

City of Lake Stevens Mission Statement



The City of Lake Stevens' mission is not only to preserve the natural beauty that attracted so many of its citizens, but to enhance and harmonize with the environment to accommodate new people who desire to live here. Through shared, active participation among Citizen, Mayor, Council, and City Staff, we commit ourselves to quality living for this and future generations.

Growth in our community is inevitable. The City will pursue an active plan on how, when, and where it shall occur to properly plan for needed services, ensure public safety, and maintain the unique ambience that is Lake Stevens.



REGULAR CITY COUNCIL MEETING AGENDA
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street NE, Lake Stevens
Monday, July 11, 2011 - 7:00 p.m.

NOTE: **WORKSHOP ON VOUCHERS AT 6:45 P.M.**

CALL TO ORDER: 7:00 p.m.
Pledge of Allegiance

ROLL CALL:

GUEST BUSINESS:

CONSENT AGENDA: *A. Approve July 2011 vouchers. Barb

PUBLIC HEARINGS: PUBLIC HEARING FORMAT:

1. Open Public Hearing
2. Staff presentation
3. Council's questions of staff
4. Proponent's comments
5. Comments from the audience
6. Close public comments portion of hearing
7. Discussion by City Council
8. Re-open the public comment portion of the hearing for additional comments (optional)
9. Close Hearing
10. COUNCIL ACTION:
 - a. Approve
 - b. Deny
 - c. Continue

*A. Continued Public Hearing in consideration of second and final reading of Ordinance No. 856, adoption of the Shoreline Master Program and associated documents, related code amendments and related Comprehensive Plan amendments. (Public Hearing and first reading May 23, 2011 and second public hearing June 13, 2011) Karen

*B. Consideration of Resolution No. 2011-8 Six-Year Transportation Improvement Program for the years 2012-2017. Mick

Lake Stevens City Council Regular Meeting Agenda

July 11, 2011

- ACTION ITEMS:**
- *A. Approve minutes of June 27, 2011 regular Council meeting. Norma
 - *B. Confirm reappointment of Hal Hupp to the Civil Service Commission. Vern
 - *C. Approve amendment to Interlocal Agreement with multiple cities for lobbying services with Strategies 360. Jan
 - *D. First and final reading of Ordinance No. 857, change fund amendment. Barb
 - *E. First and final reading of Ordinance No. 858, adopting a moratorium on dispensaries and collective gardens relating to medical marijuana and setting the public hearing date. Jan

- DISCUSSION ITEMS:**
- *A. Underground power at the Surf Shack. Mick

COUNCIL PERSON'S BUSINESS:

MAYOR'S BUSINESS:

STAFF REPORTS:

INFORMATION ITEMS:

- EXECUTIVE SESSION:**
- A. Collective bargaining negotiations.

ADJOURN:

* ITEMS ATTACHED
** ITEMS PREVIOUSLY DISTRIBUTED
ITEMS TO BE DISTRIBUTED

THE PUBLIC IS INVITED TO ATTEND

Special Needs

The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Steve Edin, City of Lake Stevens ADA Coordinator, (425) 377-3227, at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.

**BLANKET VOUCHER APPROVAL
 2011**

We, the undersigned Council members of the City of Lake Stevens, Snohomish County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the following vouchers have been approved for payment:

Payroll Direct Deposits	904435-904499	\$117,280.18
Payroll Checks	32028-32032	\$6,516.10
Claims	32033-32082	\$83,191.96
Electronic Funds Transfers	345-351	\$133,665.74
Void Checks		
Tax Deposit(s)	7/1/2011	\$41,278.84
Total Vouchers Approved:		\$381,932.82

This 11th day of July 2011:

 Mayor

 Councilmember

 Finance Director

 Councilmember

 Councilmember

 Councilmember



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Direct Deposit Register

30-Jun-2011

Wells Fargo - AP

Lake Stevens

Direct Deposits to Accounts

30-Jun-2011	<u>Vendor</u>	<u>Source</u>	<u>Amount</u>	<u>Draft#</u>	<u>Bank Name</u>	<u>Transit</u>	<u>Account</u>
9362	Department of Revenue	C	\$10,410.41	345	Wells Fargo	121000248	4159656917
Total:			\$10,410.41		Count:	1.00	

Direct Deposit Summary

<i>Type</i>	<i>Count</i>	<i>Total</i>
C	1	\$10,410.41

Pre-Note Transactions

Direct Deposit Register

06-Jul-2011

Wells Fargo - AP

Lake Stevens

Direct Deposits to Accounts

06-Jul-2011	<u>Vendor</u>	<u>Source</u>	<u>Amount</u>	<u>Draft#</u>	<u>Bank Name</u>	<u>Transit</u>	<u>Account</u>
12112	AFLAC	C	\$1,777.60	346	Wells Fargo	121000248	4159656917
101	Assoc. Of Washington Cities	C	\$73,077.15	347	Wells Fargo	121000248	4159656917
9407	Department of Retirement (Pers	C	\$42,582.44	348	Wells Fargo	121000248	4159656917
9408	NATIONWIDE RETIREMENT SOL	C	\$698.25	349	Wells Fargo	121000248	4159656917
1418	Standard Insurance Company	C	\$4,956.39	350	Wells Fargo	121000248	4159656917
9405	Wash State Support Registry	C	\$163.50	351	Wells Fargo	121000248	4159656917
Total:			\$123,255.33		Count:	6.00	

Direct Deposit Summary

<i>Type</i>	<i>Count</i>	<i>Total</i>
C	6	\$123,255.33

Pre-Note Transactions

Detail Check Register

06-Jul-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
32033	06-Jul-11	13824	Wash Teamsters Welfare Trust		\$1,464.50
08/2011		Insurance Premiums		\$1,464.50	\$0.00
001010576802000		Parks - Benefits		\$58.58	
101016542002000		Street Fund - Benefits		\$702.96	
410016542402000		Storm Water - Benefits		\$702.96	
			Total Of Checks:		\$1,464.50

Detail Check Register

07-Jul-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
32034	11-Jul-11	13328	ACES			\$644.00
8265			Heat Stress Training	\$644.00	\$0.00	\$644.00
001003517620000			Admin. Safety program	\$151.98		
101016517620000			safety program	\$285.94		
410016517620000			safety program	\$206.08		
32035	11-Jul-11	13847	Alma Villegas			\$500.00
08/11/11			Music on the Lake 08/11/11	\$500.00	\$0.00	\$500.00
001010575304900			Arts Commission	\$500.00		
32036	11-Jul-11	13849	BC Cancer Foundation RCVA			\$50.00
35032 refund			Refund of Recycle container deposit	\$50.00	\$0.00	\$50.00
001013589000000			Refunds	\$50.00		
32037	11-Jul-11	174	Bills Blueprint			\$83.08
435694			Foam core mounting	\$83.08	\$0.00	\$83.08
001007558003100			Planning - Office Supplies	\$83.08		
32038	11-Jul-11	11952	Carquest Auto Parts Store			\$27.18
2421-161317			Transfer pump/wiper blade	\$27.18	\$0.00	\$27.18
101016542004800			Street Fund - Repair & Mainten	\$27.18		
32039	11-Jul-11	13776	Chris L Griffen			\$300.00
C6278L			Public Defender services	\$300.00	\$0.00	\$300.00
001013512800000			Court Appointed Attorney Fees	\$300.00		
32040	11-Jul-11	12004	CITY OF MARYSVILLE			\$400.00
POLIN11-0071			Prisoner Medical May 2011	\$400.00	\$0.00	\$400.00
001008523005100			Law Enforcement - Jail	\$400.00		
32041	11-Jul-11	13030	COMCAST			\$64.90
06/11 0630988			Communications	\$64.90	\$0.00	\$64.90
001008521004200			Law Enforcement - Communicatio	\$64.90		
32042	11-Jul-11	13030	COMCAST			\$64.90
06/11 0692756			Communications	\$64.90	\$0.00	\$64.90
001008521004200			Law Enforcement - Communicatio	\$64.90		
32043	11-Jul-11	322	Concrete NorWest			\$319.28
744777			Concrete - Roundabout art project	\$319.28	\$0.00	\$319.28
112013575306400			Art - Public Art Acquisition	\$319.28		

Detail Check Register

07-Jul-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
32044	11-Jul-11	91	Corporate Office Supply		\$251.51
118316i			Planning - Ink, binders, pen refills et	\$201.66	\$0.00
				\$201.66	\$201.66
001007558003200			Planning-Operating Costs	\$201.66	
118490i			Pressboard Covers	\$49.85	\$0.00
				\$49.85	\$49.85
001008521003100			Law Enforcement - Office Suppl	\$49.85	
32045	11-Jul-11	9386	Crystal and Sierra Springs		\$80.14
10156188060911			Bottled Water	\$80.14	\$0.00
				\$80.14	\$80.14
001008521003104			Law Enforcement-Operating Cost	\$80.14	
32046	11-Jul-11	13545	DataQuest LLC		\$92.00
06/30/11			Background cks - new hire	\$92.00	\$0.00
				\$92.00	\$92.00
001003516104100			Human Resources-Professional S	\$92.00	
32047	11-Jul-11	13750	David L Teitzel		\$500.00
08/04/11			Music on the Lake 08/04/11	\$500.00	\$0.00
				\$500.00	\$500.00
001010575304900			Arts Commission	\$500.00	
32048	11-Jul-11	13582	Deborah Smith		\$69.95
07/05/2011			Travel	\$69.95	\$0.00
				\$69.95	\$69.95
001003517400000			Admin. Wellness program	\$69.95	
32049	11-Jul-11	13743	Dept of Commerce		\$1,000.00
08/22-16			NW Economic Dev Course	\$1,000.00	\$0.00
				\$1,000.00	\$1,000.00
001003513104101			Administration - Staff Develop	\$525.00	
001003513104300			Administration - Travel & Mtgs	\$475.00	
32050	11-Jul-11	13850	Douglas Fair		\$150.00
06/20/11			Brown Hearing	\$150.00	\$0.00
				\$150.00	\$150.00
001008521004100			Law Enforcement - Professional	\$150.00	
32051	11-Jul-11	473	Electronic Business Machines		\$109.98
066391			Copier maint - City Hall	\$96.08	\$0.00
				\$96.08	\$96.08
001013519904800			General Government - Repair/Ma	\$96.08	
38744A			Verification Stamp-Fax machine	\$13.90	\$0.00
				\$13.90	\$13.90
001013519903100			General Government - Operating	\$13.90	
32052	11-Jul-11	505	Everett Stamp Works		\$24.82
3390			Nameplates Galuska, Wright	\$24.82	\$0.00
				\$24.82	\$24.82

Detail Check Register

07-Jul-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001007558003100			Planning - Office Supplies	\$24.82	
32053	11-Jul-11	13764	Frontier		\$77.17
06/13			Communications	\$77.17	\$0.00
001013519904200			General Government - Communica	\$25.72	
101016542004200			Street Fund - Communications	\$25.73	
410016542404200			Storm Water - Communications	\$25.72	
32054	11-Jul-11	13010	Grainger		\$16.66
9563038141			T-line Strainer	\$16.66	\$0.00
101016542004800			Street Fund - Repair & Mainten	\$16.66	
32055	11-Jul-11	12980	Gregory Metcalf		\$1.00
07/21/11			Music on the Lake 07/21/11	\$1.00	\$0.00
001010575304900			Arts Commission	\$1.00	
32056	11-Jul-11	11809	Harold Britton		\$92.26
Clothing			Refund clothing expense	\$92.26	\$0.00
001008521002600			Law Enforcment Clothing	\$92.26	
32057	11-Jul-11	13264	Joshua Holmes		\$127.84
April fuel			Fuel	\$127.84	\$0.00
001008521003200			Law Enforcement - Fuel	\$127.84	
32058	11-Jul-11	852	Lake Stevens Journal		\$167.50
75173			Advertising	\$83.75	\$0.00
001007558004400			Planning - Advertising	\$83.75	
75212			Advertising	\$83.75	\$0.00
001007558004400			Planning - Advertising	\$83.75	
32059	11-Jul-11	12751	LAKE STEVENS POLICE GUILD		\$849.00
07/01/11			Union Dues	\$849.00	\$0.00
001000281000000			Payroll Liabilities	\$849.00	
32060	11-Jul-11	13167	Makers Architecture & Urban De		\$6,599.00
0927-15			Professional Services	\$6,599.00	\$0.00
001007558904902			DOE - Shoreline Grant Expenses	\$6,599.00	
32061	11-Jul-11	13774	Maltby Container & Recycling		\$13.00
20015			Dump Fees	\$13.00	\$0.00

Detail Check Register

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Check No	Check Date	VendorNo	Vendor	Check Amount
101016542004800			Street Fund - Repair & Mainten	\$13.00
32062	11-Jul-11	13600	Modern Marketing Dept 5343	\$711.34
MMI082474			Currency bags for deposits and evid	\$711.34
001008521003100			Law Enforcement - Office Suppl	\$711.34
32063	11-Jul-11	13420	Norpoint Shooting and Tactical	\$2,421.00
06/15/11			Training	\$2,421.00
001008521004901			Law Enforcement - Staff Develo	\$2,421.00
32064	11-Jul-11	12684	NORTHWEST CASCADE INC.	\$115.00
1-303942			Equipment rental	\$115.00
001010576804500			Parks - Equipment Rental	\$115.00
32065	11-Jul-11	1091	Office Of The State Treasurer	\$23,479.58
85001160-6/11			June 2011 State Court Fees	\$23,479.58
633008559005100			Building Department - State Bl	\$67.50
633008589000003			Public Safety And Ed. (1986 As	\$10,879.89
633008589000004			Public Safety And Education	\$6,545.01
633008589000005			Judicial Information System-Ci	\$2,614.10
633008589000007			Crime Laboratory Analysis Fee	\$479.13
633008589000008			Trauma Care	\$1,028.64
633008589000009			school zone safety	\$208.62
633008589000010			Public Safety Ed #3	\$201.43
633008589000011			Auto Theft Prevention	\$1,455.26
32066	11-Jul-11	13706	Robert Guertin	\$105.00
SRO Basic			Travel - SRO Basic	\$105.00
001008521004300			Law Enforce - Travel & Mtgs	\$105.00
32067	11-Jul-11	11879	ROGERS MACHINERY CO, INC.	\$4,363.77
825505			aerator service	\$4,363.77
410016542406200			Storm Water - Aerator Repairs	\$4,363.77
32068	11-Jul-11	13848	Sharon R Mitchell	\$500.00
07/14/11			Music on the Lake 07/14/11	\$500.00
001010575304900			Arts Commission	\$500.00
32069	11-Jul-11	12722	SHRED-it WESTERN WASHINGTON	\$49.50
101140141			Shredding services	\$49.50
001008521003104			Law Enforcement-Operating Cost	\$49.50
32070	11-Jul-11	13715	Sno Co Sherrifs Office	\$4,514.70

Detail Check Register

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Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
2011-673			Prisoner Housing May 2011	\$4,514.70	\$0.00	\$4,514.70
		001008523005100	Law Enforcement - Jail	\$4,514.70		
32071	11-Jul-11	13322	Snohomish County Cities			\$35.00
07/21 mtg	07/21/11		SCC meeting	\$35.00	\$0.00	\$35.00
		001001511604300	Legislative - Travel & Mtgs	\$35.00		
32072	11-Jul-11	1388	Snohomish County Treasurer			\$449.80
06/2011			June 2011 Crime victims compensat	\$449.80	\$0.00	\$449.80
		633008589000001	Crime Victims Compensation	\$449.80		
32073	11-Jul-11	1356	SNOPAC			\$16,922.78
4760adj			Q2.2011 Access Assessment	\$233.62	\$0.00	\$233.62
		001008528005100	Law Enforcement - Snopac Dispa	\$233.62		
4859			Access Assessment	\$606.59	\$0.00	\$606.59
		001008528005100	Law Enforcement - Snopac Dispa	\$606.59		
4887			Dispatch Services	\$16,082.57	\$0.00	\$16,082.57
		001008528005100	Law Enforcement - Snopac Dispa	\$16,082.57		
32074	11-Jul-11	13139	Steven Edin			\$327.93
2011 AWC Trip			2011 AWC Conference/Wellness ev	\$327.93	\$0.00	\$327.93
		001003513104300	Administration - Travel & Mtgs	\$315.54		
		001003517400000	Admin. Wellness program	\$12.39		
32075	11-Jul-11	11787	Teamsters Local No. 763			\$482.50
07/01/11			Union Dues	\$482.50	\$0.00	\$482.50
		001000281000000	Payroll Liabilities	\$482.50		
32076	11-Jul-11	1491	The Everett Herald			\$460.60
1739582			Advertising	\$191.80	\$0.00	\$191.80
		001007558004400	Planning - Advertising	\$191.80		
1739620			Advertising	\$121.80	\$0.00	\$121.80
		001007558004400	Planning - Advertising	\$121.80		
1739839			Advertising	\$147.00	\$0.00	\$147.00
		001007558004400	Planning - Advertising	\$147.00		
32077	11-Jul-11	11788	United Way of Snohomish Co.			\$287.68
07/11			Employee Contributions	\$287.68	\$0.00	\$287.68

Detail Check Register

07-Jul-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001000281000000			Payroll Liabilities	\$287.68	
32078	11-Jul-11	13045	UPS		\$40.75
74Y42251			Evidence shipping	\$17.20	\$0.00 \$17.20
001008521004200			Law Enforcement - Communicatio	\$17.20	
74Y42261			Evidence shipping	\$23.55	\$0.00 \$23.55
001008521004200			Law Enforcement - Communicatio	\$23.55	
32079	11-Jul-11	12158	VERIZON NORTHWEST		\$2,060.48
0989161110			Communications	\$2,060.48	\$0.00 \$2,060.48
001003511104200			Executive - Communication	\$58.35	
001003513104200			Administration-Communications	\$57.48	
001003514104200			City Clerks-Communications	\$34.70	
001003516104200			Human Resources-Communications	\$58.35	
001003518104200			IT Dept-Communications	\$114.96	
001007558004200			Planning - Communication	\$114.96	
001008521004200			Law Enforcement - Communicatio	\$1,077.18	
001010576804200			Parks - Communication	\$181.50	
101016542004200			Street Fund - Communications	\$181.50	
410016542404200			Storm Water - Communications	\$181.50	
32080	11-Jul-11	1585	WA Cities Insurance Authority		\$75.00
LS-247342200			WCIA Training	\$75.00	\$0.00 \$75.00
001008521004901			Law Enforcement - Staff Develo	\$75.00	
32081	11-Jul-11	13843	Weinman Consulting LLC		\$4,483.63
3			20th St Corridor Prof Svcs	\$1,807.31	\$0.00 \$1,807.31
001007558804111			Planning-Economic Development	\$1,807.31	
3 LS			LS Center EIS Prof Svcs	\$2,676.32	\$0.00 \$2,676.32
001007558804111			Planning-Economic Development	\$2,676.32	
32082	11-Jul-11	12845	ZACHOR & THOMAS, INC. P.S.		\$7,166.25
536			Prosecutor services	\$7,166.25	\$0.00 \$7,166.25
001013515210000			Prosecutor fees	\$7,166.25	
Total Of Checks:					\$81,727.46



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Agenda Date: July 11, 2011

Subject: Lake Stevens Shoreline Master Program Update – Continued Public Hearing (LS2009-11)

Contact Person/Department: Karen Watkins **Budget Impact:** Grant

RECOMMENDATION(S)/ACTION REQUESTED OF CITY COUNCIL: Hold a Second and Final Reading and Public Hearing on Ordinance No. 856.

