dependent accessory structures and facilities such as sheds, gazebos, swimming pools, and driveways shall not be located in shoreline buffer areas.
  4. Stairs and paths to a dock or beach may be allowed in the shoreline buffer areas, but shall be limited to the minimum necessary to provide pedestrian access.
- D. Subdivisions of more than four (4) lots and new multi-unit development of more than four residential units shall provide public pedestrian access to the shorelines, unless physical access to the shoreline is not feasible due to the presence of regulated critical areas such as wetlands or steep slopes. Where public access is not feasible, improvements to existing public access in the vicinity may be required in lieu of on-site public access.
- E. New residential lots created adjacent to Blackmans Lake shall provide for common or shared dock(s) in lieu of individual docks for each lot.

**14.250.180 Regulations Specific to Recreation and Cultural Uses** Lighting of outdoor facilities within the shoreline environment shall be designed and configured to avoid light spill into regulated critical areas and their buffers or onto adjacent properties. Where light spill cannot be avoided, such lighting shall be the minimum necessary to achieve the intended purpose.

**14.250.190 Regulations Specific to Boat Launches and Marinas**

- A. Boat launches, marinas, and similar uses shall be designed and operated so that there is no net loss of ecological function within the shoreline jurisdiction. Restoration and enhancement of critical habitat areas and/or Native Growth Protection Areas, preferably within the same catchment shall be required to compensate for unavoidable adverse impacts upon ecological functions.
- B. Boat launches and marinas shall be sited and designed to protect rights of navigation upon navigable waters.
- C. Boat launches and marinas shall not alter river currents such that adverse impacts would occur downstream. Boat launches and marinas shall be designed to meet criteria by the State Department of Fish and Wildlife relative to disruption of currents, restriction of tidal prisms, flushing characteristics, and fish passage.

- D. Marinas shall have facilities for handling wastes typically generated by marina patrons and visitors. Marinas shall not discharge or release any waste, treated or untreated, into the body of water on which they are located. Oil and gas handling systems shall be designed to minimize potential oil and gas spills. Marinas shall have provisions for containment and cleanup of such spills.
- E. Floating homes and live-aboards are prohibited.
- F. Marinas shall be designed to include native vegetation where feasible and practical.
- G. Marinas shall be designed to provide public access to the shoreline wherever feasible and practical.
- H. Structures for accessory uses that are not water dependent shall not be located over water.
- I. Parking for boat launches and marinas shall be located upland of shoreline buffer areas.
- J. Vehicular access to a boat launch located within a critical area buffer or habitat conservation area shall be the minimum size necessary to provide safe maneuvering of vehicles.

**14.250.200 Regulations Specific to Transportation and Parking**

- A. Non-water-dependent transportation uses, including accessory parking, that cannot be located outside of the shoreland area shall be located as far landward as possible. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use.
- B. Major roads and railroads shall cross shoreland areas by the shortest, most direct route feasible, unless such route would cause significant adverse environmental impacts.
- C. Highway, street and railroad infrastructure that must be located in or over water, such as bridges and bridge supports, may be permitted provided that the substantive critical areas requirements of this Chapter (SMC 14.250.330) are satisfied, and the priorities of the City of Snohomish Shoreline Restoration Plan are addressed in designing mitigation for project impacts.
- D. Applications for installation of transportation facilities shall include the following (at a minimum):
  - 1. Purpose and need for the project
  - 2. Demonstration that the facility is not feasible in a location outside the shoreline area;
  - 3. Location of other transportation facilities in the project vicinity;
  - 4. Proposed method(s) of construction;
  - 5. Plans for restoration of areas disturbed during construction;
  - 6. Mitigation plan for impacts to ecological functions of the shoreline; and
  - 7. Landscape plan.
- E. Bridge abutments of earthen fill shall not be located within an Area of Special Flood Hazard as delineated on Flood Insurance Rate Maps issued by FEMA.
- F. Transportation uses and facilities shall be designed to avoid or minimize placement of fill or structures that would restrict floodplain capacity or limit channel migration. Where transportation uses or facilities are proposed within floodplains, floodways, or channel migration zones; the proposal shall conform to the substantive critical areas requirements of this Chapter (SMC 14.250.330) and Chapter 14.270 SMC.
- G. New roads and off-street parking facilities shall be located where new shoreline stabilization is not required.
- H. New off-street parking shall be located outside of required shoreline and critical area buffers.
- I. Parking facilities over water shall not be permitted.
- J. Exterior lighting for parking areas shall be designed to avoid or minimize light spill into regulated critical areas and their buffers.

#### **14.250.210 Regulations Specific to Utilities**

- A. Where feasible, utility facilities shall be located in existing right-of-ways or in existing utility corridors.
- B. Where feasible, utility lines and facilities outside of existing right-of-ways or utility corridors shall be located underground unless long-term environmental benefit is demonstrated through use of aerial utility lines.
- C. Utility transmission and distribution infrastructure that cannot be located below ground or outside the shoreline jurisdiction shall be located as far landward as feasible to preserve public views.
- D. Utility facilities shall avoid and minimize crossing of water bodies and wetlands to the greatest extent feasible.
- E. Applications for installation of utility facilities shall include the following (at a minimum):
  - 1. Reason the facility must be located in a shoreline area;
  - 2. Alternative locations considered and reasons for their elimination;
  - 3. Location of other utility facilities in the project vicinity;
  - 4. Proposed method(s) of construction;
  - 5. Plans for restoration of areas disturbed during construction; and
  - 6. Plans for landscaping/screening.
- F. Minor communication facilities may be allowed subject to a determination that significant shoreline views will not be obstructed or impaired.
- G. Stream crossings for utilities shall:
  - 1. Use the best available technology and practices to protect health, safety, and the environment;
  - 2. Avoid critical habitat to the greatest extent feasible;
  - 3. If crossing beneath a river or stream, utilities shall be designed to avoid river bed/streambed mobilization and adverse environmental impacts in general. Such utility lines shall be placed in a sleeve or conduit to facilitate replacement without additional boring or excavation; and
  - 4. Mitigate adverse impacts to shoreline ecological functions.
- H. Banks and dikes where utility facilities enter or leave a body of water shall be restored to the extent feasible, shall be protected against erosion, and shall be maintained by the utility.
- I. Stormwater and sewage outfalls may be permitted in shoreline environments in accordance with the substantive critical areas requirements of this Chapter (SMC 14.250.330) and state and federal regulations.
- J. Water intakes shall comply with Washington Department Fish and Wildlife fish screening criteria.