SUMMARY: Ordinance No. 856 includes adoption of the Shoreline Master Program (SMP) and Associated Documents, and code amendments and comprehensive plan amendments related to the SMP. The City held a First Reading and Public Hearing on Ordinance No. 856 on May 23, 2011 and a second on June 13, 2011. Public testimony was received at both hearings. In addition, the Council held two workshops on May 31 to provide staff with questions for invited guests to answer on the workshop on June 6, 2011. The June 6 workshop was a panel discussion with Joe Burcar from the Washington Department of Ecology, Jamie Bails of the Washington Department of Fish and Wildlife, John Owen from Makers Architecture, Dan Nickel from The Watershed Company, and City Staff.

The State provided the City with a \$60,000 grant to complete the work. This grant has been spent, so any major changes made to the proposed SMP or associated documents that require consultant assistance will require additional funding from Council.

DISCUSSION: This staff report includes a revised Ordinance No. 856 and a revised SMP. The updated documents use the revision tool to show where the revisions are made. The revisions highlighted in yellow are the revisions recommended by the Planning Commission and described below. The revisions not highlighted are proposed by staff based on testimony, discussions with Council, and trying to ensure all the documents are consistent and cohesive. Some new proposed revisions by staff related to recent issues are not added to the revised documents, but are listed for the Council to determine whether to approve. These revisions or any additional ones can be made for the final ordinance and SMP package sent to Ecology for adoption.

This staff report also includes sections providing additional information on more recent issues including boardwalks, timeframe for rebuilding of nonconforming structures, unsewered lakefront parcels, Lake Union docks, existing aquatic plants, ordinary high water mark, and boat lift covers. A Shoreline Permit and Decision Matrix will be provided under separate cover.

Grant Extension

The grant extension has been approved by Ecology. The final invoice has been submitted to Ecology by the June 30th deadline, but the extension allows the City to submit the adopted documents after June 30, 2011. (*Attachment 1*)

Responsiveness Summary & Verbal Transcript

The Responsiveness Summary (*Attachment 2*) has been updated to include verbal testimony from the June 13 Public Hearing. The new comments begin on page 47 and start with Comment AZ1. The draft verbal transcript from the June 13 Public Hearing is included in *Attachment 3*.

Dock Regulations in the Proposed SMP

Most of the public comments throughout the SMP Update process has been related to docks. Therefore, staff is providing the following summary of the proposed dock regulations found in the SMP in Chapter 4, Section C.3 (Over-Water Structures – Including Piers and Docks, Floats and Boardwalks) and comparison with the current SMP:

Replacement to same size/sq.ft. of Existing = Entire Dock or 50% or more of piles

Repair = replace less than 50% of piles

TOPIC	CURRENT SMP	PROPOSED SMP
Setback from extended side property line	20 ft	10 ft w/request of 5 ft to Shoreline Administrator
PRIVATE DOCKS		
Floats	Allowed where pile piers would obstruct views or conflicts with boaters & fishermen will not be created.	Not allowed in first 30 feet except where water depth from OHWM is at least six feet
Number of Docks	Not specified, but commonly 1 allowed per lot	1 per lot; if more, they may remain unless changes are requested
Decking	Not specified, but current Fish & Wildlife regulations require grated decking of all areas larger than 4 ft width	New – 60% light transmission in first 30 ft Replacement – 60% light transmission in first 30 ft Repair – If replace 50% or more of decking & > 6ft width require 60% light transmission for entire portion > 6 ft. If >6ft width, decking removed to replace piles replaced w/60% light transmission
Length	Average length of existing docks w/i 300 ft; if no other docks, then 50 ft	Average of two adjacent docks or max to reach 5.5 ft depth ; max 200 ft long Ells, Fingers & Floats 20 ft
Width	<50% width of lot at natural shoreline	New – 4 ft in first 30 ft, 6 ft after Ells/Floats – 6 ft Fingers – 2 ft Ramp – 4 ft EXCEPTION for New – If HPA approved by F&W for 6 ft in first 30 ft if : (1)linear dock w/ no ell, float, etc. OR (2)entire dock w/60% light transmission decking Replacement – same size and/or square foot

TOPIC	CURRENT SMP	PROPOSED SMP
		<p>Additions – up to size for new or request Variance</p> <p>Repair –</p> <ul style="list-style-type: none"> • If replace 50% or more of decking & > 6ft width - requires 60% light transmission for entire portion > 6 ft. • If >6ft width, decking removed to replace piles must be replaced w/60% light transmission <p>(Any combination w/i 3 years must meet thresholds above)</p>
PERSONAL WATERCRAFT LIFTS, BOATLIFTS & CANOPIES, COVERED MOORAGE		
PWC Lifts	Not specified	At least 30 ft from shore & attached to dock; lifts grated
Boatlifts	Not specified	At least 30 ft from shore & attached to dock; lifts grated
Boatlift Canopies	Not specified	Fabric material
Boat Houses/Boat Shelters	New not allowed	New not allowed
Recreational Floats/Swim Platforms	Not specified	New not allowed. Temporary inflatable equipment (May 1-September 30); 10 ft waterward from end of dock
PUBLIC/COMMERCIAL		
Decking	Not specified, but current Fish & Wildlife regulations require grated decking of all areas larger than 4 ft width or other mitigation	New portions 60% light transmission
Width	Not specified	12 ft max
Length	Not specified	Minimum necessary to accommodate public use
Floating	Not specified	New if supports launching of small watercraft

Revised Ordinance No. 856

Throughout the Local Adoption Process, staff has been back and forth through the ordinance, SMP and associated documents to research questions and review for revisions to meet Council, Planning Commission and public comments. The following is a list of proposed revisions to Ordinance No. 856, which are included in the updated ordinance in **Attachment 4**, where Planning Commission recommendations are highlighted in yellow:

PAGE	LOCATION	REVISION
1	2 nd recital	Add “adopted in 1974” after Shoreline Master Program
1	3 rd recital	Add project number “(LS2009-11)” at end of sentence

2	Top of page after 6 th recital	Add three new recitals (7, 8 & 9) related to comprehensive plan amendments
2	10 th recital	Change “four public open houses” to “three public open houses”
2	13 th recital	Change “Shorelines” to “shorelines”
2	15 th recital	Remove “and updated shoreline permit fees” and add “and”
2	17 th recital	Filled in blanks with day and place of SEPA notice
3	19 th , 20 th & 21 st recitals	Filled in blanks with dates
3	New Section 2	Added new section to state how comprehensive plan amendment meets amendment criteria and changed section numbers
4	Section 3	Added “and replacing the 1974 Shoreline Master Program”
4	Section 4	Added Planning Commission’s recommend change to add language about ensuring no net loss of shoreline ecological functions to (a)
8	Section 4	Added a new (f) related to development standards in flood-prone areas
8	Section 5	Changed “jet ski” to “personal watercraft” and added “fabric” before boatlift canopies
8	Section 6	Changed “Federal Aviation Administration Standards” to “Federal Aviation Regulations (FARS)”
9	Section 7	Added “boat shelters” to title and to (a); corrected (b)(1) by changing “more” to “less” and adding “and ambient light transmission of 60 percent; added to (b)(2) new sentence related to not maintaining piles by placing PVC pipe around old piles
10	Section 7	(c)(3) changed “mean high water mark” to “ordinary high water mark”; (c)(6) added “and 60 percent ambient light transmission; (d)(2) added new section regarding maximum width of public or commercial dock of 12 feet and changed other subsection numbers; (d)(3) changed “mean high water mark” to “ordinary high water mark”; (d)(7) added “and 60 percent ambient light transmission”
12	Section 12	Revised to state effect “following” approval by Ecology

Revised Proposed SMP

Throughout the Local Adoption Process, staff has been back and forth through the ordinance, SMP and associated documents to research questions and review for revisions to meet Council, Planning Commission and public comments. The following is a list of proposed revisions to the proposed SMP which are included in the updated ordinance in ***Attachment 5*** where Planning Commission recommendations are highlighted in yellow:

PAGE	LOCATION	REVISION
5	Chapter 1(c)	Added to end of section a description of the terms shall, must and are required, should, and may
10	Chapter 1(f)	(1) Added “and consultants”; (2) Rewrote second paragraph into bullets to be more readable
11-12	Chapter 1(f)(3)	Filled in blanks for dates and attendance; added additional bullets for additional meetings/workshops. This section will be updated with final dates and attendance once the Local Adoption Process is completed.
Various	Chapter 3	Minor editing revisions
Various	Chapter 4	Minor editing revisions including renumbering

48	Chapter 4, Table 4	Added line for “Boardwalks, public”; added footnote 5 relating to bulkheads
50	Chapter 4.C.1.c	Added new (3) relating to shoreline modifications in flood-prone areas & renumbered subsections
54	Chapter 4.C.2.c.12	Added sentence regarding exception for conditional use permit for residences occupied prior to January 1, 1992
57	Chapter 4.C.3.c.7	Planning Commission recommendation to revise subsection for clarity
58	Chapter 4.C.3.c.18 & 19	Added two subsections relating to boardwalks and ADA needs for docks
Various	Chapter 4.C.3.c various	Planning Commission recommendation to change “grating” to “decking with a minimum of 60 percent ambient light transmission”
62	Chapter 4.C.3.c.24	Planning Commission recommendation to add “and dimension” to allow docks the same square footage or dimension
63	Chapter 4.C.3.c.27.b	Added sentence about not placing PVC around pilings and filling with concrete
63-64	Chapter 4.C.3.c.32	Planning Commission recommendation to change “jet ski” to “personal watercraft”; added language that personal watercraft lifts allowed only as an accessory to dock and not separate and be placed at least 30 ft waterward from OHWM
77	Chapter 5.C.1.c	Added new subsection (7) relating to uses in flood-prone areas
85	Chapter 5.C.7.a	Added reference to other sections of chapter
Various	Chapter 6	Planning Commission recommendation to add definitions for: may, personal watercraft, shall, should, and waters of the state
Various	Chapter 6	Moved definitions in Appendix B to this chapter
136	Chapter 7.G	Changed the time allowed for application when a nonconforming development is damaged from “six” to “twelve” months
137	Chapter 7.G.8	Reference the regulation in first paragraph for replacing a nonconforming development when damaged
Various	Appendix B	Removed definition section and moved definitions to Chapter 6
B-13	Appendix B, Section 2.D(g)	Planning Commission recommendation to change last sentence to allow stormwater management facilities in the outer 25 percent of Category II wetlands also
B-22	Appendix B, Section 3.A(c)	Remove subsection title referencing waters of the state definition
B-41	Appendix B, Section 6.D(e)(2)	Planning Commission recommendation to change last sentence to allow stormwater management facilities in the outer 25 percent of Category II wetlands also and added section regarding separation of a property from a wetland, which was removed in error

Timeframe for Rebuilding Nonconforming Structures

Staff reviewed other SMPs regarding timeframes for rebuilding nonconforming structures. As presented by staff previously, other jurisdictions require rebuilding of nonconforming structures only up to 75 percent damage without following the new SMP regulations. The proposed Lake Stevens SMP proposes up to 100 percent damage without following the new SMP regulations. Most of the SMPs also require application within 6 months with completion of the rebuilt structure within two years of loss. Staff contacted Ecology to see if the City could change the State nonconforming

standards to increase the application time from six months to 12 months. Ecology has agreed to this. This change is included in the revised SMP.

Sewers on Lakefront Properties

Staff reviewed the Lake Stevens Sewer District Comprehensive Plan, which shows sewer lines in roads next to almost every lakefront parcel. The Sewer District was contacted and they responded that there are only 11 parcels on the lake without sewer connection. Therefore, the impact to the lake environment from septic systems would be minimal. If a septic system fails, there are sewer lines nearby to connect the parcel to sewers.

Lake Union Docks

At the request of Council, staff reviewed the City of Seattle's Lake Union proposed dock regulations. The proposed Seattle SMP requires one walkway with one overwater projection and up to two open-bottom boat or jet ski lifts for an unshared single-family pier. No walkway is allowed to exceed 4 feet in width for piers except a shared pier can go to 6 feet width. In Lake Washington, Lake Union and the Ship Canal, walkways are required to be fixed within 30 feet of the OHWM (i.e., not floating). Overwater projections, boat lifts and areas used for boat moorage must be no closer than 30 feet from the OHWM unless water is at least 8 feet at ordinary low water. **Attachment 6** includes the Proposed Seattle SMP sections on nonconforming structures and residential piers.

There is a section on improvement of existing piers:

8. Improvement of Existing Piers. Existing residential piers that do not meet the standards of subsection 23.60.187.C.7 shall comply with the provisions of 23.60.124(Nonconforming Chapter); however, if such piers are replaced or undergo substantial improvement, they shall meet either the standards of 23.60.187.C.5 for the entire pier or reduce the total area of the pier by 20% and increase conformity under 23.60.187.C.5 for any non-conforming portion of the pier.

As the document is in draft format, it is difficult to specifically understand how these proposed standards would be interpreted for a proposed project.

Ecology provided the City with a Shoreline Mitigation Policy paper (**Attachment 7**), which was referenced by Joe Burcar at the June 6, 2011 Council meeting. The City of Seattle's Shoreline Mitigation Plan (SAMP) program is more of a fee-in-lieu or mitigation banking program for shoreline related mitigation in Lake Union. It appears the program only applies to mitigation for (Preferred) Water-Dependent uses when there is no opportunity for on-site mitigation and the applicant has demonstrated consideration of avoidance of impacts. Also, this program only applies to Lake Union. The program would not allow a property owner to propose a larger dock just based on desire for a larger structure, but would instead be limited to situations where the water-dependent use needed a wider dock or additional upland area within the buffer to accommodate the intended use (i.e. commercial or industrial boat repair).

Aquatic Plants for No Net Loss

One Councilmember asked why aquatic plants were not used as a quantitative determination for no net loss calculations like dock size. The Watershed Company provided the following response on why aquatic plants are not used quantitatively:

Aquatic vegetation area is very difficult to measure conclusively and can change from year to year and even between seasons. It would also be expensive to measure on an annual basis as you mentioned. The existing data that has been collected by others provides good information related to overall aquatic vegetation cover in the lake and the amount and location of invasive vegetation. However, it is not a reliable source for quantitative comparison with structural overwater cover from docks.

Ordinary High Water Mark

There was discussion regarding the ordinary high water mark. The definition is:

“Ordinary high water mark (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology. Any area where the ordinary high water mark cannot be found, the ordinary high water mark shall be the line of mean high water. (RCW 90.58.030(2)(b) and (c))

The current OHWM is about 211 feet above sea level. If an applicant was proposing work in the shoreline, they would need to include the OHWM on their site plan submitted as part of their application package.

Attachment 8 is a description of how the lake level is maintained per the City’s hydraulic permit approval from Fish and Wildlife to provide sufficient water flow through the outfall channel in the fall for the fish to spawn. Based on the permit, the City tries to maintain an OHWM of 211.5 feet above sea level.

Boat Lift Covers

Staff has reviewed the requirement for fabric boat lift covers based on comments. A boat lift is considered equipment and has a fabric cover with an aluminum frame. In the Land Use Code, temporary structures include tents or fabric structures to cover vehicles or hold a party that are not a permanent or built structure. The boat lift cover would fit into this category. However, if a wooden roof or other type of material other than fabric was placed on the lift frame it would probably need to be supported by a separate structure. Also, a hard roof material requires under the Building Code to hold a 25 pound snow load and 80 pound wind load. With these building requirements, it would no longer be part of the “equipment” nor would it be considered temporary. With a separate structure to hold up the roof, it would become a boat shelter. The current and proposed SMP prohibits new boat shelters or boat houses.

APPLICABLE CITY POLICIES: The State requires all cities to update their Shoreline Master Programs (SMP) on a specific schedule. The City’s current SMP was adopted in 1974. The Comprehensive Plan includes shoreline goals and policies in Chapter 10 – Critical Areas Element. The Lake Stevens Municipal Code includes shoreline regulations in Chapter 14.92 (Shoreline Management) and Section 14.16C.100 (Shoreline Permits).

BUDGET IMPACT: The City received a two year, \$60,000 Shoreline Master Program Update grant from the Washington Department of Ecology for consultants. The grant has been spent, so major changes

to the SMP or associated documents requiring consultant assistance will require additional funding from the City Council.

EFFECTIVE DATES OF ORDINANCE: Ordinance No. 856 (Adoption of SMP documents, code amendments related to the SMP and Comprehensive Plan amendments) will become effective after approval by the Washington Department of Ecology, which could take four to six months or longer.

ATTACHMENTS:

- Attachment 1 – Ecology Grant Extension
- Attachment 2 – Responsiveness Summary updated with June 13 Public Hearing
- Attachment 3 – Draft Verbal Testimony from June 13 Public Hearing
- Attachment 4 – Revised Ordinance No. 856 including PC Recommendations & Additional Staff Changes
- Attachment 5 – Revised SMP including PC Recommendations & Additional Staff Changes
- Attachment 6 – Excerpt from City of Seattle Proposed SMP
- Attachment 7 – Seattle Shoreline Mitigation Policy Report
- Attachment 8 – Lake Level 101

LETTER AMENDMENT

**EXTENDING THE EXPIRATION DATE OF ECOLOGY'S
SMP GRANT G1000027 - CITY OF LAKEWOOD**

Amendment 3

TO: Rebecca Ableman
Planning Director
City of Lake Stevens
P.O. Box 257
Lake Stevens, WA 98258-0257

FROM: Amy Krause
Shoreline Master Program (SMP) Grants Administrator
Shorelands and Environmental Assistance (SEA) Program
State of Washington
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

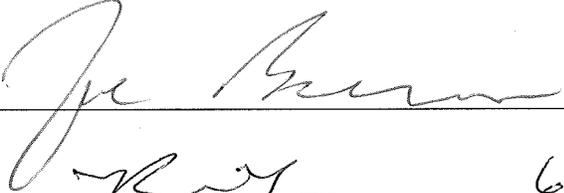
RE: Comprehensive Shoreline Master Program Update / Grant G1000027

In response to your written request, and in concurrence with Ecology's Project Officer, Joe Burcar your time extension is approved as follows:

FROM: June 30, 2011.

TO: September 30, 2011.

EFFECTIVE: June 22, 2011.