#### **14.250.220 Regulations Specific to In-Water Structural uses**

- A. In-water structural uses may be permitted provided they conform to the substantive critical areas requirements of this Chapter (SMC 14.250.330) and the priorities of the Shoreline Restoration Plan are addressed in designing measures to mitigate project impacts. It shall be the applicants' responsibility to obtain all required state and federal approvals for work below the ordinary high water mark.
- B. Applications for installation of in-water utility facilities shall include the following (at a minimum):
  - 1. Justification that the facility must be located in a shoreline area;
  - 2. Alternative locations considered and reasons for their elimination;

3. Location of other utility facilities in the project vicinity;
4. Proposed method(s) of construction; and
5. Plans for restoration of areas disturbed during construction.

**14.250.230 Regulations Specific to Public Facilities** Applications for installation of government facilities shall include the following (at a minimum):

- A. Justification that the facility must be located in a shoreline area;
- B. Alternative locations considered and reasons for their elimination;
- C. Proposed method(s) of construction; and
- D. Plans for restoration of areas disturbed during construction.

**14.250.240 Regulations Specific to Public Access**

- A. Except as provided in this section, public access may be required for public projects and development on public lands, commercial uses, industrial uses, marinas, multifamily development of more than four residential units, and residential subdivisions containing more than four lots. Where public access is required, it shall:
  1. Where feasible, connect to other public and private public access and recreation facilities on adjacent parcels along the Snohomish River and Pilchuck River shorelines;
  2. Be sited and designed to promote public safety;
  3. Be open to the general public and accessible from a public right-of-way or public access easement; and
  4. Enhance access and enjoyment of the waterbody or shoreline and provide one or more features from the following options, listed by preference. Applicants shall justify a lower-preference option:
    - a. Public open space allowing unobstructed physical access to or near the water's edge;
    - b. Improved pathways in easements for pedestrians and bicyclists where no structures are located between the trail and the water;
    - c. Beach or water access improvements for boats, such as launch facilities for small craft, touch-and-go docks, or temporary moorage where public use is reasonably likely;
    - d. Improved seating area with benches and picnic tables affording water views unobstructed by structures on the same parcel; and/or
    - e. Platforms or similar improvements providing view points of the water or immediate shoreline habitat;
  5. Be sited and designed to minimize impacts to native habitat, critical areas and buffers.
- B. Where public access is required, the area dedicated and improved for public access shall be roughly proportional to the scale of the proposed development and its impacts in accordance with applicable State and federal law.
- C. Trails and other public access improvements are subject to the substantive critical areas requirements of this Chapter (SMC 14.250.330) and standards for recreational uses provided herein.
- D. The provisions of this section do not apply:
  1. Where public access is determined by the Planning Director, or designee, to be infeasible or impractical due to incompatible uses, safety, security, steep topography, the location or configuration of existing structures, or impact to the shoreline environment; and
  2. To commercial development which abuts the Riverfront Trail.

**14.250.250 Regulations Specific to Signs**

- A. All signs located within the Shoreline Jurisdiction shall be comply with the requirements of SMC 14.245 – Sign Regulations.
- B. Except non-commercial signs related to public safety, signs shall be prohibited waterward of the ordinary high water mark.
- C. Light and glare from illuminated signs shall be shielded or directed away from adjacent properties, habitat, and the water.
- D. In approving a sign permit, the Planning Director, or designee, may impose conditions as necessary to ensure consistency with the Shoreline Management Act and the Shoreline Master Program.

**14.250.260 Shoreline Modifications - General**

- A. A shoreline modification proposal may only be permitted if associated with a new development or redevelopment proposal as allowed by the underlying land use regulations and by this Chapter.
- B. Each category of shoreline modification is subject to the regulations for that modification, as provided by this chapter.
- C. The Shoreline Modifications Table provided in the following section specifies whether a shoreline modification is permitted, may be conditionally allowed, or is prohibited. Conditionally-allowed modifications must satisfy the criteria for shoreline conditional uses, and are processed as a conditional use permit. A number following a “P” or “C” corresponds with an additional provision or limitation provided in the Table footnotes. Additional regulations specific to shoreline modifications are provided in the sections following the Shoreline Modification Table.

**14.250.270 Table 2: Shoreline Modifications**

KEY P - Permitted Modification C –Conditional Modification X – Prohibited Modification NA – Not Applicable  Shoreline modifications may be authorized only as part of a permitted use.	Shoreline Environment				
	Historic Riverfront	Shoreline Residential	Urban Conservancy	Rural Utility	Aquatic
<b>Shoreline stabilization</b>					
Shoreline stabilization facilities <sup>1</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	C <sup>2</sup>
Repair or replacement shoreline stabilization facilities <sup>1</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>
Flood protection facilities <sup>1</sup>	P <sup>2</sup>	C <sup>2</sup>	P <sup>2</sup>	C <sup>2</sup>	C <sup>2</sup>
<b>Filling, grading, and dredging</b>					
Grading upon shorelands <sup>1</sup>	P	P	P	P	NA
Filling (waterward of OHWM) <sup>1</sup>	C	C	C	C	C
Dredging <sup>1</sup>	P	P	P	P	P
Disposal of dredge material <sup>1</sup>	P	P	P	P	P
<b>Piers and Docks<sup>1</sup></b>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	X	P <sup>4</sup>
<b>Breakwaters, jetties, groins and weirs<sup>1</sup></b>	C <sup>5</sup>	C <sup>5</sup>	C <sup>5</sup>	C <sup>5</sup>	C <sup>5</sup>
<b>Shoreline habitat and natural systems enhancement projects<sup>1</sup></b>	P	P	P	P	P