Project Officer Approval:  6/24/2011

Budget Approval:  6/30/11

Date: _____

cc: Fiscal Office
Joe Burcar, Project Officer, NWRO

#	Person/Group	Where	Issue (from Public Testimony)	City Response
A1	Urban Concepts LLC	Letter for Planning Commission Public Hearing 5/4/11	One of the overarching guidelines prescribed by the state is that each jurisdiction needs to define, for itself, “no net loss of ecological function”. This language should be carefully considered with reflection on the way the city wants to utilize and preserve its shoreline areas.	Shoreline Citizen Advisory Committee (CAC) was established to set the parameters for the Lake Stevens SMP under the SMP guidelines and State law. The CAC met six times to guide staff and consultants through the draft stage of the SMP as well as three public open houses were held.
A2	Urban Concepts LLC	Letter for PC PH 5/4/11	We also ask that the city consider whether or not it has been adequately shown that the existing land and shoreline use pattern is negatively affecting the fisheries, aquatic life and wildlife around Lake Stevens.	Studies of similar shorelines have shown certain shoreline modifications (e.g. piers and bulkheads) and uses (e.g. parking), to be detrimental to shoreline ecological functions, including aquatic and terrestrial species. Lake Stevens is an urbanized lake with little existing native vegetation and natural shorelines. The long-term vision is for a healthy lake into the future, so minimizing additional degradation is important.
A3	Urban Concepts LLC	Letter for PC PH 5/4/11	In the case of the SMP updates, the word “should” has been defined to mean “required”. Traditionally, words such as “should” and “may” were discretionary in nature. “Shall”, “will”, “required” were reserved for obligatory items. When the Council is reading through these proposed amendments, it is important to note that things you might have previously considered to be “optional” are now hard and fast requirements. We would recommend revisiting the language on many of the requirements to evaluate whether or not it is the intention of the City to require such a high standard in every case.	The WAC clearly defines ‘should’ and ‘shall’ and the policies and regulations in this SMP have been written based on those definitions.
A4	Urban Concepts LLC	Letter for PC PH 5/4/11	4.C3.c.21.: Neither of the cities of Renton or Redmond’s plans includes the requirement for a “grated” surface on decking materials for docks and piers. They allow for alternative materials that will provide a minimum of 50% light passage. Consider allowing other options rather than a narrowly defined construction standard. The use of the term “grated surface” leads most people to believe that the materials that must be used is some form of metal grating. This is not the intention of the state guidelines. The intention is to allow light penetration to the waters below, without limiting construction material choice in such a narrowly defined way. Broad allowance of material types, as long as they can be shown that they do not adversely affect water quality, aquatic plants and animals over the long	The Lake Stevens SMP documents use a requirement of 60 percent light penetration. Staff has proposed new language to allow for other options that meet the same light penetration requirement rather than limiting it to grating by replacing the “grating” requirement and simply using “Decking shall allow for a minimum of 60 percent ambient light transmission.” The use of “ambient” would be important in this context, as many materials, including etched glass or Plexiglas, may not transmit the full amount of light available.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			term, meets the intentions of the state guidelines.	
A5	Urban Concepts LLC	Letter for PC PH 5/4/11	4C. 3.c.21.: The city of Redmond does not require dock widths to be reduced for the first 30’ as is proposed in Lake Stevens. Redmond’s plan has been accepted and approved by the DOE. Instead, Redmond identifies a maximum “water surface coverage” ranging from 20-25% of the water area as defined by specified “water lot boundaries”. Consider an alternative such as this. Redmond allows piers and docks up to 6 feet in width. Floats can be up to 10’ in width. There are no “grating” or “planting” provisions required by Redmond (or the DOE) in order to obtain the 6 foot width.	Every jurisdiction must determine the best way to reach No Net Loss for their shorelines. Based on discussions with CAC and public open houses, the 4-ft wide docks with grating in the first 30 feet was selected as one part of the analysis.
A6	Urban Concepts LLC	Letter for PC PH 5/4/11	4C. 3.c.21: The requirement to plant trees a minimum of 15 feet in height is onerous, at best. This is an extremely expensive tree to obtain. It is unduly difficult to move and place a tree of that size, and it can be argued that the impact to the shoreline caused in the digging of an adequately sized hole, using large equipment to locate the tree is disproportionate to the benefits of such a large specimen. Consider requiring evergreens approximately 5-6 feet in height at the time of planting.	This incentive was removed from the SMP in the Final Draft Document posted for review during the Local Adoption Process.
A7	Urban Concepts LLC	Letter for PC PH 5/4/11	4C.3.c.3.: We would like to suggest that language be added to this section relating to repair, maintenance or replacement of existing features that might not comply with the dimensional standards of this updated master program. In a case where a property owner proposed to replace a section of a seven foot wide dock, it could be found that this section would apply and that a formal variance process might be required. The city’s intention is not clearly stated with the proposed language.	This section is only for new private docks, so the word “new” is proposed to be added before “private dock.”
A8	Urban Concepts LLC	Letter for PC PH 5/4/11	4C. 3.c.7.: It appears that the intention of this language is to require that fingers and ells be located a minimum of 30 feet waterward of the OHWM. The second sentence in this section clearly states that. The first sentence does not add any value to that requirement and only serves to raise questions and inserts	The first sentence will be removed and ‘floats’ is proposed to be added to the second sentence, so it reads: “All floats, ells, and fingers must be at least 30 feet waterward of the OHWM.”

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			ambiguity into the regulation. Are handrails on piers allowed within 30 feet of the OHWM? Does the first sentence restrict construction to only piers and ramps landward or waterward of the OHWM? We respectfully recommend eliminating this first sentence.	
A9	Urban Concepts LLC	Letter for PC PH 5/4/11	4C.3.c.12.: Is it the intention of the city to require that applicants be required to provide a lighting report or study to show how the proposed lighting meets the maximum requirement of “no more than 1 footcandle measured 10 feet from the source”? Other jurisdictions have received approval from the DOE without including such a specific standard.	Applicants do not have to provide a lighting report. The applicant is required to show that the type of light to be used will meet the requirements. Footcandle specifications are included in the material provided when purchasing a new light.
A10	Urban Concepts LLC	Letter for PC PH 5/4/11	4C. 3.c.18.: In order for a property owner to construct a new private dock, the language proposed requires them to “demonstrate a need for moorage”. What evidence must a property owner provide to meet this standard?	Because the WAC clearly states that “a dock associated with a single family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft” (WAC 173-26-231(3)(b)), the property owner must show that the dock is needed to moor a watercraft. The applicant should be able to show that they currently own a watercraft or are intending to purchase a watercraft.
A11	Urban Concepts LLC	Letter for PC PH 5/4/11	4C. 3.c.22.: Consider adding language that allows existing private pier or dock to be “replaced up to 100% of the size (square footage and dimension) of the existing pier or dock”.	Recommended change is proposed to the SMP document with specific requirement added of a maximum of 6 foot width within the first 30 feet.
A12	Urban Concepts LLC	Letter for PC PH 5/4/11	4C. 3.c.23.: Consider allowing the expansion of a non-conforming pier or dock subject to a Shoreline Conditional Use Permit. There might be cases where an applicant can modify a non-conforming dock in a manner that reduces its impact and might warrant allowing an expansion. These situations can be reviewed on a case-by-case basis and will receive a thorough environmental review.	Because this is expanding a nonconforming use, the applicant has to go through a shoreline variance process. Through the shoreline variance process, the applicant would have the opportunity to show how the expansion reduces its impact.
A13	Urban Concepts LLC	Letter for PC PH 5/4/11	4C. 3.c.28.: This section would require any property that currently includes two or more legal piers or docks greater than 6 feet in width to entirely remove one if ANY pier support piles need to be replaced. This seems like an extremely inflexible standard, for existing legal shoreline uses.	This is correct, one dock would need to be removed if one of the docks needed to be repaired, because it would be considered a nonconforming use and is consistent with the vision, goals and policies for the lake.
A14	Urban Concepts LLC	Letter for PC PH 5/4/11	Helipads are specifically allowed in the Single Family Residential shoreline environments in Renton. Renton has generous provisions for “existing non water-dependent uses”	Helipads have been discussed by the CAC and at public open houses. Each jurisdiction determines the uses allowed in each environment designation and zone.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			including the ability to retain and expand under certain terms and criteria.	
A15	Urban Concepts LLC	Letter for PC PH 5/4/11	4C2 Bulkheads Consider allowing an applicant to provide a biological inventory to support a new bulkhead, even if the geotechnical criteria cannot be met. If an applicant can prove, through scientific evidence, that a proposed bulkhead will not adversely affect fisheries, aquatic life and wildlife, then it should be considered for approval. Fundamentally, the state guideline merely requires no net loss of function and values. If this can be shown by a property owner then the project should be allowed to go forward.	The WAC clearly states that “Structural shoreline modifications are only allowed to protect a primary structure or legally existing shoreline use.” (WAC 173-26-231). If the geotechnical criteria cannot be met, then there should be no need for a new bulkhead.
A16	Urban Concepts LLC	Letter for PC PH 5/4/11	4C2 Bulkheads As we have stated before, one of the fundamental parameters of this shoreline amendment process, as outlined by the state, is to maintain No Net Loss to the shoreline environment. With this being the focus, it is hard to understand why the city would not elect to allow existing bulkheads to be replaced by a new bulkhead built directly adjacent to the existing one. This work, appropriately constructed, is unlikely to result in any net loss of function to the shoreline ecosystem. Consider allowing such replacements to occur on this basis.	The WAC clearly states: “Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.” (WAC 173-26-231(3)(a)(iii))
A17	Urban Concepts LLC	Letter for PC PH 5/4/11	5.c.8.b.1: The definition of “should” within this proposed ordinance means “shall”; therefore, this section prohibits all residential development within critical areas without benefit of any kind of reasonable use process. This provision could result in the city facing situations of takings of private property rights. Consider alternative language and/or the inclusion of a reasonable use allowance.	This is a policy and not a regulation. Ecology’s comments on the SMP reasonable use exception was that it was not consistent with the SMP Guidelines and should require a Shoreline Variance.
A18	Urban Concepts LLC	Letter for PC PH 5/4/11	Redmond has a 35’ residential setback from lakes and 60% lot coverage allowance. Consider allowing a reduced building setback in situations where an applicant is willing to make shoreline improvements that provide a net increase and/or mitigates its impact upon function and value to fisheries, aquatic	No changes are proposed to existing setbacks from the lake or lot coverage of 40 percent per residential lot is consistent with citywide regulations and therefore supports the unique “landscape” of the community and the comprehensive protection approach.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			life and wildlife.	
A19	Urban Concepts LLC	Letter for PC PH 5/4/11	5.c.8.c.2: This would prohibit a property owner from having a patio within 60 feet of the OHWM. Specifically, it would prohibit an existing homeowner from converting an existing lawn or graveled patio to concrete if it is within 60 feet of the OHWM. Consider language that allows for some kind of mitigation in exchange for work within the 60 foot.	See incentive in SMP section 5.c.8.c.2.c & d and 3 to add native vegetation for increased impervious surface or to add a deck on the lake.
A20	Urban Concepts LLC	Letter for PC PH 5/4/11	What percentage of existing homes on Lake Stevens are currently located a minimum of 60 feet from the OHWM? How many non-conforming uses are created by this setback requirement?	No changes are proposed to the existing critical area buffer or building setback from the lake. They are remaining consistent with current critical areas regulations. Table 6 in the Cumulative Impacts Analysis shows average setbacks for the north shoreline at 98 feet, east shoreline at 103 feet and west shoreline at 64 feet. For our analysis, we looked at three 50-lot sample areas. Within these samples, 54 out of 150 parcels have structures less than 60 feet from OHWM, i.e. 36%.
A21	Urban Concepts LLC	Letter for PC PH 5/4/11	The city of Renton has building setbacks ranging from 25-45 depending upon the lot depth. And a vegetated buffer of 10-20 also depending upon the depth of the lot. They also make provisions to allow a property to make improvements to the site that will reduce the setback to a minimum of 25 feet. Buffer width averaging is also allowed. Consider adding provisions such as these.	See Response A19 above.
A22	Urban Concepts LLC	Letter for PC PH 5/4/11	Nonconforming Uses (Chap 7G) It is clear from the City's Inventory Analysis and Cumulative Impacts Analysis that over 80% of the existing shoreline along Lake Stevens is currently developed. This is an important factor to consider when updating the Master Program and increasing the standards to which development must comply. Consider an analysis of the existing land and shoreline uses to determine what percentage of existing shoreline development will become "Non-conforming" under the proposed plans. With such a significant percentage of properties that may be affected by the nonconforming standards, it is our recommendation that greater attention be given to this particular section.	The SMP is using State nonconforming regulations from Washington Administrative Code 173-27-080 to be consistent with the Shoreline Management Act.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			Neither Renton nor Redmond include “legally permitted/conforming” language in their updates. This kind of language creates all kinds of difficulties in determining a process or clear standard to “prove” something was legally permitted. The existing language requires that if an existing nonconforming is use is “moved any distance”, it must meet all the current SMP provisions.	
A23	Urban Concepts LLC	Letter for PC PH 5/4/11	Nonconforming Uses (Chap 7G) In the case of a dock/pier, for example, if in the normal maintenance and repair of that structure, you need to install a new pile directly adjacent to an existing pile in order to replace it, it could be interpreted to require that the entire dock/pier now come into full SMP compliance.	See 4.C.3.c.25-29 which allows for repair of existing docks.
A24	Urban Concepts LLC	Letter for PC PH 5/4/11	Public Access 3B Public access has not been required by either the city of Renton or the city of Redmond for projects creating fewer than 10 new residential units. This differs from the city’s proposal to require some form of public access for any project creating three or more residential units (7.b.1.a)	This subsection is policy for these types of units. Regulations are located in 7.c.1 and is for greater than 4 lots, which is consistent with WAC 173-26-221(4)(d) in the Shoreline Management Act.
A25	Urban Concepts LLC	Letter for PC PH 5/4/11	Public Access 3B The regulations allowing mitigation payments in lieu of public access do not define an amount or how that will be determined and by whom. It is my understanding that the only legal mechanism for governments to collect mitigation fee payments is when they have a capital facilities plan that specifically identifies a project and cost for which the mitigation fee is to be collected and assigned. Does the city have a capital facilities plan for public access to shoreline environments? (7.c.3.)	While the City does not currently have a capital facilities plan for public access to shoreline environments, the City would like to keep the flexibility of the fee-in-lieu option. That way, if a capital facilities plan is adopted in the future, applicants would be able to take advantage of this option.
A26	Urban Concepts LLC	Letter for PC PH 5/4/11	Public Access 3B The language contained within regulation number (7.c.4.) is vague and extremely subjective. There is no standard to which this regulation can be applied. “Shoreline substantial development...shall minimize impact to public views	We will remove this as a regulation and add it as a policy.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			of shoreline waterbodies from public land or substantial numbers of residences.” What constitutes “minimized” impact? How many is a “substantial number” of residences? “Shall minimize” is obligatory language that cannot be quantified.	
A27	Urban Concepts LLC	Letter for PC PH 5/4/11	Public Access 3B Do public access sites have to be connected to public streets or rights-of-way via public easement or via public rights-of-way? (7.c.6.) Can the lands associated with these public access areas still be used in the determination of lot/unit yield within a development? The city should consider allowing the areas set aside for public access to be used in a lot size averaging calculation. This would encourage developers to set aside the best and most useful areas for public access without “losing” lot yields in the process.	Yes, an easement or right-of-way would have to be recorded. The connection would need to meet the requirements of the Engineering Design and Development Standards and the Subdivision code (Chapter 14.18 LSMC). The Lake Stevens Municipal Code allows these easements to be included in determination of lot/unit yield or lot size averaging.
A28	Urban Concepts LLC	Letter for PC PH 5/4/11	Public Access 3B There is no definition of the “minimum width of public access easements. This needs to be clearly defined. (7.c.9.)	Access requirements are covered in the Engineering Design and Development Standards. For public access it requires at a minimum to meet Americans With Disability (ADA) Act requirements of 5 feet width. No change was made to SMP.
B1	Futurewise, People for Puget Sound & Pilchuck Audubon Society	Letter for Planning Commission Public Hearing 5/4/11	Lakes and ponds are designated as a fish and wildlife habitat area under “waters of the state,” and classified using the WAC 222 water typing system (which is not limited to only streams). Please note that “waters of the state” are not defined in WAC 222, so the reference and how it is used needs to be described differently. Also the listing for waters planted with game fish references a WAC that does not exist.	Yes, you are correct and the City will propose updates to the references in state regulations.
B2	Futurewise, et.al.	Letter for PC PH 5/4/11	Streams are classified according to WAC 222 in one standard, but then there are details for each stream type that do not match WAC 222. Presumably the details in the SMP are to replace those of the WAC, but this is not stated. We recommend this be clarified.	Yes, the City will propose clarification.
B3	Futurewise, et.al.	Letter for PC PH 5/4/11	A clear statement that existing native vegetation within the buffer must be protected needs to be included, and is described more in our guidance document. While indirect statements might be construed to accomplish this, it needs to be stated in an	See Response to B9