Footnotes to Shoreline Modifications Table:

1. Work waterward of the ordinary high water mark and within wetlands requires state and federal authorization in addition to local approval. It shall be the applicants' responsibility to obtain all required state and federal approvals for work below the ordinary high water mark.
2. Shoreline stabilization, including bulkheads and flood protection facilities, may be permitted where such measures are necessary to protect existing legally-established primary structures, public improvements, proposed or existing water-dependent development and restoration/mitigation improvements and when consistent with WAC 173-26-231(3)(a)(iii).
3. An existing, legally established shoreline stabilization structure may be replaced or augmented where needed to protect primary structures from erosion caused by currents, tidal action, or waves.
4. New docks and piers shall be:
  - a. Allowed only for public access or water-dependent uses, including as accessory uses to single-family residences;
  - b. Restricted to the minimum size necessary to serve a proposed water-dependent use; and
  - c. Permitted only when specific need is demonstrated, except for docks accessory to single-family residences.
5. Breakwaters, jetties, groins and weirs shall only be permitted where necessary to support water-dependent uses, public access, approved shoreline stabilization, or other public uses, as determined by the Planning Director, or designee,. No conditional use permit is required for those structures installed to protect or restore ecological functions, such as woody debris installed in streams.

**14.250.280 Regulations Specific to Shoreline Stabilization**

- A. Shoreline stabilization shall be designed and constructed to avoid adverse impacts affecting downstream banks.
- B. New shoreline stabilization shall not preclude river channel migration within the floodway.
- C. Shoreline stabilization shall be designed and constructed consistent with the critical areas report required by SMC 14.250.330(A)(6). Where possible, shoreline vegetation shall be preserved.
- D. In addition to the required permit application materials required by other sections of Title 14 SMC, the applicant shall provide the following materials under the stamp of a qualified professional engineer:
  1. Description of project's purpose and scope.
  2. Description of the hydraulic characteristics of the water body within one-half mile of the proposed project, before and after the stabilization/protection project.
  3. Description of existing shoreline stabilization within one-half mile of the proposed project.
  4. Proposed construction materials and methods.
- E. Using studies by qualified professionals, including a geotechnical analysis and a field determination of the ordinary high water mark done no more than one year before submittal of a complete application, the applicant shall demonstrate the following:
  1. That the structure is in danger from shoreline erosion from tidal action, waves or currents, including a description of the damage or loss that is expected to occur if stabilization is not provided, and a timeframe within which such damage or loss is anticipated to occur.

2. Erosion is not caused by upland conditions on the project site that, if corrected, would eliminate the need for shoreline stabilization;
  3. The proposal is the minimum necessary to protect existing legally-established structures; existing water-dependent development; or achieve restoration of ecological functions.
  4. Except for the protection of the shoreline requiring stabilization, the effect on natural fluvial, hydrological, and geomorphological processes will be minimized.
  5. Mitigation measures will maintain or augment shoreline processes and critical fish and wildlife habitat so that no net loss of function of riparian habitat will occur.
  6. Shoreline stabilization shall minimize the adverse impact to other properties to the maximum extent practical.
  7. Shoreline stabilization shall not interfere with surface or subsurface drainage into the water body or to or from wetlands.
- F. Replacement of an existing shoreline stabilization structure that can no longer adequately serve its purpose may be permitted without a determination of imminent need subject to the following:
1. The replacement structure shall be designed, located, sized, and constructed to ensure no net loss of ecological functions;
  2. Replacement of walls or solid bulkheads shall not encroach waterward of the OHWM or existing structure unless protecting a residence that 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;
  3. Where stabilization would extend waterward of the OHWM, distance shall be the minimum necessary to preserve the stabilization function.
- G. New hardened shoreline stabilization shall not be permitted unless the analysis confirms that there is a significant possibility that the upland structure will be damaged within three years in the absence of hardened stabilization measures; or unless the analysis confirms that waiting until the need is immediate will foreclose on the opportunity to use measures that avoid impacts on ecological functions.
- H. Shoreline stabilization shall not be used to create new shoreland area.
- I. Material that may release hazardous substances shall not be used for shoreline stabilization.
- J. Shoreline stabilization shall be designed so as not to constitute a hazard to navigation.
- K. Shoreline stabilization shall be designed so as not to create a need for shoreline stabilization elsewhere.
- L. Shoreline stabilization measures shall not be allowed within any designated floodway except as may be necessary to protect existing development or prevent serious impairment of channel function.
- M. Shoreline stabilization measures shall be consistent with the Integrated Stream Protection Guidelines (Washington departments of Fish and Wildlife, Ecology, and Transportation, 2003).

**14.250.290 Regulations Specific to Flood Protection**

- A. Flood protection facilities shall be consistent with the provisions of Chapter 14.270 SMC, the National Flood Insurance Program (NFIP), and the Integrated Stream Protection Guidelines (Washington departments of Fish and Wildlife, Ecology, and Transportation, 2003).
- B. Flood control dikes shall be landward of the designated floodway and any shoreline associated wetlands.

**14.250.300 Regulations Specific to Grading, Filling, Dredging, and the Disposal of Dredge Material**

- A. Grading, dredging, and filling shall be located, designed, and conducted to protect shoreline ecological functions and ecosystem-wide processes, including channel migration, and mitigation shall employ the mitigation sequence specified by Chapter 14.255 SMC.
- B. Grading, dredging, dredge material disposal and filling shall be consistent with Chapter 14.270 SMC.
- C. Fill may be permitted below the ordinary high water mark only:
  - 1. When necessary to support a water-dependent use;
  - 2. To provide for public access;
  - 3. When necessary to mitigate conditions that endanger public safety, including flood risk reduction projects;
  - 4. To allow for cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan;
  - 5. To allow for the disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Washington Department of Natural Resources;
  - 6. For expansion or alteration of transportation or utility facilities currently located on the shoreline upon demonstration that alternatives to fill are not feasible; or
  - 7. As part of mitigation actions, environmental restoration projects and habitat enhancement projects.
- D. Dredging and disposal of dredged material below the ordinary high water mark shall be permitted only:
  - 1. When necessary for the operation of a water-dependent use;
  - 2. When necessary to mitigate conditions that endanger public safety or fisheries resources;
  - 3. For establishing, maintaining, expanding, relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigation uses where:
    - a. Significant ecological impacts are minimized and mitigation is provided;
    - b. The substantive requirements of Chapter 14.255 SMC are satisfied; and
    - c. Dredging is maintained to the authorized location, depth and width.
  - 4. For restoration projects associated with implementation of the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act; or any enhancement or restoration project.
  - 5. For flood risk reduction projects conducted in accordance with Chapter 14.270 SMC.
- E. Dredging and dredge material disposal shall be performed in a manner which avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
- F. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or authorized location, depth, and width.
- G. Dredging is not allowed waterward of the ordinary high water mark for the primary purpose of obtaining fill material except where the material is necessary for the restoration of ecological functions. Where permitted, the site where the fill is to be placed must be located waterward of the OHWM and the action must be required for an approved habitat enhancement project.
- H. Disposal of dredged material shall be allowed only in approved disposal sites.

- I. Stockpiling of dredged material in wetlands and Habitat Conservation Areas and their associated buffers, and in or under water, is prohibited.
- J. No dredging may commence in any shoreline environment without the responsible person having first obtained either a substantial development permit or a determination of exemption.
- K. The removal of gravel for flood management is allowed only after biological and geomorphological studies show that extraction has a long-term benefit to flood hazard reduction, results in no net loss of ecological functions, and is part of a comprehensive flood management solution.
- L. Dredging in or the disposal of dredge spoils on known archeological sites is prohibited unless approved in writing by the Department of Archaeology and Historic Preservation in consultation with any affected tribes.
- M. Applications for dredging permits shall include the following information (at a minimum):
  - 1. Physical analysis of material to be dredged: material composition and amount, grain size, organic materials present, source of material, etc.;
  - 2. Chemical analysis of material to be dredged: volatile solids, chemical oxygen demand, (COD), grease and oil content, mercury, lead and zinc content, etc.;
  - 3. Biological analysis of material to be dredged;
  - 4. Information on stability of bedlands adjacent to proposed dredging and spoils disposal;
  - 5. Dredging procedure: time of dredging, method of dredging, and spoils disposal; and
  - 6. Dredge spoils disposal area: location, size, capacity, and physical characteristics.
- N. New dredging projects shall, in addition to the above, provide the following information with their application:
  - 1. Total initial spoils volume;
  - 2. Frequency and quantity of project maintenance dredging;
  - 3. Area proposed for initial spoils disposal; and
  - 4. Provisions for long-term/on-going disposal of maintenance spoils.
- O. Applications for dredge spoils disposal sites shall include the following, whether in the City of Snohomish shoreline jurisdiction or elsewhere:
  - 1. Disposal site area and final depth of spoils;
  - 2. Methods to control water quality from spoils, including a perimeter dike or similar control system, and methods of ingress and egress from the spoils site that will not result in off-site water quality impacts;
  - 3. A landscaping plan providing landscape screening and erosion control during the period of disposal; and
  - 4. A description of the ultimate use of the site after spoil disposal is complete.
- P. New development shall be sited and designed to avoid the need for new and maintenance dredging.

**14.250.310 Regulations Specific to Breakwaters, Jetties, Groins and Weirs**

- A. Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
- B. Applications for breakwaters, jetties, groins and weirs shall provide (as a minimum) the following information:
  - 1. Purpose of project;
  - 2. Construction material; and

3. Method of construction;
  4. Analysis of shoreline conditions demonstrating the need for the project;
  5. Assessment of the expected effects of the project on ecological functions of the shoreline; and
  6. A mitigation plan demonstrating no net loss of ecological functions in the shoreline.
- C. Applications for groins shall also include the source and destination of material proposed to be trapped by the groin(s).
- D. Breakwaters shall meet or exceed all design requirements of the State Department of Fish and Wildlife.
- E. Jetties and groins shall not result in a net adverse effect upon nearby beaches.