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			explicitly clear manner. This can be done for individual critical area buffer requirements, or as a general statement for all buffers.	
B4	Futurewise, et.al.	Letter for PC PH 5/4/11	Almost all activities are allowed in fish and wildlife conservation areas, since they include “activities listed in this SMP.” As our guidance document describes, development in a buffer should be limited to uses and activities that are water-dependent and water-related - but not water-enjoyment and non-water-oriented. Specifically, this means those needing a location in or near the water; including some, but not all recreation; and including physical public access to water, but not just walking paths or viewpoints (which don’t need to be immediately on the water).	See Response to B9.
B5	Futurewise, et.al.	Letter for PC PH 5/4/11	There are no buffers for Type 4 wetlands, thus all activities can take place immediately adjacent to them. In addition, the wetland standards allow substantial impacts and elimination of these wetlands. This plans for a loss of ecological functions provided by wetlands. We recommend a 50 foot buffer for Type 4 wetlands.	Buffers are being added in response to Ecology’s comments.
B6	Futurewise, et.al.	Letter for PC PH 5/4/11	Buffers can be reduced based on intervening development. We have observed many cases around the Puget Sound where there is water-front development, but substantial habitat vegetation exists landward of it. These areas still need protection. The standard needs clarification that wildlife habitat functions provided by remaining vegetation shall not be eliminated. Rather, such reductions need to be contingent on absence of intact vegetation.	The proposed standard set forth meet the Washington Department of Ecology’s expectations for regulatory protection as shown by their comments on review of the SMP in the SMP Checklist dated May 7, 2011.
B7	Futurewise, et.al.	Letter for PC PH 5/4/11	Appendix section 3E regarding mitigation only discusses dedication of land or easement as avoidance, but it also seems to be used for compensation. Dedication of land does not compensate for impacts – it only potentially prevents future undefined impacts on certain areas, which should have been required anyway. Compensation for the impacts of the development still needs to be required to ensure no-net-loss of	See Response to B6.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			functions. In addition, there is no requirement that intact vegetation be present in the dedicated area – thus the dedication is treated as mitigation when no mitigation for impacts is actually happening.	
B8	Futurewise, et.al.	Letter for PC PH 5/4/11	The absence of intact vegetation needs to be addressed more broadly in the buffer system. As our guidance document describes, meeting a buffer that is degraded does not prevent impacts. New development that is adjacent to a degraded buffer needs to enhance that buffer so it is capable of actually performing buffering functions.	See Response to B6.
B9	Futurewise, et.al.	Letter for PC PH 5/4/11	As described in our guidance document, almost all development has impacts – especially development using small buffers. Thus there needs to be explicit compensatory mitigation requirements in the regulations. Mitigation 2G seems to be a good start, but it needs a more explicit statement at the beginning that “compensatory mitigation shall be provided for all projects, except for restoration projects, and similar projects that the administrator determines will have no impacts to ecological functions.”	Amendments will be proposed based on and to meet the expectations of Ecology’s review comments in the SMP Checklist dated May 7, 2011.
B10	Futurewise, et.al.	Letter for PC PH 5/4/11	To provide specifics for compensatory mitigation in the context of buffers, we recommend that a minimum revegetation standard be added. This can take different forms. The City of Kirkland required all new development (including expansions) to plant a 10-foot buffer width on 75% of the shoreline frontage. The City of Issaquah draft SMP provides a detailed method of enhancement triggered by different stages/intensities of new development. Another method that could supplement the incentives (meaning in addition to them) would be a 1 sq. ft. enhancement requirement each sq. ft. of new development, capping the enhancement at the size of the buffer. This kind of provision ensures that impacts will be compensated for so new development can be accounted for correctly in the cumulative impacts analysis.	See Response B9.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
B11	Futurewise, et.al.	Letter for PC PH 5/4/11	While we may have missed it, we could find no description of the scientific basis for the use of the proposed buffer system. The SMA requires the use of current, up-to-date science, similar to the best available science requirement in the Growth Management Act. We recommend justifying the buffer system in the context of buffer science, and recommend using the scientific citations provided in our guidance document. We also recommend providing a policy basis for not using a science-based buffer system, as described in our guidance document.	As guided by Ecology, we are proposing requirements consistent with Ecology’s “Wetlands & CAO Updates: Guidance for Small Cities, Western Washington Version” dated January 2010.
B12	Futurewise, et.al.	Letter for PC PH 5/4/11	In reviewing the Cumulative Impacts Analysis, it appears that it does a good job of describing the protection measures, but it is vague in describing the impacts allowed by the gaps in the SMP, and by the special allowances in the SMP. The effective result is a “Cumulative Protection Analysis,” but not a “Cumulative Impact Analysis.” We recommend supplementing the CIA with a more careful assessment of the <u>impacts</u> that the SMP will allow.	Changes in Land Use per environment designation are detailed in Tables 1 and 2 of the Cumulative Impacts Analysis (CIA), likely development and the corresponding affect on functions is qualitatively discussed in Table 5, and a quantitative assessment impacts from specific shoreline modifications and uses is provided in Section 6.
B13	Futurewise, et.al.	Letter for PC PH 5/4/11	Some of the requirements in the Shoreline Master Program Guides require certain actions. For example, WAC 173-26-186(8)(b) provides that the “shoreline master program shall include policies and regulations designed to achieve no net loss of those ecological functions” within shoreline areas. So the policies implementing this requirement must be shall policies. However, the policies all use should. We recommend that policies implementing mandatory requirements use shall to meet these requirements.	The word should is used in the Policies because a policy is a directive, not a requirement.
C1	Kristin Kelly, Futurewise, People for Puget Sound & Pilchuck Audubon Society	Planning Commission Public Hearing 5/4/11	Policy uses ‘should’ not ‘shall’ throughout the document and that needs to be changed to ‘shall’.	See Response A3.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
C2	K. Kelly	PC 5/4/11	Small Buffers options should be based on Buffer Science. (Submitted "Recommendations on Shoreline Buffer Options that Work with Buffer Science")	As guided by Ecology, we are proposing requirements consistent with Ecology's "Wetlands & CAO Updates: Guidance for Small Cities, Western Washington Version" dated January 2010.
D1	Brad Nysether	Planning Commission Public Hearing 5/4/11	Did not see anything addressing existing structures. If a new homeowner buys a property with existing non-conforming structure are they responsible for restoration and is there a process, a way for new property owners to know that.	Restoration or native vegetation plantings would only be required if the property owner was going to redevelop, expand, or repair beyond a certain threshold. If a homeowner buys a property with existing nonconforming structures, but does not intend to redevelop, expand, or significantly repair the structure, then the restoration requirements of this SMP would not apply.
D2	B. Nysether	PC 5/4/11	I know this is supposed to improve the shoreline but found it contradictory that the goals and policies are to improve economic activity in shoreline, public access; private use by clustering. Somewhat one sided, like planting trees within 20ft to get more dock space but what about the people whose properties already have numerous large trees on it or natural vegetation on it.	The Shoreline Management Act emphasizes accommodation of appropriate uses that require a shoreline location, protection of shoreline environmental resources, and protection of the public's right to access and use the shorelines. The regulation that allows wider docks by planting trees has been removed from the SMP.
D3	B. Nysether	PC 5/4/11	Haven't seen anything about real public education, like what boat wakes do, how people walking on shoreline effect it, it's all about the property owner.	Chapter 3 Section B.12.b.7 does address public education in terms of water quality. Public education is very important, however, because this SMP primarily deals with regulating land uses on shorelands, public education is not really in the scope of the SMP. This type of public education and outreach will be provided by the City as implementation of the SMP approved by Ecology.
D4	B. Nysether	PC 5/4/11	Read about short docks and long docks, now docks can be a maximum of 200ft, I had a dock of 110ft long and I thought that was long. I could see that being a potential boating danger, driving around at night and hitting the dock. Doesn't a dock that long have to be lighted?	The first limit to dock length is to extend to attain 5.5 feet water depth. The second limit is 200 feet in length. Currently, some docks are up to 150 feet or a little longer. However, the SMP is in place for many years, so in the future, if deposits of sand continue in some areas of the lake, some people may need to increase the length of their dock to reach the 5.5 foot depth. A regulation could be added to City land use code in the future requiring docks to be lighted if they reach a certain length if this becomes a safety concern, but it may not need to be in the SMP.
D5	B. Nysether	PC 5/4/11	Want to know how the new rules for floating docks and inflatable will be enforced are there going to be police driving around issuing tickets.	We will be educating the public on the final regulations approved by Ecology and adopted by the City Council. The City works with residents on any issues not meeting code before starting a code enforcement process. If something does not meet new rules, the property owner is contacted and asked to meet the requirements. Often, a property owner isn't

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				knowledgeable about the regulations.
D6	B. Nysether	PC 5/4/11	It sounds like listening to this tonight based on the information here this document is still not complete so how can you rule on something that is not completed.	The document is complete except for a final decision on whether 8 foot wide docks will be allowed by Ecology and Fish & Wildlife and a few subsections of Appendix B. So the documents in front of the Planning Commission could have a few minor changes based on final discussions with Ecology.
E1	Angela Larsh, Urban Concepts LLC for Rich Mietzner	Planning Commission Public Hearing 5/4/11	Is it necessary to take these huge steps in dock widths and materials and setbacks and all these things in order to maintain the existing conditions? (Submitted four sections of code from other SMPs: 2 sections from Lake Sammamish on Setbacks; and 2 sections from Redmond on Docks and Shoreline Modifications)	Ecology requires dimensional criteria to be clearly described in the SMP. Specifically, Ecology looks for dock dimensions (especially in the nearshore area) and building setbacks. This applies to new development, but also those lots which are already developed with structures and/or shoreline modifications.
E2	Angela Larsh	PC 5/4/11	There is also some semantic issues that happen when putting these documents together, for example when I read grating is required. When I hear the word grating I picture a metal grate. There are lots of things that can meet that, we ask that don't narrow technology don't restrain people to one kind of material. There are lots of things that can be thought of, as long as the function can be met, the goal is for light to meet the water.	See response to A4.
E3	Angela Larsh	PC 5/4/11	Bulkheads, the replacement of bulkheads - If someone already has a bulkhead and they want to simply replace that by putting a new one behind it, I have a really hard time seeing that there is a real net loss impact by doing that. I think there maybe some short term construction mitigation that needs to be done but in the long run there is not a lot of impact overall by replacing that feature.	Existing bulkheads can be replaced if they are needed to protect primary structures from erosion caused by currents or waves and a nonstructural measure is not feasible. Following the mitigation sequencing laid out in Chapter 3 Section B.4, the property owner must first avoid (so if it isn't necessary, then not allowed), then minimize (if it is necessary, make it the minimum size necessary).
E4	Angela Larsh	PC 5/4/11	...new regulations for setbacks, so 114 of those 183 parcels counted did not conform. In my world to create a new regulation that has the majority of properties that already don't comply with it is problematic, that is asking for trouble. All those properties owners are now nonconforming and their properties are being restricted in a very meaningful way.	No change to regulations for current critical area buffers or building setbacks to the lake are proposed, so there will be no new properties becoming nonconforming in regards to setbacks.

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F1	Rich Mietzner, Resident	Planning Commission Public Hearing 5/4/11	60 ft from the water and 20ft from the road leaves you with 20ft, the language is flawed and it effects too much real estate, we must correct it before it moves on. If we are going to create legislative then it needs to work for the majority of the people, we need to put the time in to make it work.	No change to regulations for current critical area buffers or building setbacks to the lake or setbacks from road rights-of-way is proposed, so there will be no new properties becoming nonconforming in regards to setbacks or roads.
F2	R. Mietzner	PC 5/4/11	Small item that keep resurfacing is the first 30ft, it's just nineteen houses. It seems simple to me, we looked at other municipalities and they didn't drop the first 30ft down to 4ft... If you have kids running up and down a dock this is too narrow. If other municipalities recently got it approved by DOE, then we can't allow the Makers guy tell us it that DOE won't let it happen. It must be changed it's a safety issue, all the people in the Advisory Board meeting raised their hands and said this needs to be changed and the document has not been updated.	Ecology has continued to point out that as the lake is a critical area, we must first try to avoid, then minimize and then mitigate impacts to the lake. The four foot width for new docks is minimization. The allowance for existing docks to go to six feet and the requirement for grating in all docks in the first 30 feet is mitigation for the overwater structure. Please see Ecology's comments to the City(attached). The Army Corps of Engineers General Permit #3 (attached) covers new and modified overwater structures and pilings in Lake Washington, Lake Sammamish, Sammamish River and Lake Union. It clearly states 4 ft width on docks as well as grating of 60% open area. The Corps permit is required in these areas like the JARPA is required for over and in-water work in Lake Stevens.
F3	R. Mietzner	PC 5/4/11	Bulkheads – If 80% is already bulkheads, then if the goal of DOE is no net less then we need something more than what is in here. No one changes 50% of their bulkhead over 5 years, if it needs to be repaired then it needs to be done. If the bulkhead is already there and it is damaged then they should be able to replace it.	Existing bulkheads can be replaced if they are needed to protect primary structures from erosion caused by currents or waves and a nonstructural measure is not feasible. Following the mitigation sequencing laid out in Chapter 3 Section B.4, the property owner must first avoid (so if it isn't necessary, then don't know allowed), then minimize (if it is necessary, make it the minimum size necessary).
G1	Douglas Bell, Resident	Planning Commission Public Hearing 5/4/11	Testimony follows submitted materials related to helicopters. Also providing testimony for neighbors Burgoyne, Powell, Kosche, Martin, Molenkamp, and Barnet. Opposed to sections authorizing helicopters landings, takeoffs and storage on docks, piers or other over-water structures...Want prohibition of helicopters utilizing over-water structures...inherently dangerous to public health and safety.	Staff talked with Kris Kern, Federal Aviation Administration (FAA) Inspector, FAA Seattle Flight Standards District Office regarding the use of helicopters on a lake and landing on a private dock. If the helicopter is approaching and departing the dock over water, there are no safety concerns. It would be considered to be flown in a safe manner and is a safe use of a helicopter. In addition, both the helicopter and the pilot are licensed by the FAA.

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G2	D. Bell	PC 5/4/11	FAA has some regulatory authority, but that is not totally preemptive of the city's SMP and zoning jurisdiction.	City could ban helicopters from the lake if there was a rational justification for prohibiting the use. However, float planes are allowed on the lake as a water-dependent use, which require more area for takeoffs and landings, are on the lake for a longer period, and have a higher potential for conflict with other lake uses than a helicopter. So the City may need to make some type of distinction between a float plane and a helicopter use in terms of safety concerns. Float planes and helicopters have a short period of noise, but do not have more noise impacts than jet skis and motor boats and are used less on the lake than boats and jet skis.
G3	D. Bell	PC 5/4/11	The dock is not a principal use, it is a structure with an accessory use to the lakefront lot's residential principal use. There is absolutely nothing in the nature of a dock-based helicopter pad that even remotely relates to boat moorage at a dock. Moreover, an operating, dock-based helicopter does in fact hinder and obstruct ("impede") the water-dependent use of the dock, e.g., boat moorage, fishing and swimming.	The WAC clearly states that "a dock associated with a single family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft" (WAC 173-26-231(3)(b)). If the dock is built in support of watercraft and meets the dimensional standards, the SMP neither prohibits nor encourages other uses of the dock.
G4	D. Bell	PC 5/4/11	If private ownership of property is the determining factor regarding the scope of the city's SMP and land use ordinances, then there is no need to process either document any further if one may do what he or she wishes merely based upon private property title.	The FAA regulates aircraft. The City of Lake Stevens does not currently have regulations related to aircraft in the municipal code. The City has regulations, including the SMP that regulate certain issues related to land use and environmental protection.
G5	D. Bell	PC 5/4/11	In conclusion, we respectfully request the Planning Commission condition any approval of both the Draft SMP and Draft Ordinance No. 856 with the express prohibition of helicopter use for any purpose on all existing and future over-water structures.	Planning Commission could consider the request.
H1	Bill Barnet, Resident	Planning Commission Public Hearing 5/4/11	Does anything in the plans address older and newer cabanas and boathouse that are being converted in living space/residences and apartments, with bedrooms and kitchens.	No new boathouses or cabanas are allowed within City jurisdiction on Lake Stevens.
I1	Rose Granda, Resident	Planning Commission Public	Think it interesting that the City can manipulate its idea of proper use of the lake and the shoreline sometimes to its own benefit. Whether its restrictions on the property owner on how	Lake Stevens is a water of the state including the shorelines, and as so is protected for all of Washington's residents. Therefore, the State has the jurisdiction to protect the water and shoreline as necessary. The Shoreline Master Program is mandated by the State of

#	Person/Group	Where	Issue (from Public Testimony)	City Response
		Hearing 5/4/11	they want to rebuild or maintain structures. Now there is going to be more regulations, money in permits and fees for people trying to improve their homes. If the City had more of a conscience and the best interest of the wetlands and wildlife then they would be spending more time taking care, improving and maintaining their own lake front property.	Washington in the Shoreline Management Act in Revised Code of Washington (RCW 90.58.020) and the Shoreline Master Program Guidelines in the Washington Administrative Code (Chapter 173-26 WAC). The City is following the SMP guidelines in preparing the SMP for Lake Stevens shorelines. The City will need to follow all the regulations in the updated SMP for city property the same as all other property owners.
I2	R. Granda	PC 5/4/11	Now you want all these young people to take tests to drive boats and jet skis, there is nothing about staying away from the shoreline. You want more money and more certification but it is hypocritical.	Washington's boater education law is a statewide law enforced by the state. The City of Lake Stevens does not require additional certification.
J1	Fred Schmidt, Resident	Planning Commission Public Hearing 5/4/11	I live next to a helicopter I don't care, we don't know if it is coming or going. Banning helicopters has no validity.	No response necessary.
K1	Cory Burke, Resident	Planning Commission Public Hearing 5/4/11	My apologies for not knowing all the details of this, but who is supposed to pay for all these new materials and restoration? If it is for the public's benefit then why do I have to pay for all of it?	Project applicants and property owners who are developing their property are expected to pay for improvements to their property as part of the development permit process.
K2	C. Burke	PC 5/4/11	Setbacks – I recently rebuilt our home, because of the setbacks we couldn't build the single large storey home that we wanted so we had to build a tall narrow two storey home. Lots should be looked at and topography should be looked at, each lot should be looked at not just given the 60ft set back. The nature of the intent of a 60ft set back should be looked at.	The SMP states: "Where the City's Shoreline Administrator finds that an existing site does not provide sufficient area to locate the residence entirely landward of this setback, the City's Shoreline Administrator may allow the residence to be located closer to the OHWM, provided all other provisions of this SMP are met and impacts are mitigated." (Chapter 5 Section 8.c.2.a.i)
L1	Rosanne Cowles, Resident	Planning Commission Public Hearing 5/4/11	Does anyone here know what Agenda 21 is? (Submitted article titled, "Assault On Property Rights)	The Shoreline Master Program is mandated by the State of Washington in the Shoreline Management Act in Revised Code of Washington (RCW 90.58.020) and the Shoreline Master Program Guidelines in the Washington Administrative Code (Chapter 173-26 WAC).

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M1	Tom Matlock, Resident	Planning Commission Public Hearing 5/4/11	The 200ft length for a dock is not how long the dock is going to be, it's going to be an average of two docks one to the left and one to the right. So we still need to take out that 200ft language...	The regulation on the length of the two docks on either side is the one in the current SMP. The new SMP restricts dock length to that to reach 5.5 foot depth, but in no way can it go over 200 feet in length. Current docks reach 150 feet and over in areas of the lake where it is shallow. In the future, as these areas continue to collect sediment, the docks may need to be extended. The SMP update will regulate use of the lake for years to come.
M2	T. Matlock	PC 5/4/11	I drove around the lake today and looked at jet ski lifts, and there around three kinds of jet ski lifts and I think one of those is going to be a problem. Those are the self standing on a lever or a wheel by its self, those are going to become a non-conforming use will they not Miss Watkins? If you can wade out to a jet ski lift that is not attached to a dock, it's just in the middle of your clomp of water. Because there is something in the SMP's that states you cannot drive anything into the lake bed except for a pier, boat or a dock.	Jet ski lifts have been discussed at both the Citizen Advisory Committee and public open houses. The Planning Commission could consider amendments to address the concerns in their recommendation to Council.
M3	T. Matlock	PC 5/4/11	Then an unlimited number of the pull up ramp jet ski lifts, if you have a long dock and a lot of friends do we really want 15-20? On a process that even though I was on the Committee I didn't really understand this, we went from no pull up ramps to unlimited. So I think we need to take a look at that again before some people get rich parking jet skis at their dock.	Jet ski lifts have been discussed at both the Citizen Advisory Committee and public open houses. The Planning Commission could consider amendments to address the concerns in their recommendation to Council.
M4	T. Matlock	PC 5/4/11	The helicopter thing just came out of the air so to speak so maybe we should take another look at that.	Planning Commission could consider your request.
N1	Gigi Burke, Resident	Planning Commission PH 5/4/11	I think some of the most valuable and best research and points that have been made tonight by Angela Larsh with Urban Concepts. I believe you have received her document and I strongly hope you take those points into consideration and that we take a closer look at this before we make those decisions.	Thank you for your comments. The City is looking at all the comments. It is noted that all waterbodies have different requirements and therefore different regulations to meet No Net Loss.
O1	Darrell Moore	Planning Commission Public Hearing	I guess my concerns are that all these rules that you are proposing, or that is being proposed....They want to protect it and take care of it but when you put all these cookie cutter rules on it and we have high bank, low bank, short docks long docks,	Throughout the SMP we have incorporated flexibility by allowing the Shoreline Administrator to have some discretion, to ensure that unique characteristics around the lake are taken into account.

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		5/4/11	but now we are going to have all the same rules for everything.	
O2	D. Moore	PC 5/4/11	This needs to be looked at a lot more, things like the language 'shall' and 'should' are we trying to be deceptive?	The SMP Guidelines from the state provide a definition for the terms shall, should and may as used in the SMPs.
P1	Rich Mietzner, Resident	Planning Commission Public Hearing 5/4/11	I am landing a helicopter on the dock, if you to operate a helipad/heliport that is for multiple aircraft and that is not my intention.	No response needed.
Q1	D. Molenkamp, Resident	Planning Commission Public Hearing 5/4/11	On the issue of helicopters... This is not an airport that we live on here, there is a public danger with operating helicopters and they are a nuisance and are certainly not water dependent, they are a danger to the public.	See Responses to G1 and G2.
R1	Douglas Bell, Resident	Planning Commission 5/18/11	Comments regarding helicopters, a non-water dependent use, landing on a private dock. Concerned with safety of residents.	No response needed
S1	Angela Larsh, Urban Concepts LLC	Planning Commission Public Hearing 5/18/11	(Submitted map identifying parcels on lake not meeting 60 ft setback.) If your existing setback is 60ft and more than 60% of the properties subject to that are not meeting that then it needs to be re-evaluated. Maybe it should be something less than that since most people are already not complying with that. If this is an existing condition and the point is to have no net loss then why would make a requirement that all these people already don't meet. They are not meeting it now, then there is no loss to the function or value to the lake if you keep letting people do what they are doing now, so why don't you change the rule to reflect the existing condition.	See Response A20

#	Person/Group	Where	Issue (from Public Testimony)	City Response
S2	Angela Larsh	PC 5/18/11	With regard to helicopters I personally like to see it remain silent, it seems that this is a small handful of operators. No one seems to be objecting to operators that you have, to regulate a problem that you don't already have makes the issue muddy. No one has an issue right now, no one is abusing their rights so why try to regulate something that's not a problem.	See Response G3
S2	Angela Larsh	PC 5/18/11	I do disagree respectfully with Mr. Bell, that I do not think it is fair to say that somehow a floatplane is without risk and helicopters are. That doesn't make any sense to me, anything that flies away has some risk, they all have risk. To regulate one and not the other based on risk doesn't make sense. I think restrictions on hours are reasonable, early morning hours, late at night, I think that's reasonable, I think people would comply with that.	No response needed
T1	Gigi Burke, Resident	Planning Commission Public Hearing 5/18/11	We rebuilt a very old run down house last year and my house would not be there right now if these regulations had been in effect then... There is a lot of old house that are run down, my dad's house, that need to be remodeled and rebuilt, lot of old house on the lake that are old and need to be re built. I would hate to see this not happening, by softening the language that exactly what that does it takes each individual residence on piece-by-piece basis and helps the people to be able to do what they need to do... I think our fear is to see these restrictions in place where people can't do anything.	The 60 foot setback from the lake, which is a critical area (Fish & Wildlife Conservation Area) has been in effect in Lake Stevens since 2007 when the Critical Areas Regulations were updated. Your house was built with the 60 foot setback requirement from the lake in place. Additionally, the SMP update has a number of requirements that provide flexibility/incentives and non-conforming provisions to existing development.
T2	G. Burke	PC 5/18/11	Back to the helicopter issue, I have several letters of support that I will be bringing to the Council. I understand the safety issues, but we don't see the helicopters as being any unsafe than float planes. Whether existing helicopters are grandfathered in or not, I don't think any of us want unsafe environment for our children or our families and we don't see that as being unsafe at all.	No response needed

#	Person/Group	Where	Issue (from Public Testimony)	City Response
U1	Tom Matlack	Planning Commission Public Hearing 5/18/11	So what has been the setback from the lake for five or six those years? So, we are in 2011 right now, so you (Gigi Burke) re did a house under the same setbacks that we are talking about for SMP.	See Response T1
V1	Snohomish County Public Works	Planning Commission Public Hearing 5/18/11	Public Works has reviewed your draft document and, at this time, offers no comments. Thank you for the opportunity to comment.	No response needed
W1	Ted & Linda Boysen, Residents	Planning Commission Public Hearing 5/18/11	Letter about concerns raised over helicopter usage on Lake Stevens. Know current helicopter pilot and he is a safe pilot. Want to continue to allow helicopters, float planes, boating, rowing, fishing and other lake activities.	No response needed
X1	James & Judith Gottschalk	Planning Commission Public Hearing 5/18/11	Letter about concerns raised over helicopter usage on Lake Stevens. Knows current helicopter pilot and has been a float plane pilot himself. Believes helicopters and float planes are a great part of community. Current pilot is a safe pilot. Looks forward to seeing helicopters, sea-planes, boating and other activity on the lake.	No response needed.
Y1	Gigi & Cory Burke, Residents	City Council Public Hearing 5/23/11	Letter to support allowing residents to own helicopters and park them on lake front property on Lake Stevens.	No response needed.
Z1	Jeremy Clites, Resident	City Council Public Hearing	Email in support of Mr. Richard Meitner's use of helicopter on his dock. Commenter lives next door.	No response needed.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
		5/23/11		
AA1	Robert M. Wade	City Council Public Hearing 5/23/11	Letter in support of storage and operation of a private helicopter owned and operated by Rich Mietzner.	No response needed.
AB1	Ray Granda & Family, Residents	City Council Public Hearing 5/23/11	Letter supporting helicopter use on the lake. Commenter is employed in aviation industry for over 25 years. Helicopters are one of the safest ways to travel. Richard Mietzner is a professional and experienced pilot.	No response needed.
AB2	R. Granda & Family	CC PH 5/23/11	Letter voices caution to limit the rights of other families on the lake. Saddened to see local government increasingly strangulate the property rights of this community by over regulations and costs.	The SMP update is mandated by the State of Washington. Lake Stevens and the shoreline 200 feet landward of the ordinary high water mark is a “water of the state” and under state jurisdiction for the benefit of state residents. Ecology provided the City with SMP Guidelines and an SMP Checklist of what requirements are necessary in the SMP. The overall purpose of the SMP is to meet No Net Loss of Ecological Functions for what exists now. The proposed SMP regulations will do this for future health of the lake.
AC1	The Lee Family, Residents	City Council Public Hearing 5/23/11	Letter supporting helicopters on the lake and current pilot as safe.	No response needed.
AD1	Leif Holmes, Resident	City Council Public Hearing 5/23/11	Letter supporting helicopter use on the lake.	No response needed.
AE1	Earl & Amanda Rotherick, Residents	City Council Public Hearing 5/23/11	Letter supporting the use of a helicopter by Rich and Rhonda Mietzner on the lake.	No response needed.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
AF1	Michael White, Pacific West Financial Group	City Council Public Hearing 5/23/11	Letter stating Rich Mietzner's professional focus on safety.	No response needed.
AG1	Kathy Nysether, Resident	City Council Public Hearing 5/23/11	Letter from a former helicopter instructor supporting continued use of helicopter by Rich Mietzner.	No response needed.
AH1	The Lee Family, Residents	City Council Public Hearing 5/23/11	Same letter but with signatures.	See Response AC1
AI1	Jon & JoAnn Youngquist, Residents	City Council Public Hearing 5/23/11	Letter stating aviation has been a frequent and important part of the lake for nearly half-a-century. Restricting its activity at this point in history seems like a needless exercise of power and an imposition on those who use the lake for this purpose. The background noise generated by ski boats, jet skis, other personal water craft, and aircraft are part of the culture of the lake.	No response needed.
AJ1	Bill Tsoukalas, Boys & Girls Club	City Council Public Hearing 5/23/11	Letter regarding continued allowance of helicopter take offs and landings from the lake and in support of continued use by Mr. Rich Mietzner.	No response needed.
AK1	Angela Evans, Resident	City Council Public Hearing 5/23/11	Letter from a near neighbor or current helicopter pilot stating it is not noisy or a nuisance.	No response needed.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
AL1	Douglas Bell, Resident	City Council Public Hearing 5/23/11	Read and submitted testimony from Mr. Bell and on behalf of six additional lakefront residents (Burgoyne, Powell, Kosche, Martin, Molenkamp & Barnet families). Comments from both verbal and written testimony. The fourteen of us are strongly opposed to draft Ordinance 856, Section. 2 that adopts the SMP but only add to those provisions that deal with helicopters and Section 5 that amends Title14 a section of the Lake Stevens Municipal Code that also specifically addresses helicopters. We want the prohibition of helicopters. We want the prohibition of helicopters so that they may not utilize overwater structures to conform to that prohibition that was in your November 2010 draft SMP. We want that reimposed and want it restated in Ordinance 856 particularly Title 14.	No response needed.
AL2	D. Bell	CCPH 5/23/11	Now there have been concerns expressed by others that our request will adversely affect one helicopters use of overwater structure that is not our intent. Our lay understanding of nonconforming use regulations of the City and as explained to us by staff is that a use, land use, helicopter use, established prior to the effective date of the new more restrictive ordinance will not impact that existing use. In other words what is may continue for that residence.	The existing helicopter use is not necessarily grandfathered in. If it is determined by the City to exclude helicopters from the lake, it will depend on the reason for the exclusion, whether the existing helicopter can continue the use.
AL3	D. Bell	CCPH 5/23/11	Helicopters in a residential neighborhood are both very noisy and extremely dangerous. Helicopters are a non-water dependent use.	Helicopters without floats are a non water-dependent use. Helicopters do have a high decibel level (~105 dB) for a short time in one place. Other uses of the lake include personal watercrafts which idle at ~74-85 dB, are at 91-100 dB at 5,000 RPM and 100-105 dB at full throttle. Piloting helicopters requires a federal license and the equipment requires a federal license.
AL4	D. Bell	CCPH 5/23/11	Your draft ordinance states that, the definition in the draft SMP is redundant in that regard as well.	Not sure which definition commenter is referring to, but both “nonconforming development” and “nonwater-oriented uses” are defined in Chapter 6 of the SMP.
AL5	D. Bell	CCPH 5/23/11	Now many if not most existing overwater structures abut or very near adjacent upland shoreline and submerged property lines and in some instances other docks. The placement of helicopter landing pads on docks or other overwater structures may vary	See Response G1

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			but in many instances the helicopter landing area will not be reasonably safe distance from people or adjacent homes.	
AL6	D. Bell	CCPH 5/23/11	Just because the helicopter pad is on a structure over a body of water provides no justification for this unwarranted exposure to harm and injury to occupants of contiguous and adjacent properties. This is not only poor shoreline management and land use planning, but more importantly inherently dangerous to public health and safety. Pilot errors and equipment malfunctions do happen.	See Response G2
AL7	D. Bell	CCPH 5/23/11	We brought up very early on the initial failure of the Draft SMP to address helicopters. The November, 2010 Draft SMP rightly corrected this oversight by then stating: “Over-water structures used for landing helicopters are not considered water-dependent and are therefore prohibited.”...However, the present Draft SMP merely provides that all over-water structures “...conform to...federal requirements...” and also “Non-water-dependent uses may use a dock for a water-dependent use as long as they do not impede the water-dependent use.” Far worse yet, Draft Ordinance No. 856, sec. 4 expressly authorizes a helicopter to use any exiting dock or pier. Why this radical reversal from the prior and proper treatment of non-water-dependent helicopters...and the outright authorization for non-water-dependent helicopter usage...?	In the early SMP documents, helicopter use of a dock was not addressed. When it came up from a resident, the Shoreline Citizen Advisory Committee discussed it and proposed language. At the next public open house, residents who are pilots on the lake discussed the proposed language prohibiting helicopters and asked that it be changed. The language currently proposed is the new language written after the public open house and based on public comments. The Planning Commission discussed the issue at the SMP public hearings, but decided not to make any proposed changes. They discussed their preference that the SMP to be silent on helicopters.
AL8	D. Bell	CCPH 5/23/11	FAA role—The FAA’s regulatory authority is not preemptive of the city’s SMP and zoning jurisdiction. To establish a private-use heliport, one has to comply with FAA regulations. The FAA further requires one “must” also “comply with any local law” or “ordinance.” Ordinance No. 856 can be that “any local law” if the City Council has the will to exercise self-determination.	See Response G2
AL9	D. Bell	CCPH 5/23/11	Contact the FAA—The immediate threats we wish our families protected against are not preventable by contacting the FAA after the fact of suffering harm and injury. The FAA’s assertion	See Response G1

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			that because helicopter approaches and departures are over water there are no safety concerns completely ignores the facts present here of close human proximity to the areas of operation.	
AL10	D. Bell	CCPH 5/23/11	Helicopters as an accessory use to boat moorage at a dock—An accessory use is a use that is customarily associated with and incidental to the principal use of property or structure. There is absolutely nothing in the nature of a dock-based helicopter pad that even remotely relates to boat moorage at a dock, or even a dock. Helicopters are not water-dependent use. Moreover, an operating, dock-based, non-water-dependent helicopter does in fact hinder and obstruct the water-dependent use of the dock, e.g., boat moorage, fishing and swimming, i.e., “impede(s).	See Response G3
AL11	D. Bell	CCPH 5/23/11	Float planes—Unlike helicopters, float planes are a water-dependent use and share time and space on the lake with other water-dependent uses. Water-dependent uses of all character may have conflict in any limited space. Float planes will be regulated as both watercraft and are as aircraft. The potential for conflict between such water-dependent uses on the lake are no rationale to allow helicopters the unmerited benefit of water-dependent status so they may then conflict with shoreline residential uses.	See Response G2
AL12	D. Bell	CCPH 5/23/11	Helicopters and private property—If private ownership of property means those helicopters that can no longer use docks may utilize private backyards and driveways for land and takeoff under current city ordinances, then we suggest the City Council undertake subsequent regulatory action forthwith to similarly protect all citizens as we propose it do now for shoreline citizens. Strict regulation is needed, not merely for time-of-day usage, but most critically, the proximity issue.	See Response G4
AL13	D. Bell	CCPH 5/23/11	City staff advises the City Attorney opines a “rational justification” is first required to regulate the aspects of helicopter use we request and distinguish helicopter from float plane treatment. We suggest ample rationale has been provided and exists in-chief by virtue that helicopters are not water-	See Response G2

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			dependent and their over-water structure use proximity to persons and property pose unacceptable public safety risks.	
AL14	D. Bell	CCPH 5/23/11	We respectfully request the City Council to not adopt either Draft Ordinance No. 856 or the SMP without the addition of express prohibitions on helicopter use for any purpose on all over-water structures. At the very least, we seek City Council action to revise the last sentence of proposed LSMC sec. 14.44.070(a) to read: “Helicopters are not a water-dependent use, and are prohibited from using over-water structures.”	Council could consider your request.
AM1	Angela Larsh, Urban Concepts LLC	City Council Public Hearing 5/23/11	It is important to recognize that under the current shoreline management program that we have right now that there is a very clear division between how critical area regulations apply and how shoreline regulations apply. So under the current rules, there is a House bill out of the State, House Bill 1653 that specifically limits the implication or the application of critical area regulations to properties within shoreline jurisdictions. Okay, so right now as it stands you either are subject to shorelines or you’re subject to critical areas regulations, but not both. Under the amendment process that the State is requiring the City to go through, those things become one. They blend the critical area requirements with the shoreline management master program. And that is a big change and is an important one to understand.	Ms. Larsh’s comments are correct on a separation between SMP and Critical Areas Regulations. Therefore, the City decided to place the critical areas regulations for shoreline jurisdiction into the SMP as Appendix B. Therefore, properties in shoreline jurisdiction will need to meet the requirements of the SMP including the critical areas regulations for shoreline jurisdiction within Appendix B and not Title 14 Land Use Code.
AM2	A Larsh, Urban Concepts	CCPH 5/23/11	Using the City’s current critical areas regulations which will become applicable to shoreline properties once this amendment is accepted. Properties that currently do not comply with that 60 foot setback buffer or whatever you want to call it. The critical area regulations will prohibit you from replacing your structure or any other improvement that does not comply with the 60 foot buffer if it is destroyed by human activity or natural causes. Okay that is your code Section 14.88.330. That is important to	As explained in Response AM1, the current CAR in Chapter 14.88 LSMC are being replaced for critical areas within shoreline jurisdiction by Appendix B of the SMP. In addition, Chapter 7, Section G of the SMP clearly states that “if a nonconforming development is damaged to the extent of one hundred percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged...” Thus, if a house burned down, you could rebuild it on the current foundation. In regards to the 60 foot buffer/setback on the lake, please see Response A20. [NOTE: the

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			understand because last week at Planning Commission I submitted some aerial photographs that were highlighted all the properties in the City, along the lake, that do not comply with the 60 foot setback currently. It is more than 60% of the properties.	<i>SMP does not change existing setback requirements.</i>] In addition, staff knows of at least one parcel that is marked on the map submitted as less than 60 feet that is definitely farther than 60 feet from the lake because a building permit was approved and the house has been built completely outside the 60 foot buffer/setback.
AM3	A Larsh, Urban Concepts	CCPH 5/23/11	The bulkhead language does not allow for existing structures to be replaced and I have a problem with that for several reasons. When you back what we talked about lots of jurisdictions and what they've got going on. Every jurisdiction in the State is being held to same standard, that's the state guidelines. The state is required to treat every jurisdiction equitable and consistently just like any other regulatory body. It was good for Whatcom County or City of Redmond or Sammamish or Bellevue if those people can build docks six feet wide or don't have to be grated and those regulations were found to be in conformance with the State guidelines then Lake Stevens should be held to the same standard. You shouldn't be held to higher standard than any other jurisdiction.	The City of Redmond and Whatcom County were early adopters, and therefore the SMP Guidelines were not in place when they began their SMP process. Also, Ecology has expressed they are trying to be more consistent with their comments. Ecology recently completed the official review of the City of Sammamish's SMP and provided comments in line with the comments provided to Lake Stevens to date, including the size of docks within the first 30 feet. Ecology's comments can be viewed at http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/sammamish.html .
AM4	A Larsh, Urban Concepts	CCPH 5/23/11	Now that being said, Lake Stevens is a special case to some degree, it is an urban lake, is different than say Puget Sound or Lake Washington where you have a marine environment or you are dealing with anadromous fish and those areas structures are held to a much higher standard they already have to get Army Corps permits, you do not need Army Corps permit to build a dock on Lake Stevens, it's not required they don't have jurisdiction. You need permits from Fish and Wildlife. You need permits from the State. So this four foot grated thing comes from Army Corps of Engineers, they don't apply here. So why are we using those rules that don't apply to the development that occurs on the lake.	See Response F2
AM5	A Larsh, Urban Concepts	CCPH 5/23/11	One more thing helicopters – I do have to say something about helicopters. Rich Meitzner has been using his helicopter and I think he is a responsible citizen he only wants to.	No response necessary