**14.250.320 Regulations Specific to Docks and Piers**

- A. Shoreline subdivisions vested with complete application after the effective date of this chapter, temporary lodging, and multi-family uses shall be served by no more than one joint use dock.
- B. Docks, piers, long-term moorage, and vehicular boat launches are prohibited on the Pilchuck River.
- C. No dock, pier, moorage, buoy, float or launching facility authorized by this chapter shall interfere with safe navigation, or normal public use of the water. All such facilities shall be located and managed in a manner that minimizes impacts to aquatic habitat.
- D. Applications for piers and docks on the Snohomish River shall include an assessment of impacts on anadromous salmon habitat, and a mitigation plan addressing any impacts expected from the project. Compensatory mitigation shall be provided for impacts that cannot be avoided through design and siting.
- E. Prior to issuance of a permit for a pier or dock on the Snohomish River, the applicant shall provide evidence of all required state and federal permits.
- F. Boat lifts may be approved by conditional use permit with a demonstration that no net loss of ecological functions or significant impacts to shoreline views will occur
- G. Docks and piers serving residential uses shall be subject to the requirements of SMC 14.250.315(F)-(I), or shall demonstrate that the project provides an equal or greater degree of protection of ecological functions and anadromous species habitat. For the purposes of meeting this requirement, the Planning Director, or designee, may require a critical area report to determine whether the project is adequately protective.
- H. Except as otherwise provided in this section, only one dock, pier, moorage, buoy, float, or launching facility may be permitted for each parcel developed with a single-family dwelling, and only if the applicant demonstrates there is no other feasible option for shared use facilities.
- I. New residential development of two or more adjacent lots or two or more residential units shall have no more than one dock and shall allow for joint use rather than one dock for each unit, unless demonstrated to be infeasible.
- J. Skirting is prohibited on any pier or dock.
- K. Water surface coverage by docks (defined by the outside dimensions of all overwater portions of the floats, ramps, and ells, regardless of surface materials used) shall be limited as follows:
1. A dock serving only one residential waterfront lot shall not exceed 480 square feet;
  2. A dock serving two residential waterfront lots shall not exceed 700 square feet; and
  3. A dock serving three or more residential waterfront lots shall not exceed 1,000 square feet.

- L. Wood treated with toxic compounds shall not be used for decking, pilings, or other in-water components. Tires shall not be used on moorage facilities. Foam material may be used if fully encapsulated.
- M. No private moorage or other structure waterward of the ordinary high water mark, including structures attached thereto, shall be closer than twelve (12) feet to any adjacent property line except when there is a mutual agreement of adjoining property owners.
- N. No covered dock, pier, covered moorage, covered float, or other covered structure is permitted waterward of the ordinary high water mark.

**14.250.330 Critical Areas in Shoreline Jurisdiction**

**A. General**

1. The provisions and regulations of Chapters 14.255 – Critical Areas; 14.265 – Critical Aquifer Recharge Areas; 14.270 – Flood Hazard Areas; and 14.275 – Geologically Hazardous Areas SMC shall be applicable to development within the shoreline jurisdiction except as exempted in SMC 14.250.020 or as may be modified in this section. If the provisions of the any of those Chapters conflict with this Chapter, or any part of the Shoreline Management Program, the provisions of this Chapter and the Program shall prevail.
2. The provisions and regulations of SMC 14.260.040, SMC 14.280.050, and SMC 14.280.060 are not applicable within the shoreline jurisdiction.
3. Activities that are exempt from the SMC 14.255, 14.265, 14.270, and 14.275 shall comply with this chapter. Such activities may require a shoreline letter of exemption, shoreline substantial development permit, shoreline variance or shoreline conditional use permit consistent with the provisions of this chapter.
4. The variance and reasonable use provisions of SMC 14.255.020 and 14.255.120-.130 shall not apply to development in the shoreline jurisdiction. Projects that propose to vary from the standards of this chapter, including the critical areas, bulk, dimensional, and performance standards of SMC 14.255 – 280 incorporated by reference, shall require a shoreline variance according to the provisions of this Chapter and WAC 173-27.
5. Critical Area Reports shall be provided consistent with requirements of SMC 14.255.080.

**B. No net loss**

1. To ensure there is no net loss in shoreline ecological functions from the current conditions proposed development in the shoreline jurisdiction must be designed to avoid impacting the environment.
2. If avoidance is not feasible then the development must be designed to minimize the impacts and compensate for them.
3. To ensure there is no net loss in shoreline ecological functions resulting from any individual development proposal where avoidance of environmental impacts was not feasible, the Director may require applicants to provide a special analysis that:
  - a. Describes the options that were considered to avoid impacts but were determined to be not feasible.
  - b. Demonstrates how the design of the project minimizes the effect of any unavoidable impacts; and
  - c. Shows how proposed mitigation measures will adequately compensates for the negative impacts.

### C. Mitigation Sequencing

1. Adverse environmental impacts shall be avoided if feasible. Where not feasible to completely avoid environmental impacts, mitigation measures shall be applied in the following sequence of steps, in order of priority:
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
  - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
  - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
  - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
  - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.
3. Application of the mitigation measures must achieve no net loss of ecological functions for each development and shall not result in required mitigation in excess of that necessary to assure that the development will result in no net loss of shoreline ecological functions.
4. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized.

### D. Wetlands

1. Wetlands shall be designated in accordance with the approved federal wetland delineation manual and applicable regional supplements as set forth in WAC 173-22-035.
2. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the 2014 Washington State Wetland Rating System for Western Washington (Ecology Publication No. 14-06-029). Wetlands shall be rated based on categories that reflect the functions and values of each wetland, with categories based on the criteria provided in the 2014 Washington State Wetland Rating System for Western Washington, as follows:
  - a. Category I Wetlands: Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and stormwater, and/or providing habitat for wildlife as indicated by a rating system score of twenty-three (23) points or more. These are wetland communities of infrequent occurrence that often provide documented habitat for sensitive, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.
  - b. Category II Wetlands. Category II wetlands have significant value based on their function as indicated by a rating system score of twenty (20) to twenty-two (22) points. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.
  - c. Category III Wetlands. Category III wetlands have important resource value as indicated by a rating system score of between sixteen (16) and nineteen (19) points.

- d. Category IV Wetlands. Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than sixteen (16) points. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.
- 3. Wetland buffer width standards within SMC 14.260.040 shall be superseded by the followings:
  - a. Wetland buffers identified in Table 3: Standard Wetland Buffer Widths table are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the required wetland rating system. Wetland buffers have been established in accordance with the best available science.