#	Person/Group	Where	Issue (from Public Testimony)	City Response
AN1	Tom Matlack, Resident	City Council Public Hearing 5/23/11	It was a very long process. I would have to thank the committee members, Planning Commission, and especially the planning staff and now you guys 'cause it is now in your lap. We all ran into this bewildering area of jurisdictions ...but I think the Planning Commission has heard much of the same testimony and I would like you to please accept the recommendations that were in the staff report tonight.	Mr. Matlack was a member of the Shoreline Citizen Advisory Committee and has therefore been involved in preparation of the SMP from the beginning. No response necessary.
AO1	Ted Boysen, Resident	City Council Public Hearing 5/23/11	I respectfully disagree with Mr. Bell and I agree with the last lady that spoke. Ladies and gentleman we have to be very careful that we don't pit neighbor against neighbor here on Lake Stevens. Lake Stevens is a big lake, is a preferred recreational lake and there is plenty of room on Lake Stevens for fishing boats, for water-ski boats, for wakeboard boats, for sailboats, for float boats, float planes, and for helicopters and many other activities.	No response necessary
AO2	T. Boysen	CCPH 5/23/11	...we have to be careful that we keep our rights here and there is plenty of room for everybody to have fun and to exercise our rights and I love seeing float planes. I love seeing helicopters and I love seeing boats on Lake Stevens.	No response necessary
AP1	Bruce Morton, Resident	City Council Public Hearing 5/23/11	I want to focus on a very specific regulation that's in the proposed SMP that has to do with the boat lift canopies, that's in Chapter 4, Subsection C, Paragraph 30, Subparagraph d and e found on Page 63 of the SMP. Most of the regulations in the SMP have some sort of foundation and science studies based on helping the ecological function of the lake but this particular regulation having to do with boat lift canopies having to be made of fabric material versus solid material. I don't think the fish care whether the shade comes from fabric or a solid roof. So I don't think there is any rational basis for this. ... I would like to submit this as an amendment to strike the first sentence of that Subsection d and the whole sentence of Subsection e which would essentially allow any type of material to be used on boat	Fabric is required because boat lift canopies are not intended to be permanent overwater structures. If solid materials are allowed, the boatlift canopy becomes a more permanent structure instead of an accessory use to the boatlift. A solid canopy would begin to look more like a boat house, which is not allowed by the SMP.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			lift canopies.	
AP2	B. Morton	CCPH 5/23/11	In conversations that I have had on previous public meetings that has been brought up that well that the solid boat lift canopies can be flimsy which is kind of a ridiculous argument because I think that fabric is more flimsy than solid wood or that the design or structure of it may be flimsy.	See Response AP1
AP3	B. Morton	CCPH 5/23/11	Other complaints or thoughts about why this regulation is being proposed is that the construction materials for solid roof can fall into the lake and thereby pollute the lake.	See Response AP1
AP4	B. Morton	CCPH 5/23/11	... I like helicopters on the lake.	No response necessary
AQ1	Gigi Burke, Resident	City Council Public Hearing 5/23/11	...this is going to be a change that takes place that's going to last for the next 20 years that's a long time and it scares me and many other homeowners very much.	The SMP is a long-term document, however, it is to be updated every seven years with the Comprehensive Plan. It can also be updated more often.
AQ2	G. Burke	CCPH 5/23/11	My husband and I, we built the house here on the lake within the last couple of years and we could not have built the house that we built under these regulations. We have a bulkhead and we would like to be able to maintain that bulkhead and there is no way we will be able to do that under these regulations.	See Response T1
AQ3	G. Burke	CCPH 5/23/11	I personally feel that some of the remarks that Ms. Larsh has made about the other lakes around the area in Whatcom, in Redmond have taken the regulations and eased the language to allow things to be handled on a local basis on a more case by case basis and I just really hope as a constituent that you take these things into consideration...	See Response AM3
AQ4	G. Burke	CCPH 5/23/11	... the hard costs are going to be put back on the homeowners and it is not just rebuilding our docks or maintaining our bulkheads.	The bulkhead and dock are privately owned and maintained and are located within State shoreline jurisdiction and are therefore required to meet shoreline regulations in the SMP in addition to state permitting agency regulations, which mirror the state WAC.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
AQ5	G. Burke	CCPH 5/23/11	Well the statement that was made today that scares me the most that I didn't even think of is if my house burnt down I wouldn't be able to rebuild it at all.	See Response AM2
AQ6	G. Burke	CCPH 5/23/11	One last thing and this is just on behalf and Rich and Rhonda unsolicited letters were written in support of having helicopters on Lake Stevens and I just wanted to submit them on their behalf.	No response necessary
AR1	Jennifer Soler, Resident	City Council Public Hearing 5/23/11	I bought a home on the lake we were lucky [<i>unable to transcribe</i>] probably one of the smallest pieces of property on the lake and we are so excited to live the lake life but I am really concerned now because it looks like I am not going to be able to do anything to my piece of property.	Unable to respond as details of property is unknown
AR2	J. Soler	CCPH 5/23/11	So I am really concerned that I can't even build a little gravel level flat for a BBQ and I am concerned that I cannot replace my bulkhead and meet the shoreline management. It is the restrictive language, the "shall" and the "should" that basically mean that I'll have to hire some researchers and do mitigation and pay for all of that just to replace my bulkhead. I don't know, to me that doesn't fall under a reasonable use. When you buy a piece of property and a home, don't you have a reasonable use of that piece of property?	The State regulations do not allow for a "reasonable use" provision directly in shoreline areas, which is allowed under the City's critical areas regulations outside shoreline jurisdiction. The SMP however, includes a Shoreline Variance process where a specific property owner can ask for something that is not specifically allowed by the SMP.
AR3	J. Soler	CCPH 5/23/11	...but I would really encourage you to take a look at the nature of how restrictive the language is and think if it was your small piece of property that you were so excited to live on think how you would feel if it burnt down and that was it and that is all I have to say.	See Response AM2
AS1	Paul Olliges, Resident	City Council Public Hearing 5/23/11	So what you are saying here is some of the regulations you are going to force me to spend a lot of money just to maintain my property.	If you have a dock or property within shoreline jurisdiction, you will be required to meet shoreline regulations in the SMP.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
AS2	P. Olliges	CCPH 5/23/11	I've got a bulkhead. I've got an 8 foot dock that was on the property when I bought it. The dock is in need of repair what you're going to tell me is if I am going to have to come in and modify the dock to 4 feet at the 30 foot section that's a burden on me that no one else is going to pay for except my family.	If your dock is already larger than four feet wide in the first 30 feet, you may keep six feet width in the first 30 feet. It is only new docks that require the four feet width in the first 30 feet.
AS3	P. Olliges	CCPH 5/23/11	I have a structure within the 60 feet of the property that is being used today and it needs to be repaired and you're not going to let me repair it. So please read through and understand the impact that you are putting on the people on the lake.	Maintenance of existing structures is allowed if it is legally existing use/structure. For remodels or enlargements, a property owner can request a Shoreline Variance.
AT1	Jim McCord, Resident	City Council Public Hearing 5/23/11	The comments made by Ms. Larsh and that she submitted to you folks in writing are very important to me and I hope you take a clear look at what they say and how they affect the people that live on the lake. Not everybody's properties conforms to the guidelines. Everybody is a little bit different.	The SMP includes Nonconforming Regulations for properties that were legally constructed or a legal use, but do not conform to new regulations. These are located in Chapter 7, Section G. The Shoreline Variance allows a property owner to request a use or structure due to specific lot requirements.
AT2	J. McCord	CCPH 5/23/11	And one other comments that I have to make I also scuba dive a lot and the concerns about lake coverage docks and such just confuses me. Every time I go scuba diving when the suns out you see more fish hiding underneath the docks and in the shade and that you guys are trying to encourage the fish habitat but yet you are limited the dock structures. If you ever dive that's where the bass are that's where the fry are they are sitting underneath the docks.	According to Fish and Wildlife and the City's consultants, scientific studies show bass and other predatory fish like to hid in the shade under docks where Coho salmon fry (a State Priority Species), Kokanee or other fish cannot see them easily. We are required to manage the lake environment to protect the critical fish habitat.
AU1	Patricia Perry, Resident	City Council Public Hearing 5/23/11	... I recall that this lake would have a reputation of for having more restrictions than is necessary or required by the state or by our government that would make us less desirable for future homeowners to purchase our homes when we go to sell them. That would then lower value of our homes but that would also make us not be able to use our property the way we had hoped we would be able to use, just because there is a possible perception that there might be problems that are not really factual...	See Response AB2

#	Person/Group	Where	Issue (from Public Testimony)	City Response
AU2	P. Perry	CCPH 5/23/11	I hope that you all will have time to go over or whoever does these investigations will check thoroughly and make sure that their facts are actually accurate and not just taken as facts and make <i>[not transcribable]</i> our properties less useful.	The City hired The Watershed Company and Makers Architecture which have successfully completed other SMPs. They have followed the SMP Guidelines and well-known scientific review processes to assist the City in the SMP process.
AV1	Bill Tackitt, Resident	City Council Public Hearing 5/23/11	The State DOE is a state agency that is trying to force local governments to impose standards that place the cost of their improvements on the backs of the private property owners. The State of Washington in its great wisdom is telling the people of Lake Stevens we know what you people need and you should do it the way we say.	See Response I1
AV2	B. Tackitt	CCPH 5/23/11	Property owners should be allowed to replace, repair and maintain their existing property improvements including docks, floats and bulkheads. Can we as a City government help property owners accomplish this in an environmentally improvement. The answer is yes. We can provide that locally. DOE does not give you a set of demands only suggestions because if they did they spend the rest of their entire budget in the court of law.	See Response I1
AV3	B. Tackitt	CCPH 5/23/11	So they give you a set of suggestions and they try to impose their will on local government and say you must do it their way. We all know that those are negotiated points and then we can negotiate each and every one of them. And there should not be a rule that we feel that they were granted to someone else that we shouldn't be entitled to the same privilege.	See Response I1
AV4	B. Tackitt	CCPH 5/23/11	We need to put this program a through and very precise study. Perhaps we need to bring in more expertise, outside expertise.	The City has been working on the SMP updated for almost two years. A Citizen Advisory Committee was created by the City Council. The State gave the City a small grant to hire consultants who are experienced in writing SMPs. The consultants completed an Inventory and Analysis Report of the shorelines within the Lake Stevens Urban Growth Area, based on existing data and documents and actual reconnaissance of the lake environment, which was reviewed and approved by Ecology. This report set the background conditions for the SMP, which was drafted by consultants and City staff with review by the public at three public open houses. Once the SMP was drafted, the consultants ran a Cumulative Impacts Analysis to determine impacts from the proposed regulations. Next, the consultants

#	Person/Group	Where	Issue (from Public Testimony)	City Response
				completed the No Net Loss report based on the cumulative impacts to determine if the SMP would ensure No Net Loss of shoreline functions. The City has coordinated with Ecology and Fish and Wildlife to ensure the proposed SMP will meet SMP Guidelines are required by State law. The SMP is in the final step, the Local Adoption Process. As part of this step, staff met with the Planning Commission and City Council to discuss the proposed SMP at six meetings each. In addition, the Planning Commission to date has held two public hearings and made a recommendation to the Council.
AV5	B. Tackitt	CCPH 5/23/11	And now someone is going to tell me that when my house burns down Bill you can't build that house there anymore.	See Response AM2
AW1	Cory Burke, Resident	City Council Public Hearing 5/23/11	The big issues I have if we need to do certain things to the shoreline to make this a more healthy lake for everybody I am for it. I just don't want to pay for it all myself. I'll pay my share which I think I do through taxes. But if new materials on docks is twice as much as what I have existing I don't really think it's my responsibility to pay that burden entirely on my own if it's benefiting the lake for the public.	The dock is privately owned and maintained and is located within shoreline jurisdiction and must therefore meet the regulations within the SMP.
AW2	C. Burke	CCPH 5/23/11	Most of my house is within that 60 foot buffer. The house has been there for 60 years. If something happens to it what I am suppose to do.	See Response AM2
AW3	C. Burke	CCPH 5/23/11	Our dock does not conform now. I am not opposed to making some changes and stuff, but I guess what I am looking for from you guys is a give and take system and what I am hearing the state trying to put on you is you have to do it this way.	The dock is privately owned and maintained and is located within shoreline jurisdiction and must therefore meet the regulations within the SMP.
AX1	Urban Concepts LLC	Letter for City Council After 5/23/11 Public Hearing	...when the DOE accepts a local government's amendments to their shoreline program they must make a finding that they conform to the adopted State Guidelines. Specifically, since Redmond's plan was approved without the requirement for grated surfacing or any light penetration requirements on new or replacement docks and piers, it had to be found to be in conformance with the State Guidelines.	City staff spoke with both the Ecology reviewer of the Redmond SMP and Redmond staff. The Ecology reviewer gave the following explanation: <i>"Redmond does allow six foot width. Their SMP was one of the earlier ones through the process, and if it was under review now, we would be looking more closely at defining pier/dock walkway width better. Most folks recreate on the platforms at the end of a pier/dock. There is more flexibility for platform sizing because they are usually in deeper water."</i> Redmond staff said it took 10 years to complete their SMP because they were an early

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			<p>The DOE must provide a consistent application of the Guidelines, just as any regulatory body must. If the DOE is going to require something more restrictive of Lake Stevens then I believe they must explain how Redmond’s regulation provides for No Net Loss, while Lake Stevens’ does not. Or why the condition in Redmond is substantially different than Lake Stevens and therefore can not be compared.</p>	<p>adopter and the SMP Guidelines had not been completed by Ecology. Redmond adopted a first version in 2000. After the SMP Guidelines were adopted in 2003, Redmond revised their SMP and readopted in 2004. Then the City of Everett had discussions with Ecology and SMP requirements changed again. During this same time, the Army Corps of Engineers adopted the Regional General Permit (RGP) #3 for Lake Sammamish and other waterways. They changed their documents to be consistent and then the RGP was modified again. Ms. Beam said each time additional regulations, guidelines or permits were adopted or changed, they tried to update their proposed SMP and Ecology tried to keep up with the reviews.</p> <p>At Redmond, a critical areas study and mitigation plan is required for all in-water structures on the lake. The dock width of 6 feet in the SMP and the requirement in the RGP for 4 foot width in the first 30 feet, created an inconsistency between the two documents. The RGP also requires docks to be no larger than 480 square feet in total area. However, applicants have to get permits from other agencies, so if they are more restrictive than Redmond’s SMP, the applicant has to meet the more restrictive requirements. In addition, any in-water structure requires mitigation in the form of protection of existing vegetation and installation of native aquatic plants under and around the structure. In addition, some type of the following mitigation is also required for dock design with grating or light penetration or such and addition of native vegetation on shore. In other words, Redmond is still subject to the RGP dock standards.</p>
AX2	Urban Concepts LLC	Letter for CC After 5/23/11 PH	<p>Another example where “softer” language has been approved by the DOE is in Anacortes. Their approved shoreline program allows for replacement bulkheads landward of the existing bulkhead provided they can prove it meets the No Net Loss provisions. Whatcom County has approved language that is nearly identical to Anacortes’. Again, if such a policy and regulation were found to implement the State Guidelines in Anacortes and Whatcom County, then they should also be considered as possible language for Lake Stevens.</p>	<p>Ecology has commented that SMP section 4C2 Shoreline Stabilization (Including Bulkheads) is in compliance with the WAC and SMP Guidelines. Staff reviewed the proposed SMP with Anacortes’ adopted SMP and finds little difference. In a Council Workshop on June 6, 2011, Ecology told the Lake Stevens City Council that the bulkhead requirements in the SMP Guidelines were very specific, so little variation will occur between different jurisdictions.</p> <p>Anacortes requires the property owner to show they meet No Net Loss. In Lake Stevens, you would also be required to show how the project meets No Net Loss in a critical areas study for any shoreline substantial permit, conditional use permit or variance. The Shoreline Administrator may decide a study is not required based on the project description (e.g., dock repair with a value less than \$10,000).</p>

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AX3	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Several other jurisdictions are nearing completion of the amendment process. I have spoken with the Planning Director at the city of Sammamish, regarding their local planning efforts. The regulations they adopted locally are substantially different than those proposed in Lake Stevens. Sammamish has carefully constructed their document to ensure the maximum amount of private property rights are maintained, while meeting the No Net Loss provision and State Guidelines. Unfortunately, the DOE has required significant changes to the locally adopted regulation. Currently, the City is planning to pursue the alternative approval process (appeal) allowed under the State guidelines. It is my understanding that Sammamish might welcome and participate in coordination of local jurisdictions as we all navigate this State mandated process.	<p>Staff talked to Ecology about Sammamish’s SMP and has reviewed the latest City Council staff report on the SMP dated June 1, 2011. The Sammamish staff report states the following from the Planning Director: <i>“Under WAC 173-26-120, Sammamish can accept Ecology’s required and recommended changes, or consider alternative language. If an alternative is adopted, it needs to be sent back to Ecology for review and approval. Staff recommends that the city take advantage of this opportunity under state guidelines, and recommends that the Council consider alternatives in selected areas (such as the top five areas above) and adopt the rest of Ecology’s changes where acceptable.”</i> (The five issues are setbacks, mitigation sequencing, vegetation enhancement area, docks, and partial exemptions and non-conforming.)</p> <p>In addition, Lake Stevens staff spoke with the Ecology reviewer for the Sammamish SMP and they said they are working through the recommendations with the City of Sammamish, but that it will take a long time. Neither the Sammamish staff report nor Ecology stated that an appeal of Ecology’s review was expected.</p>
AX4	Urban Concepts LLC	Letter for CC After 5/23/11 PH	...if a property owner has a gravel patio within 60 feet of the OHWM and wants to pave it over, the proposed regulations would not allow that to occur. Also, if a property owner has an existing house that is within 60 feet of the OHWM and they would like to add on to the side of their home, but not encroach further into the “setback”, this also would not be allowed. Staff has suggested that these owners could pursue a variance...Unfortunately, a quick review of the variance approval criteria shows that such applications are very unlikely to be approved.	<p>SMP section 5.8.c.2 Residential Development – Setbacks in (a) clearly states “Uncovered patios or decks that are no higher than 2 feet above grade may extend a maximum of 10 feet into the building setback, up to within 50 feet of OHWM.” In addition, (d) allows a waterfront deck or patio covering less than 25% of shoreline frontage and 400 sq.ft. or less if there is no bulkhead or bulkhead is removed. It does require retaining or planting native vegetation. The patio or deck would count toward total impervious surface calculations of 40% impervious. However, Section (c) allows up to 50% impervious surface by planting native vegetation.</p> <p>If a house is within 60 feet of OHWM it may be expanded if they meet the side setback, impervious surface, height, and other code requirements. THIS IS THE SAME AS EXISTING REGULATIONS. SMP section 7.G.3 allows for “... <i>nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a conditional use permit.</i>” This is consistent with the Shoreline Management Act.</p>
AX5	Urban Concepts LLC	Letter for CC After	When one considers that over 60% of the properties along Lake Stevens would have existing development that would not meet	The Inventory and Analysis Report completed as part of the SMP Update shows approximately 36%, not 60% of the existing homes are within the 60 foot lake buffer (See

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		5/23/11 PH	the proposed 60 foot setback, these are incredibly difficult standards to meet... The cases where a variance provides a solution are those properties where no development could take place with out one. For those who have existing improvements that they want to upgrade or expand, a variance is very unlikely to be approved.	Response A20). One house shown on the submitted map in the setback is clearly not in the setback as they requested and received a permit for a home remodel and the site plans clearly state the entire residence is outside the 60 foot setback (See Response AM20). The permit required would be a conditional use permit if the applicant does not want to build closer to the OHWM than current nonconforming residence rather than a variance (See Response AX4)
AX6	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Further, as you can see from the criteria for approval, a variance application requires the applicant to prepare substantial technical analysis in support of the request. The requirement for cumulative impact analysis would be very costly to obtain. This is not a reasonable solution for most property owners affected by the proposed language...It is also important to note that shoreline variances must be approved by the State Department of Ecology, not simply the local jurisdiction.	Requiring a critical areas study is a common requirement for development within or near a critical area or buffer whether in a shoreline or not as the applicant needs to show the proposed development would not impact the critical area or if it does have impacts that they are mitigated. See Response AX4 which requires a conditional use permit rather than a variance. It is correct that shoreline conditional use permit or variance require approval by Ecology after a decision by the Hearing Examiner.
AX7	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Under current regulatory status, HB 1653 limits the applicability of Critical Area Regulations on properties subject to shoreline jurisdiction. Specifically, HB 1653 states “until the department of ecology approves a master program or segment of a master program... The above section essentially limits the applicability of the CAR on properties within shoreline jurisdiction <u>until the updated shoreline program is accepted by the DOE</u> . This provision allows for properties that would be precluded from redevelopment or modification due to the applicability of the CAR to go forward with those development plans, subject to compliance with No Net Loss provisions, <u>until the amendments to SMP are complete</u> ... Upon completion of the SMP update, the existing provisions of LSMC 14.88.330 will then apply to all properties within shoreline jurisdiction.	The City’s current Critical Areas Regulations were adopted in 2008 and based on Best Available Science. The City worked closely with Ecology to include appropriate sections of the existing CAR in the SMP. Ecology has reviewed Appendix B – Critical Areas Regulations for Shoreline Jurisdiction and determines it is adequate and with the SMP regulations will result in No Net Loss of Ecological Functions. The SMP critical areas regulations for shoreline jurisdiction in Appendix B will supersede the current CAR in Chapter 14.88 LSMC, including section 14.88.330. SMP section 7.G clearly states nonconforming development damaged to 100% of replacement cost may be reconstructed to configuration existing immediately prior to the time it was damaged.
AX8	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Uses that do not comply with the setback/buffering provisions of CAR are non-conforming. They would be subject to these standards and would not be allowed to be replaced in the prior footprint if “destroyed by human activities or a natural occurrence”. The non-conforming provisions contained within	Once the SMP is adopted, the critical areas regulations for shoreline jurisdiction in Appendix B do supersede the CAR in Chapter 14.88 LSMC for critical areas located in shoreline jurisdiction. The CAR will continue to regulate all other critical areas within the City.