**Table 3: Standard Wetland Buffer Widths**

Wetland Category	Buffer width (in feet) based on habitat score			
	3-4	5	6-7	8-9
Category I: Based on total score	75	105	165	225
Category I: Bogs and Wetlands of High Conservation Value	190			225
Category I: Forested	75	105	165	225
Category II: Based on score	75	105	165	225
Category III (all)	60	105	165	225
Category IV (all)	40			

- b. The use of the standard buffer widths requires the implementation of the measures in the Table 4: Required Measures to Minimize Impacts to Wetlands table, where applicable to a specific proposal, to minimize the impacts of the adjacent land uses. If an applicant chooses not to apply the mitigation measures in Table 4, than a thirty-three (33%) increase in the width of all buffers listed in Table 3 is required.

**Table 4: Required Measures to Minimize Impacts to Wetlands**

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> <li>• Direct lights away from wetland</li> </ul>
Noise	<ul style="list-style-type: none"> <li>• Locate activity that generates noise away from wetland</li> <li>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</li> <li>• immediately adjacent to the out wetland buffer</li> </ul>
Toxic runoff	<ul style="list-style-type: none"> <li>• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> <li>• Establish covenants limiting use of pesticides within 150 feet of wetlands</li> <li>• Apply integrated pest management</li> </ul>
Stormwater runoff	<ul style="list-style-type: none"> <li>• Retrofit stormwater detention and treatment for roads and existing adjacent development</li> <li>• Prevent channelized flow from lawns that directly enters the buffer</li> <li>• Use Low Impact Development techniques (per PSAT publication on LID techniques)</li> </ul>
Change in water regime	<ul style="list-style-type: none"> <li>• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</li> </ul>
Pets and human disturbance	<ul style="list-style-type: none"> <li>• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</li> <li>• Place wetland and its buffer in a separate tract or protect with a conservation easement</li> </ul>
Dust	<ul style="list-style-type: none"> <li>• Use best management practices to control dust</li> </ul>
Disruption of corridors or connections	<ul style="list-style-type: none"> <li>• Maintain connections to offsite areas that are undisturbed</li> <li>• Restore corridors or connections to offsite habitats by replanting</li> </ul>

- c. Outright reduction of wetland buffer widths shall not be allowed within shoreline jurisdiction.
  - d. No wetland buffer occurring in the shoreline jurisdiction shall be reduced in any location by more than twenty-five (25) percent of the standard buffer width, regardless of wetland category, and only when reduction occurs as part of wetland buffer averaging.
4. Identification of hydric soils and identification and delineation of wetlands shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. For wetland delineation purposes, the definitions of ‘forested wetland’ and ‘mature forested wetland’ shall be consistent with the definitions provided within wetland identification, delineation, and rating systems required by this chapter.

5. Mitigation shall be provided consistent with this Chapter and SMC 14.260.050. Wetland mitigation ratios tables within SMC 14.260.050.J shall be superseded by the mitigation ratios in Table 5: Wetland Mitigation Ratios below. Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment (see Table 1a, *Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance Version 1*; Ecology Publication #06-06-011a, Olympia, WA, March 2006 or as revised).

**Table 5: Wetland Mitigation Ratios**

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation only	Enhancement only
Category IV	1.5:1	3:1	6:1
Category III	2:1	4:1	8:1
Category II	3:1	6:1	12:1
Category I: Based on functions	4:1	8:1	16:1
Category I: Mature and old growth forest	6:1	12:1	24:1
Category I: High conservation value / Bog	Not considered possible	Case by case	Case by case

- a. As an alternative to mitigation ratios, mitigation requirements may also be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised) if approved by the Planning Director.
- E. Fish and wildlife habitat conservation areas
  1. The provisions of SMC 14.280.010 – 14.280.040 shall apply to the shoreline jurisdiction. The provisions of SMC 14.280.050 – 14.280.060 shall not apply in the shoreline jurisdiction and are replaced by the following provisions.
  2. Substantive Requirements
    - a. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area, except with approval of a state or federal agency with expertise.
    - b. Preference in mitigation shall be given to contiguous wildlife habitat corridors.
    - c. In reviewing development proposals, the City shall seek opportunities to restore degraded riparian fish and wildlife functions such as breeding, rearing, migration, and feeding.
    - d. The City shall require buffers of undisturbed native vegetation adjacent to habitat conservation areas in accordance with SMC 14.250.330(E)(3). Buffer widths shall reflect the sensitivity of the habitat and may reflect the intensity of nearby human activity.
    - e. When a species is more sensitive to human activity during a specific season of the year, the City may establish an extra outer buffer from which human activity is excluded during said season.
    - f. No development shall be allowed within a habitat conservation area or buffer with which state or federal endangered, threatened, or sensitive species have a primary association, except in exchange for restoration as approved by the Planning Director or as provided in a management plan approved by a state or federal agency with appropriate expertise.
    - g. No development shall be permitted which degrades the functions or values of anadromous fish habitat, including structures or fills which impact migration or spawning, except in exchange for restoration.
    - h. Construction and other activities within streams shall be seasonally restricted as necessary to protect the resource. Activities shall be timed to occur during work windows designated by the Washington Department of Fish and Wildlife for applicable fish species and shall be consistent with the required state and federal approvals. It shall be the applicants' responsibility to obtain the required state and federal approvals.
    - i. Shoreline erosion control shall use bioengineering methods or soft armoring in accordance with an approved critical area report.
    - j. Relocation of streams is not permitted unless it is part of a stream restoration project and it will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream. It shall be the applicants' responsibility to obtain the required state and federal approvals.
    - k. The following requirements shall apply to culverts:
      - i. Culverts may be allowed in streams only if they are necessary for the development to occur, if they are designed according to the Washington Department of Fish and Wildlife criteria for fish passage, and if a state hydraulic project approval has been issued.
      - ii. The applicant or property owner shall keep every culvert free of debris and sediment at all times to allow free passage of water and, if applicable, fish.

- iii. The City may require that a stream be removed from an existing culvert as a condition of approval, unless the culvert is not detrimental to fish habitat or water quality, or removal and/or replacement would be detrimental to fish or wildlife habitat or water quality on a long-term basis.
    - iv. It shall be the applicants' responsibility to obtain the required state and federal approvals.
  - l. Clearing and grading, when permitted as part of an authorized development activity or as otherwise allowed in these standards, shall comply with the following:
    - i. Grading shall be allowed only during the designated dry season, beginning April 1st and ending October 31st of each year; provided that the City may extend or shorten the designated dry season on a case-by-case basis to reflect actual weather conditions and the incorporation of best management practices to control stormwater.
    - ii. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the site, provided that such redistribution shall not constitute authorized fill.
    - iii. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.
  - m. To the extent facilities are allowed in habitat conservation areas, the following regulations shall apply.
    - i. Trails shall be on the outer 25% edge of the stream buffer except for limited viewing platforms and crossings. Trails and platforms shall be of pervious materials.
    - ii. Road bridges and culverts shall be designed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000.
    - iii. Utility lines shall be accomplished by boring beneath the scour depth and hyporheic zone (the saturated zone beneath and adjacent to streams that filters nutrients and maintains water quality). Utilities shall avoid paralleling streams or changing the natural rate of shore or channel migration.
    - iv. New and expanded public flood protection measures shall require a biological assessment approved by the agency responsible for protecting federally listed species.
    - v. In-stream structures such as high-flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs shall be allowed only as part of an approved restoration project. It shall be the applicants' responsibility to obtain the required state and federal approvals.
    - vi. Stormwater conveyance structures shall incorporate fish habitat features and the sides of open channels and ponds shall be vegetated to retard erosion, filter sediments, and shade the water.
    - vii. Watercourse alterations shall be in accordance with SMC 14.270.030.H.
- 3. Habitat Conservation Area Buffers
  - a. Table 6 below establishes the standard width of required stream buffers (also known as riparian habitat areas):

**Table 6. Habitat conservation area buffer widths for specified rivers/streams**

River/Stream	Habitat buffer width
<ul style="list-style-type: none"> <li>• Snohomish River</li> <li>• Pilchuck River</li> </ul>	<p>100 feet, provided that:</p> <ul style="list-style-type: none"> <li>• limited public access is allowed in the 50 feet nearer the river, and</li> <li>• water-dependent and water-related uses are allowed in the 50 feet further from the river, if mitigation measures result in the uses contributing toward projects that enhance salmonid rearing habitat as identified in the Snohomish ESA Strategy and if, as further mitigation, public access is permitted across the waterfront portion of the site when such a mitigation measure is supported by the particular circumstances and the purposes of the Critical Areas Code.</li> <li>• the buffer shall not extend landward of the Riverfront Trail, where the trail acts as a permanent interruption in the Historic Riverfront SED.</li> </ul>
<ul style="list-style-type: none"> <li>• Cemetery Creek downstream of Fobes Road, Bunk Foss Creek, and any tributaries thereof containing salmonids</li> <li>• All streams flowing into Blackman’s Lake, including that part of Swifty Creek above Blackman’s Lake</li> </ul>	<p>100 feet, provided that limited public access is allowed in the first 50 feet of buffer.</p>
<ul style="list-style-type: none"> <li>• Swifty Creek below Blackman’s Lake</li> <li>• Myrick’s Fork in the Cemetery Creek basin</li> <li>• Collins Creek in the Bunk Foss Creek basin (upstream of salmon spawning and rearing areas)</li> </ul>	<p>50 feet, provided that limited public access is allowed in the first 25 feet of buffer.</p>

b. If Table 6 does not cover a particular stream, the following Table 7 shall apply:

**Table 7: Habitat conservation area buffer widths for non-specified rivers/streams**

<b>Stream type</b>	<b>Standard buffer width</b>
Type F (fish-bearing other than S)	75 feet
Type Np (non-fish, perennial)	50 feet
Type Ns (non-fish, seasonal)	35 feet

- c. Widths shall be measured perpendicular outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank if the ordinary high water mark cannot be identified, or from the outer edge of the channel migration zone when present. Upon the presence of one or more types of critical areas and buffers the buffer shall be measured from the delineated critical area boundary as determined by a qualified professional as defined by WAC 365-195-905(4).
- d. The Planning Director may modify the buffer widths in the above tables in accordance with the following:
- i. Buffer widths may be increased as necessary to fully protect riparian functions. For example, the buffer may be extended to the outer edge of the floodplain or windward into an area of high tree blow-down potential.
  - ii. If the stream enters an underground culvert or pipe, and is unlikely to ever be restored aboveground, the Planning Director may waive the buffer along the under grounded stream, provided that where the stream enters and emerges from the pipe the opposite outer edges of the buffer shall be joined by a radius equal to the buffer width, with said radius projecting over the piped stream.

F. Uses in Buffer Areas

1. The following table establishes the allowed uses in buffer areas.

**Table 8: Allowed Uses in Habitat Conservation Area and Wetland Buffers**

Uses that may be permitted (P) in buffer, provided there is no net loss of ecological function	Habitat Conservation Area Buffer	Wetland Buffer			
	All shorelines	Category IV	Category III	Category II	Category I
Water-dependent and water-related uses	P				
Public parks and public water enjoyment uses	P				
Bio-retention facilities, percolation trenches, and similar non-structural stormwater facilities, excluding detention ponds.	P	p <sup>1</sup>	p <sup>1</sup>		
Utility poles, lines, and other facilities that do not require clearing and cannot be placed in another location due to the function of the utility	P	P	P	P	P
Pedestrian trails, minimal wildlife viewing structures, and other limited public access	p <sup>2</sup>	p <sup>2</sup>	p <sup>2</sup>	p <sup>2</sup>	p <sup>2</sup>