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			<p>the proposed SMP would not supersede this section. They are in conflict. This should be corrected.</p>	<p>SMP section 7.G Nonconforming Uses specifically states: <i>“Nonconforming development shall be defined and regulated according to the provisions of WAC 173-27-080; excepting that if a nonconforming development is damaged to the extent of one hundred percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged. In order for this replacement to occur, application must be made for permits within six months of the date the damage occurred, and all restoration must be completed within two years of permit issuance.”</i></p>
<p>AX9</p>	<p>Urban Concepts LLC</p>	<p>Letter for CC After 5/23/11 PH</p>	<p>I have spoken with the Department of Ecology, Washington State Department of Fish and Wildlife, Army Corps of Engineers, and even the US Department of Fish and Wildlife.</p> <p>What I have found is that this 4’ wide/grated surface standard is the highest regulatory standard currently in use. It originates with the Army Corps of Engineers and is their standard for docks and piers in MARINE waterways. It is important to note that Lake Stevens is a freshwater environment; not a marine waterway.</p> <p>Agencies with jurisdiction in this case would be the city of Lake Stevens, DOE and WSWF. WSWF does not require the narrow 4’ wide/grated surface standard.</p>	<p>City staff and consultants have continually discussed dock dimensions with Ecology and Fish & Wildlife. After a meeting with them on May 6, Ecology provided the following clarification based Shoreline Management Act perspective.</p> <p>“(1) New pier/dock structures: <i>I don't see how Ecology can support 6-foot width for new docks with grating or 4-feet without grating. Based on the information within the City's supporting analysis, the SMP is supposed to work to reduce overwater structure. I did not hear WDFW report that overwater structure is not relevant fish habitat in Lake Stevens, in fact I understood WDFW to report that nearshore areas (within 30-feet of beach) provide important habitat for both kokanee and Coho life history stages. Therefore, the SMP-Guidelines should require that new structures be designed to first avoid impacts to shoreline ecological functions, for which I did not hear a justification for increasing the width of new docks at our meeting last Friday.</i></p> <p>(2) Replacement pier/dock structures: <i>I did hear WDFW suggest that they would have a hard time justifying a 4-foot (wide) graded walkway for replacement of a much larger existing pier/dock structure. Recognizing the fact that many existing pier/dock structures are wider than 6-feet, I believe Ecology could justify WDFW suggestion to allow replacement structures to be 6-feet wide if they are fully grated within the first 30-feet (waterward of the OHWM). Ecology's justification would be based again on Mitigation Sequencing principles related to minimizing impacts for replacement of existing pier/dock structures. On Lake Washington, pier/dock replacement structures are not allowed to exceed 4-feet in width within this same nearshore area, even if the existing structure is much wider. I did mention that Ecology and the Army Corps of Engineers have been more flexible with pier/dock replacement standards. This flexibility is intended to allow property owners replacing existing structures the ability to preserve the same overall square footage of their existing dock, but is dependent on their agreement to a 4-foot wide</i></p>

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				<p>walkway (within 30' of OHWM), while allowing for larger structures then would normally be allowed in the deeper water outside of the nearshore areas. Otherwise only 30-50% of the total area of an existing pier/dock structure can be repaired in-kind (within existing footprint), before having to consider the proposal a "replacement". In order to satisfy the no net loss standard, cumulative repair activities need to be also stay below the "replacement" standard.</p> <p>(3) Incentives can only be considered after Avoidance, Minimization: Finally, I want to be clear that the SMP-Guidelines require that Shoreline Modification (bulkheads, Piers, Dredging) standards need to provide for Mitigation Sequencing (i.e. Avoidance, then Minimization, and then Mitigation) for which Ecology could not support an incentive that could not be clearly shown to be consistent with this sequence. As previously referenced, it is not clear why a new Pier/Dock would need to be wider then 4-feet to support moorage of a residential boat on an inland lake? Further, there does not appear to be clear evidence that additional overwater structure (within nearshore areas) will <u>not</u> impact fish habitat. In fact, the City's supporting analysis suggests that overwater coverage is partially responsible for degradation of existing ecological functions and recommends that the SMP work to reduce overwater coverage. Therefore, I don't see how Ecology could support any incentive that might result in increased impacts, especially if the impact could potentially be avoided or minimized and still allow the intended use."</p> <p>City Staff is still working with Ecology and Fish & Wildlife to refine the dock dimensions to meet all three agency's requirements.</p>
AX10	Urban Concepts LLC	Letter for CC After 5/23/11 PH	I question what the scientific basis is for such a high standard in a freshwater environment such as Lake Stevens? How is this standard the only possible option to maintain the existing function and values of Lake Stevens when it is arguably operating at a low-moderate quality at this time? It appears that this higher standard is being forced upon the City in an effort to exceed No Net Loss, which is the standard that the State has prescribed. Why are requirements that are meant to respond to the needs of Endangered, marine species being applied to a freshwater environment that does not contain such Endangered species? It seems appropriate to analyze the existing condition and species within Lake Stevens and develop a recommendation	<p>The Cumulative Impacts Analysis and No Net Loss Report are based on the Inventory and Analysis Report completed by the consultants. As required by the SMP Update Process, this report was completed first and sent to Ecology for their review. Once the review is complete, the SMP policies and regulations were written based on the Inventory and Analysis Report, Shoreline Citizen Advisory Committee, and three public open houses. Then the Cumulative Impacts Analysis and No Net Loss Report were written based on the SMP regulations. Changes to the SMP could require changes to the Critical Areas Analysis and No Net Loss Report.</p> <p>The Cumulative Impacts Analysis clearly shows that we are just barely meeting No Net Loss. Ecology is using the 4 foot width standard with grating for all new docks on all waterbodies. However, discussions are taking place between City staff, Ecology and Fish &</p>

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			that is responsive to those conditions rather than choosing the most stringent standard and applying it out of simplicity.	Wildlife to see if this standard can be modified for Lake Stevens due to only one priority species (Coho) and no protected species. With or without specific fish species, Lake Stevens is an identified critical area, Fish and Wildlife Habitat Conservation Area, which requires protection. The No Net Loss requirement means we cannot increase current overwater coverage, among other things, without increasing native vegetation. The proposed SMP does not require the addition of native vegetation, so the determination of overwater coverage can only be reduced by requiring additional light penetration through the structures using grating or other methods.
AX11	Urban Concepts LLC	Letter for CC After 5/23/11 PH	<p>My review of the Cumulative Impact Analysis revealed that there is essentially no empirical evidence to outline and quantify the current baseline condition of the lake. This document contains broad language like water quality is low or moderate, with very little analysis as to how this conclusion was reached, to what standard it is being compared or what data was evaluated to come to that conclusion. How can a plan be developed to ensure No Net Loss when the baseline condition is so vague as to provide no guidance about what is to be maintained? The “Existing Conditions” section relating to Lake Stevens are two very simple paragraphs. It refers the reader onto Section 4.3 but those tables merely restate the vague assertions of quality and function.</p> <p>It appears the primary function of the CIA is to outline how the proposed language within the update will provide for higher function and value; rather than to quantify the existing condition to which new development must be compared in order to effectively demonstrate No Net Loss of function.</p>	The Cumulative Impacts Analysis uses both qualitative and quantitative measure to evaluate potential impacts to the baseline condition. While some areas, such as pier/dock overwater cover, is a measurable feature that we can quantify, other factors, such as overall lake water quality or amount/type of vegetative cover, are discussed in more qualitative detail. The basis for these discussions comes from the Shoreline Inventory and Characterization Report which evaluated ecological functions per State requirements.
AX12	Urban Concepts LLC	Letter for CC After 5/23/11 PH	The Shoreline Restoration Plan relies heavily on existing public projects that provide research and inventory of the shoreline condition, but is extremely limited on public sector projects to actually construct enhancements. The vast majority of the shoreline enhancement outlined within the plan to construct shoreline restoration measures will occur at private property owner expense. This seems to be placing an undue burden for	It appears the primary function of the CIA is to outline how the proposed language within the update will provide for higher function and value; rather than to quantify the existing condition to which new development must be compared in order to effectively demonstrate No Net Loss of function.

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			shoreline restoration on those people owning property on the lake, without a like contribution from those that use the lake and its public facilities.	
AX13	Urban Concepts LLC	Letter for CC After 5/23/11 PH	The restoration plan outlines several strategies to achieve restoration goals, but the actual shoreline program is silent with regard to most of these items. Options for achieving the restoration goals outlined in the plan include development incentives, tax relief/fee system, shore stewards education and stewardship certification process. However, the SMP does not seem to include proposals that would incorporate these strategies for restoration.	All but six properties on Lake Stevens are privately owned, allowing for little public restoration as these six parcels are parks and access to the shoreline is the main activity. Restoration is not a direct requirement for private development, although the SMP could have required shoreline restoration on private property for shoreline development. Instead, the SMP gives development incentives such as shoreline deck/patio or increased impervious surface for planting of native vegetation. Once the SMP is adopted by the City and approved by Ecology, the City could look at tax relive/fee system, shore stewards education and stewardship certification process. These would be looked at as part of the Implementation Stage of the SMP.
AX14	Urban Concepts LLC	Letter for CC After 5/23/11 PH	I would like to recommend that the City consider coordinating with other jurisdictions that contain urban shoreline lake environments. These communities are unique in that they have a shoreline lake that has a history and pattern of development that is residential/recreational in nature. These environments are typically heavily developed and broadly used by the community. Many of these lakes have limited hydraulic connection beyond the lake itself. They differ from marine shoreline environments and those lakes that are directly connected to the marine ecosystem, such as Lake Washington. Some jurisdictions with a similar circumstance to Lake Stevens include: city of Sammamish, city of Redmond, Snohomish County, city of Bellingham, Whatcom County and Pierce County.	<p>The City has been coordinating with other jurisdiction throughout the SMP Update process by attending Ecology’s Quarterly SMP Meetings with other jurisdictions in the SMP process. In addition, the consultants have assisted over 20 different jurisdictions with their SMPs. City staff have talked with staff from Snohomish County, Redmond, and Sammamish and reviewed numerous SMPs adopted, drafted and in process.</p> <p>The SMP Guidelines have specific regulations that all jurisdictions need to follow (e.g., bulkheads) and other regulations that are more resource specific (e.g., docks). However, there is more consistency in regards to protecting the first 30 feet waterward of the OHWM due to biological studies of fish.</p> <p>In addition, each resource is different, which is why the first document in the SMP Process is an Inventory and Analysis Report completed by each jurisdiction and reviewed by Ecology. This serves as the basis for each SMP.</p>
AX15	Urban Concepts LLC	Letter for CC After 5/23/11 PH	I would also like to note, for Council consideration, that the City has recently submitted an application for a new dock within Lake Stevens. This Shoreline Substantial Development Permit application (file number LS2011-6) is vested to the existing shoreline management master program. My review of the file found that this new dock, proposed by the City, does not comply with the proposed standards for new public docks contained within this SMP update.	Until the SMP is adopted by Council and approved by Ecology, it does not supersede the current SMP adopted in 1974. Under WAC 173-26-120, “(8) A master program or amendment thereto takes effect when and in such form as it is approved or adopted by rule by the department except when appealed to the shorelines board...” Therefore, applicants will need to meet the requirements of the current SMP and land use code until the Council adopts the SMP and it is approved by Ecology.

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AY1	Kevin St. John, Resident	Email for City Council 6/13/11 Public Hearing	Why is it acceptable, given the impact to the property owner in terms of property value, issues with obtaining mortgages, and additional permit challenges, to have an SMP which when adopted will instantly make 60% of the shoreline properties with non-conforming because of homes and structures within buffers and setbacks?	The 60 foot setback from the lake, which is a critical area (Fish & Wildlife Conservation Area) has been in effect in Lake Stevens since 2007 when the Critical Areas Regulations were updated. No change in setback is proposed in the SMP; therefore, the SMP will not increase the number of nonconforming shoreline properties based on the 60 foot setback.
AY2	K. St. John	Email for CC 6/13/11 PH	<p>Is there a reason we should think that the CAR will not also regulate shoreline in addition to the SMP?</p> <p>Under current regulatory status, House Bill 1653 limits the applicability of Critical Area Regulations on properties subject to shoreline jurisdiction only until a SMP is approved by the DOE. However after an SMP is approved, the existing provisions of LSMC 14.88.330 will then apply to all properties within shoreline jurisdiction.</p> <p><i>HB1653 states that “until the DOC approves a master program or segment of a master program as provided in (b) of this subsections, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local governments development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified.....</i></p> <p>This provision seems to very clearly allow for properties that would be precluded from redevelopment or modifications due to the applicability of the CAR to go forward with those development plans, subject to compliance with No Net Loss provisions, until the approval of the SMP is complete.</p>	<p>Yes, Ecology explains why critical areas ordinances are often incorporated into local shoreline program updates in their Frequently Asked Questions on their SMP website: “A recent state Supreme Court decision (<i>Futurewise v. Anacortes</i>) decided that the shoreline master program solely regulates the shorelines and critical areas covered by the program, once Ecology approves it...Rather than repeat the work local governments have already done developing their critical areas ordinances under the state Growth Management Act (GMA), relevant portions of existing critical areas ordinances may be placed in updated shoreline master programs under the Shoreline Management Act.”</p> <p>The SMP critical areas regulations for shoreline jurisdiction in Appendix B will supersede the current CAR in Chapter 14.88 LSMC, including section 14.88.330.</p> <p>SMP section 7.G clearly states nonconforming development damaged to 100% of replacement cost may be reconstructed to configuration existing immediately prior to the time it was damaged.</p>
AY3	K. St. John	Email for CC 6/13/11 PH	If the CAR indeed will regulate shoreline properties in addition to the SMP then will section 14.88.330 Nonconforming Activities apply?	No, see Response AY2 above.
AY4	K. St. John	Email for CC 6/13/11 PH	If the CAR applies to shoreline property, it would appear that docks, bulkheads and all other structures including	No, see Response AY2 above

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			<p>homes would be precluded from being rebuilt if they were destroyed. Is this not correct? See sub section c of the CAR below. Sub section (c) of this regulation states: <i>If a nonconforming use or activity is destroyed by human activities or a natural occurrence, it shall not be resumed except in conformity with the provision of this chapter.</i></p>	
AY5	K. St. John	Email for CC 6/13/11 PH	<p>How can the proposed SMP ensure No Net Loss when the lake's baseline condition outlined in the Cumulative Impact Analysis is entirely vague and provides almost no empirical evidence relying instead on broad language like "water quality is low, etc.?" Lake Stevens is a highly urbanized, residential and recreational environment. The effects of development are long established. Quantifiable evaluation of the function and value is <u>essential to meaningful No Net Loss.</u></p>	The baseline condition is in the Inventory and Analysis Report, which is the first document completed in the SMP Update Process and is reviewed by Ecology. See Response AX11.
AY6	K. St. John	Email for CC 6/13/11 PH	Under the proposed SMP the set back for a private home is at the very minimum the 60-foot buffer PLUS an additional 10-building setback for a <u>true minimum setback of 70 feet.</u> Is that correct?	No, the critical area buffer for all development on the lake is 50 feet with a building setback of 10 feet for a total of 60 feet for minimum setback. This is the same as the current setback on the lake.
AY7	K. St. John	Email for CC 6/13/11 PH	Water levels on Lake Stevens are artificial controlled and have risen in the last several years, is the DOE suggesting that Lake Stevens <u>artificial changes</u> to the water level alter the OHWM in contradiction to Washington State Law which permits only natural changes to affect the OHWM?	<p>The lake level is controlled artificially using the weir structure per the City's Hydraulics Approval Permit with the Department of Fish and Wildlife for one reason...to hold an adequate amount of water back in the lake in spring and summer, so that water flows sufficiently through the outflow channel into Catherine Creek in the fall during the dry months for the fish to migrate up into the lake and to spawn in the channel. Due to circumstances beyond the City's control (heavy rains in the spring, groundwater table saturation, dry spells in the summer, etc.), the lake level often fluctuates higher than the targeted ordinary high water mark of the lake with no stop logs in place at all and also often drops well below the targeted low water mark (210.5 feet above sea level) with all of the stop logs in place.</p> <p>It is important for lakefront residents to understand why the lake level is regulated, which is not for recreational purposes or for the benefit of residents along the shoreline, but for sufficient water flows through the outflow channel during salmon spawning. It should be noted that fluctuations in lake level are often beyond the control of the City through</p>

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				artificial means. The City has no authority to control the outflow of the lake other than that authorized by the Washington Department of Fish and Game, Hydraulics Approval Permit.
AY8	K. St. John	Email for CC 6/13/11 PH	<p>Why is it acceptable to property owners and the City of Lake Stevens to have shoreline buffers that in many cases will be far greater than the often sited 60-foot buffer?</p> <p>As currently proposed, the SMP imposes a 60-foot building setback from ordinary high water mark (OHWM) for residential properties OR the setback average of your two adjoining neighbors, WHICHEVER IS GREATER. See SMP 5(c)(8)(c)(1), Table 7. Per the City’s Cumulative Impacts Analysis, the average setbacks for existing residences is 64 feet on the western shoreline of Lake Stevens, 103 feet on the eastern shoreline, and 98 feet on the northern shoreline. See Cumulative Impact Analysis, at pg. 24. In other words, instead of having a 60-foot setback, the City is well aware that the average setback will be much greater once you average the setback of your two adjoining neighbors.</p> <p>It may very well be the case that residential property owners prefer a setback based upon their two adjoining neighbors to ensure that a neighbors’ remodel does not take away a portion of their views of the water. At the same time, basing your rights upon those of your neighbor is problematic. For example, what if you want to subsequently remodel your kitchen by adding a few hundred square feet on the waterward side of your house? If your existing setback is based upon averaging your neighbors’ you might not be allowed to do so, even though you may have a 100-foot setback, and the SMP implies that a 60-foot setback is sufficient to protect the ecological functions of Lake Stevens.</p>	<p>During the early writing of the SMP regulations, the Shoreline Citizen Advisory Committee discussed the setback averaging and decided to keep it to protect views on the skinny lots around Lake Stevens.</p> <p>If a remodel could not meet the average setback of your neighbors, a variance to the averaged setback can be requested. If legal nonconforming structure, then a variance process includes a public process in front of the Hearing Examiner giving your neighbors the ability to state whether they feel the remodel would impact their property.</p> <p>For new development, SMP section 5.8.C.2.a the Shoreline Administrator may allow the residence to be closer if it meets all other provisions of the SMP and any impacts are mitigated.</p>
AY9	K. St. John	Email for CC 6/13/11 PH	In fact does not SMC5(b) footnote 8 clearly state that for some properties a 200 foot buffer may be required?	<p>No, SMP section 5.b footnote 8 states: <i>“8. Residences are allowed in shoreline jurisdiction only if it is not feasible, as determined by the Shoreline Administrator, to locate the building on the portion of the property outside shoreline jurisdiction.”</i></p>