1. Stormwater outfalls/dispersion facilities may only be located in the outer 25% of the standard buffers for Category III and Category IV wetlands. Such facilities shall not be allowed in the buffers for Category I and Category II wetlands.
2. Pedestrian trails must:
  - i. Be located in the outer 25% of the buffer area;
  - ii. Have a permeable surface; and
  - iii. Be no more than five (5) feet in width

G. Vegetation Management in Shoreline Jurisdiction

1. Vegetation and vegetated areas within designated critical areas and their required buffers shall be preserved, enhanced, and restored in compliance with this chapter so as to protect or improve shoreline ecological processes and functions. Such measures shall be as prescribed herein and/or by a critical areas report prepared pursuant to Chapter 14.255 SMC.
2. Except as specifically permitted by this chapter, no disturbance to vegetation within a prescribed buffer or a buffer approved pursuant to this chapter shall occur without prior written approval of the City.
  - a. Where unapproved disturbance occurs, the property owner, if private land, or responsible party, if public land, shall provide a critical area report and vegetation management plan to determine whether and what restoration steps shall be implemented and maintained to restore prior ecological functions.

- b. The restoration plan must be approved by the Planning Director and implemented by the property owner/responsible party.
3. Invasive species and State recognized noxious weeds, as designated by the Planning Director, may be removed from critical area buffers without a permit as part of a buffer restoration or enhancement project if such activities are performed without increasing sediment transport to a water body and if replacement plantings will provide greater benefit to shoreline ecological processes.
  - a. Buffer restoration projects shall not reduce the existing buffer width.
  - b. Unless plans are approved by the City for alternative methods, plant removal shall consist of physical uprooting by hand or light equipment, chemical treatment of individual plants, or shallow excavation of no more than one thousand (1,000) square feet of dense infestations.
4. In the absence of a development proposal, existing, lawfully established residential landscaping and gardens within a shoreline buffer may be retained, replaced, and maintained to continue the condition, appearance, and extent of such areas as they existed prior to the adoption of this code. However, this exception does not apply to unmaintained buffer areas, native growth protection areas, mitigation sites, or other areas protected by conservation easements or similar restrictions, and as further provided in this chapter.
5. Trees in excess of six inches in diameter measured four feet above surrounding grade shall only be removed from a critical area or critical area buffer within the shoreline jurisdiction with justification of improvement to ecological functions and processes and with prior written approval of the Planning Director.
  - a. Any tree within a critical area or buffer deemed by a certified arborist to be a hazard to structures or public safety may be pruned or removed to protect public health and safety consistent with a plan prepared by a certified arborist.
  - b. Trees that pose an immediate threat to property or safety may be removed if a report with photographic documentation from a certified arborist justifying such removal is submitted and approved by the Planning Director within 30 days following removal.
  - c. Trees removed from buffer areas shall be replaced at a two to one (2:1) ratio.
    - i. Proposals for replacement trees shall be approved prior to tree removal unless emergency removal is justified due to an imminent threat posed by a hazard tree, in which case the tree replacement plan shall be submitted within 30 days following removal.
    - ii. Replacement trees in a shoreline buffer shall be planted within 30 feet of the OHWM and should be selected to thrive in a shoreline environment.
  - d. Portions of dead or dying trees not representing a risk to public health and safety shall be retained as snags for wildlife. Cut portions of trees shall be left in the critical area or its buffer unless removal is recommended by as determined by a qualified professional as defined by WAC 365-195-905(4).
  - e. Trees may be selectively pruned for safety and view maintenance where pruning is conducted in a manner that does not harm the health of the trees. Pruning shall only occur according to a plan prepared by a certified arborist and approved by the Planning Director.
6. Vegetation management plans shall be provided as part of a critical area report for required shoreline buffer areas.
  - a. Vegetation management plans shall be prepared by a qualified professional as defined by WAC 365-195-905(4).
  - b. Vegetation management plans shall evaluate the ecological value of existing vegetation in the buffer and propose actions to ensure that buffer areas provide ecological functions

equivalent to a dense native vegetation community to the extent possible. Required vegetation shall be maintained over the life of the development.

- c. For private development, recording of a conservation easement or similar legal restriction may be required to ensure preservation of vegetation within the buffer.
  - d. Where consistent with the intent of buffer functions, vegetation management plans shall minimize impairment of views of the waterbody or shoreline from public streets, parks, overlooks, and other adjacent public places.
7. Alternative Restoration Plan
- a. Proposals to implement an Alternative Restoration Plan may be requested by an applicant:
    - i. Where mitigation of ecological impacts is required; or
    - ii. Where a critical area report or other information demonstrates buffer enhancements consistent with this chapter would be ineffective or pose a greater ecological risk than preserving existing conditions.
  - b. Proposals for alternative habitat restoration shall focus on restoring the most-critical ecological functions and shall include plans for some habitat restoration or enhancement. In approving an alternative habitat restoration plan, the Planning Director shall consider factors such as changes in surface water runoff rates and water quality, current vegetative conditions, and imposing conditions to limit negative impacts including, but not limited to, ambient noise, light and glare, and activity levels.
  - c. Habitat enhancements should:
    - i. First focus on offsetting the project's negative impacts on habitats;
    - ii. But, if that is not possible, may focus on restoring other critical ecological functions in the shoreline that have been lost or diminished.
  - d. Habitat enhancements can include, but are not limited to:
    - i. Placement of large woody debris in water;
    - ii. Off-site buffer vegetation management;
    - iii. Or implementation of other projects identified in the Shoreline Restoration Plan.
  - e. Where a restoration project is proposed as alternative mitigation, the critical areas report shall evaluate ecological value provided by the proposed improvements relative to the impact of the encroachment.
  - f. Alternative Restoration Plans shall be approved at the Planning Director's discretion. In approving an Alternative Restoration Plan, the Planning Director must determine the mitigation measures proposed will provide broad ecological benefits over a wider area than would a mitigation plan that would only offset the impacts of an individual development.