#	Person/Group	Where	Issue (from Public Testimony)	City Response
				<p>The only section where it talks about the potential for a setback of 200 feet is under Residential Properties on Rivers and Streams (SMP section 5.C.8.c.12) related to garages and pavement for motorized vehicles, which is not relevant on the lake:</p> <p>“12. For the purposes of maintaining visual access to the waterfront, the following standards apply to accessory uses, structures, and appurtenances for new and existing residences.</p> <p>b. <u>Garages and pavements for motorized vehicles (drives and parking areas) shall be set back at least 200 feet from the OHWM.</u> If the Shoreline Administrator determines that the property is not sufficiently deep (measured perpendicularly from the shoreline) to allow construction of garages or parking areas outside of shoreline jurisdiction then (s)he may allow such elements to be built closer to the water, provided that the garage or parking area is set back from the water as far as physically possible.”</p>
AY10	K. St. John	Email for CC 6/13/11 PH	<p>Why is the 60-foot setback buffer even required when the city was already determined in its critical areas ordinance (CAO) that a 50-foot setback is sufficient to protect the existing ecological functions of Lake Stevens? What is the justification for significantly increasing the setback in the SMP?</p> <p>SMP 3(B)(1)(c)(7), SMP 3(B)(3) and other provisions in the SMP make it clear that compliance with both the SMP and the CAO is required in shoreline jurisdiction (i.e. because Lake Stevens is also designated under the CAO as a “fish and wildlife habitat conservation area” which independently requires a 50-foot setback from OHWM).</p>	<p>The current CAR also requires the 10 foot building setback for a total of 60 foot setback from the lake. We are not proposing any changes to the current lake setback. The proposed SMP has the exact setback as is currently in place.</p> <p>“14.88.285 Building Setbacks. <i>Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required.”</i></p>
AY11	K. St. John	Email for CC 6/13/11 PH	<p>What are the ecological functions that exist on our already highly developed urban shorelines and which if any of those functions will benefit from a larger setback?</p>	<p>These are described in the Inventory and Analysis Report pages 12-37, which can be found on the City of Lake Stevens website at http://www.ci.lake-stevens.wa.us/documents/FinalDraftLakeStevensInventoryAnalysisReport2_26_10_000.pdf.</p>
AY12	K. St. John	Email for CC 6/13/11 PH	<p>What <u>recent and empirically verified evidence</u> is there of protected salmon living in Lake Stevens?</p>	<p>Several existing environmental documents have been relied on that indicate the presence of Coho Salmon including the City’s adopted Best Available Science Report (March 2008); WSDOT Fish Passage Inventory (June 2008), SMP Inventory and Analysis Report and the Grade Road PBD Master Plan. Additionally, it has been anecdotally reported to the City that Coho have been caught in the Lake in the recent past. These all provide indication that there is a likelihood of Coho in and around Lake Stevens.</p>

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AY13	K. St. John	Email for CC 6/13/11 PH	Is it correct that as proposed in the SMP makes everything waterward of the OHWM a designated as the aquatic environment, and thus due to erosion and shoreline retreat many existing residential bulkheads are essentially the OHWM, even though they may have originally be constructed above the OHWM (outside the aquatic environment)?	The OHWM needs to be determined on-site, with a case by case assessment. It depends on the specific circumstances, location of the bulkhead and designation of the OHWM, but in most normal cases, where part of the bulkhead is in the water (but the whole thing is not submerged or on dry land) everything waterward of the bulkhead would be considered the aquatic environment. It is true that due to erosion or shoreline retreat the OHWM can move, which is why it needs to be determined by a professional.
AY14	K. St. John	Email for CC 6/13/11 PH	If the bulkhead is now the OHWM and thus inside the aquatic environment, does not the SMP make any bulkhead proposed in the aquatic environment a conditional use which will then require both the approval of the City AND Ecology? Conditional use permits impose a higher burden on property owners for approval, and Ecology is not inclined to approve them.	SMP section 4.2.c.12 regarding replacement and repair of shoreline stabilization structures states: <i>“Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structures unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure... When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or near the actual OHWM.”</i> The exception to bulkheads existing prior to 1992 allows a bulkhead to remain in the Aquatic designation; however, the exception does not exempt the project from a conditional use permit. The Shoreline Administrator can determine whether a conditional use permit is required if a structure is partially in the Aquatic designation.
AY15	K. St. John	Email for CC 6/13/11 PH	According to WAC 173-26-186 enhancement and/or restoration is <u>encouraged, but not required</u> . The required removal of bulkheads and not allowing replacements goes beyond no net loss and become restoration at a substantial cost and loss of value to the property owner, why should we impose that huge burden on private property owners?	Ecology has commented that SMP section 4C2 Shoreline Stabilization (Including Bulkheads) is in compliance with the WAC and SMP Guidelines. In a Council Workshop on June 6, 2011, Ecology told the Lake Stevens City Council that the bulkhead requirements in the SMP Guidelines are very specific, so little variation will occur between different jurisdictions.
AY16	K. St. John	Email for CC 6/13/11 PH	Why is grating decking being mandated when the Shoreline Inventory, Cumulative Impacts Analysis, and Restoration Plan do not report that invasive species even exist in Lake Stevens? A gradual shift to grated decking is usually preferred by Ecology in lakes that have invasive species, which feed under the docks on juvenile salmon. Absent the finding of invasive species, there should be not need to impose rules regarding deck grating.	The lake does have bass that like to hide under the docks in the shade. If there is less shade, then the fry can see the bass and not swim under the dock. In addition, with the requirement by the State to meet No Net Loss of ecological functions, the City must show that over the long-term no new shading occurs from over-water structures. Therefore, the only way to allow for new docks is to replace the decking to allow for 60% light penetration, which decreases over-water structure. Over time, the No Net Loss Report shows that increasing light penetration on existing docks will allow for approximately 19 new docks, which will also have higher light penetration, thus creating No

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				Net Loss from over-water structures.
AY17	K. St. John	Email for CC 6/13/11 PH	<p>How can we ensure that the SMP encompasses a fair proportionality principle and provides for other potential methods of mitigation other than vegetation, which cuts people off from their own shorelines?</p> <p>As currently written, the SMP appears to be mandating enhancement and restoration of shoreline vegetation. While it may be appropriate to require that new development with adverse impacts mitigate for the impact by planting vegetation along the shoreline, any such mitigation must be proportional to the impact of your development. Thus, if I you remodel your kitchen by 100 square feet on the waterward side of your residence, the City should not be allowed to make you replant hundreds of square feet of vegetation on the shoreline. The excessive planting presumably is not proportional to the impact of the development.</p>	<p>The only place in the proposed SMP where shoreline vegetation is required is in SMP section 4.C.2.c.11 for shoreline stabilization projects. It mentions vegetation conservation and restoring the shoreline to pre-project conditions or conditions set by the Shoreline Administrator if required for mitigation of the impact from the shoreline stabilization. As per SMP section 4.C.2.c.9, the applicant provides the necessary environmental information and analysis including proposed mitigation measures to result in No Net Loss. The applicant would hire their own environmental consultant to complete a Critical Areas Study with the proposed ratios. The mitigation may not be vegetation, but could be other types of mitigation. The City would review the proposed mitigation.</p> <p>There are a few incentives (i.e., to increase the impervious surface area up to 50% or to add a small waterfront deck or patio) in the proposed SMP that do require the planting of native vegetation at specific rates. However, these are not required unless the applicant chooses to take the incentive.</p>
AY18	K. St. John	Email for CC 6/13/11 PH	<p>Why should we apply the first step of mitigation sequencing, avoidance, to uses that are expressly preferred under the SMA, such as single-family residences and their appurtenant structures, including protective bulkheads?</p> <p>Many sections of the SMP require the project applicant to comply with mitigation sequencing, specifically to first to try avoiding any adverse environmental impact altogether, and then if not possible, minimize, repair, reduce, and mitigate the impacts in that order of preference. See, e.g., SMP 3(B)(4). Mitigation sequencing is indeed one of the governing principles of Ecology’s Guidelines. See WAC 173-26-201(2)(e)). However, it makes little sense to apply it to uses that are expressly preferred under the SMA, such as single-family residences and their appurtenant structures, including protective bulkheads. In other words, if under the SMA a single-family residence is a preferred use, a local jurisdiction should not be</p>	<p>The terms “avoid, minimize, mitigate” as related to environmental resources, including critical areas, is the main tenet of environmental protection. First avoid them; if not possible, then try to minimize the impact; and third, mitigate any impacts that can’t be avoided. This sequencing is used in the National Environmental Policy Act, State Environmental Policy Act, Critical Areas Regulations and Shoreline Management Act and would likely take a change in federal and state legislation.</p> <p>It is the sequencing used whether or not a use is permissible if it is in a critical area or buffer.</p>

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			<p>able to say that, under mitigation sequencing you need to “avoid” any impact by not constructing one. Instead, you should be able to skip directly to mitigating any impact of your development.</p>	
AY19	K. St. John	Email for CC 6/13/11 PH	<p>Is there any reason we can not clarify that the policies as separate from the regulations, are not substantive in nature, and will not be applied as substantive review criteria to a specific project?</p> <p>Ordinarily, development regulations are drafted for consistency with comprehensive plan policies. In turn, compliance with the development regulations themselves is deemed to be per se compliance with the comprehensive plan policies. However, as indicated in the SMP, its policies are intended to be “inclusive” (i.e. they are written to be incredibly broad). The WACs recognize that because the SMA’s policies are broad they “harbor potential for conflict.”</p> <p>As currently drafted, a sole member of the City Staff with an anti-development agenda, could read anything he or she wants into the overly broad policies, and use them to deny an otherwise approvable project.</p>	<p>As described in the SMP Guidelines (WAC 173-26-191(a): <i>“The results of shoreline planning are summarized in shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline.”</i></p> <p>Policies set the framework and goals for meeting the requirements of the Shoreline Management Act. The regulations are the procedures to define how the policies will be met. As mentioned, it is similar to the Comprehensive Plan setting the overall vision, goals and policies for planning with the development regulations providing details to guide development that will meet the vision.</p> <p>The reference to “inclusive” is in SMP section 3.A, the Introduction to the General Provisions: <i>“General policies and regulations are applicable to all uses and activities (regardless of shoreline environment designation) that may occur along the City's shorelines. This chapter is divided into twelve different topic headings and is arranged alphabetically. Each topic begins with a discussion of background SMP issues and considerations, followed by general policy statements and regulations. The intent of these provisions is to be inclusive, making them applicable over a wide range of environments as well as particular uses and activities.”</i> Inclusive here means these policies and regulations are for all shoreline modifications, activities and uses and instead of repeating them in Chapters 4 and 5, they are placed in General Provisions.</p> <p>The reference to “harbor potential for conflict” is from WAC 173-26-176 General policy goals of the act and guidelines for shorelines of the state: <i>“(2) The policy goals for the management of shorelines harbor potential for conflict. The act recognizes that the shorelines and the waters they encompass are "among the most valuable and fragile" of the state's natural resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. They are fragile because they depend upon balanced</i></p>

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				<p><i>physical, biological, and chemical systems that may be adversely altered by natural forces and human conduct. ... Thus, the policy goals of the act relate both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. ... The act's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water."</i></p> <p>In summary, both the policies and the regulations should be met before a project is approved in the shoreline. There is some leeway where the Shoreline Administrator can make a determination if an applicant can show there is a different way to meet the policies rather than strictly using a regulation. This allows for new methods or measures for development to be used in the future that may not be currently known.</p>
AY20	K. St. John	Email for CC 6/13/11 PH	<p>Is it the intent of the City Council to allow the public to come onto the shoreline resident's private property as required in the proposed SMP?</p> <p>The proposed SMP requires that any subdivision of more than 4 lots, will require providing public access to the shoreline (yes, literally allowing the public to come onto a shoreline resident's private property). See SMP 3(B)(7)(c)(1).</p>	<p>Protecting public access to the State's shorelines is one of three major policies of the Shoreline Management Act (SMA). The SMP regulates modifications, activities and uses on "shorelines of the state" which are greater than 20 acres. Thus, the State has jurisdiction over all shorelines identified in the SMP (i.e., Lake Stevens and portions of Catherine Creek and Little Pilchuck Creek). So by requiring public access for subdivisions of more than 4 lots is a requirement of the Shoreline Master Program. However, public access could be physical (path to a dock or waterfront deck) or visual (viewing platform, view from an overpass or between buildings).</p> <p>So providing public access for a subdivision does not mean direct access to the shoreline is required, but it could be as simple as designing the houses with a view corridor from the sidewalk with a bench for the public to sit and look at the lake.</p>
AY21	K. St. John	Email for CC 6/13/11 PH	<p>Why is that tolerable for the city to have a dock that as noted by the independent planner Urban Concepts, has a vested dock application that will fail to comply with the proposed SMP?</p>	<p>See Response AX15</p>
AZ1	Tom Matlack, Resident & Citizen Advisory Committee	Letter for City Council 6/13/11 Public Hearing	<p>I have been following the city's Shoreline Master Plan for many months now. Recently, here in the homestretch of the SMP process, it has become fashionable to sideswipe and ambush the original draft as recommended by the Lake Stevens planning commission. In effect, the complainants are advising</p>	<p>Comments are correct in that the proposed SMP was prepared over 18 months using the SMP Guidelines, State shoreline regulations, consultation with Ecology and Fish and Wildlife, discussions with the Shoreline Citizen Advisory Committee, and three public open houses. Currently, the proposal meets most of the requirements of the SMP Guidelines. City staff is continuing to consult with Ecology and Fish and Wildlife on a few issues.</p>

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			<p>the city staff and council to rewrite the original SMP document.</p> <p>Operating under the constraints of the SMA, as imposed, interpreted, and approved by Department of Ecology and WDFW, the original SMP, as drafted by staff, consultants, and the citizens advisory committee, <u>DID FIND MIDDLE GROUND</u>. Your Lake Stevens Planning Commission approved and recommended that Shoreline Master Plan with whatever flexibility and compromise they could find under the state guidelines of inventory, land use, projected impacts, and no net loss.</p> <p>Lake Stevens City Councilmembers, please approve the Shoreline Master Plan as recommended by your planning commission</p>	<p>Any major changes to the proposed SMP could require additional changes to the Cumulative Impacts Analysis and No Net Loss Report, which will require additional funding and time. In addition, this will require continued consultation with state agencies.</p>
BA1	Ted Boyson, Resident	City Council Public Hearing 6/13/11	<p>I oppose implementation of further restrictions to our shoreline structures. Such restrictions will lower our property values and threaten our enjoyment of the lake. Property owners must be able to easily maintain, repair, rebuild and even improve their dock systems through affordable and attainable processes and not be subjected to unreasonable restrictions or expensive theoretical variances. We must base the facts that excessive government controls and attempts to force the market and landowners to accept the lower substandard use of the lake will result in negative and unintended consequences, such as diminished land values, more unsold properties, a decreased tax base, a diminished enjoyment of the use of our land and lake and a general degradation of the Lake Stevens economy.</p>	<p>Ecology's Frequently Asked Questions has the following: <i>Q: Won't buffers and other shoreline regulations decrease my property values?</i> <i>A: Property values are relatively unaffected by buffers. Waterfront property has skyrocketed in value in the past 30 years despite shoreline buffers of 25 to 125 feet being in place for the same period. Protecting native vegetation along the shoreline actually enhances property values by:</i></p> <ul style="list-style-type: none"> • <i>Stabilizing slopes.</i> • <i>Screening adjacent development from view.</i> • <i>Providing attractive landscaping and habitat.</i> • <i>Blocking noise and glare from adjacent properties.</i> <p>In addition, the proposed SMP regulations will assist in protecting the ecological functions of the lake to create a healthy lake environment for future recreation and enjoyment.</p>
BA2	T. Boysen	CCPH 6/13/11	<p>I understand that there are some 30 unsold properties on the lake. Some of which have dock systems in need of repair or updating. I think that fewer of these properties would be unsold if sellers and prospective buyers were more confident in their ability to maintain, repair, rebuild and even improve their dock systems.</p>	<p>Once adopted, the updated SMP will provide more specific details of what is required to get permits and when permits are not required than the existing SMP. It should give property owners and future purchasers a better understanding of when and how they can maintain, repair, rebuild and improve their docks. All legally existing shoreline modifications and uses will be allowed to continue in the new SMP.</p>
BA3	T. Boysen	CCPH	<p>I also wish to comment on the notion of following homeowners</p>	<p>Under the proposed SMP, existing docks will be allowed to remain in their current size.</p>

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		6/13/11	existing 6 foot wide docks down to 4 feet wide towards the shoreline. Not only would this funneling be unsightly and reduce our utility of our dock systems, but would be potentially very dangerous. If such a restriction were imposed, it would be only a matter of time until someone especially children or the elderly falls and gets badly hurt or killed.	Fingers and ells can still be added to an existing dock. Decking replaced in the first 30 feet may require light transmission, but would not required modification of the width of a dock unless the piles are replaced. Only new docks have the four foot width restriction in the first 30 feet and then can expand to six foot width. Hand rails are allowed on docks to provide safety.
BA4	T. Boysen	CCPH 6/13/11	I respectfully urge the Planning Commissioners, City Council and Mayor to use caution and resist over-reaching, to be strong and to help us rather than hurt us. To be on our side, to be our partners, to be our friend and not foe, to recognize that policies are negotiable with environmental entities and not rubber stamp harmful, destructive, extreme mandates.	The City Council will consider all verbal and written comments received during the Local Adoption Process.
BB1	Brad Nysether, Resident	City Council Public Hearing 6/13/11	I have one fear, but based on the first meeting we had here, will someone knock on my door and tell me I need to take my bulkhead down and I was told the answer is no. So I am assuming that is still true.	Bulkheads are still allowed under the proposed SMP. The state made two changes to bulkhead regulations: (1) they are only to protect primary structures, not accessory structures and (2) if they need to be replaced, a softer method of protection is preferred unless the only way to protect the primary structure is by a hard bulkhead, you would be able to replace your bulkhead with hard materials.
BB2	B. Nysether	CCPH 6/13/11	I also feel that this should be an exemption or grandfather clause for existing piers or bulkheads so as not to diminish the private property owners' property value and I am not sure that is properly addressed in the document.	Under the proposed SMP, a property owner may replace an existing pier at the same dimensions or square footage with the one addition of providing light penetration in the first 30 feet. Bulkheads under the new State requirements require a professional to determine if a softer structure could be built to still protect a home. If not, then a hard structure could be replaced.
BB3	B. Nysether	CCPH 6/13/11	I also feel there should be a tax break or credit to replace an existing non-compliant structure. If not, it appears, and I am not a lawyer, that this SMP is approaching eminent domain, which refers to the government taking away private property for public good. Which further goes on to say that when the government is going to take your land they must provide you with just compensation and instead of making us take our docks out and replace them with inferior structures and also given an opportunity to reject to the taking also called condemnations, which otherwise would be a violation of your constitutional rights.	Ecology's Frequently Asked Questions has the following: <i>Q: Aren't requirements for shoreline vegetation buffers a "taking" of private property rights?</i> <i>A: No. The U.S. Constitution allows state and local governments to limit private property activities provided it's for a legitimate public benefit and they do not deprive the landowner of all reasonable use of the property. For example, state and local governments can adopt regulations that prevent sediment from running off private property and entering a salmon-spawning stream. These regulations protect salmon, a public resource.</i> <i>Buffers do not deprive landowners of all reasonable use of their property and, in fact, all property tends to benefit from reasonable setbacks and buffers. In those limited instances where the buffer precludes or significantly interferes with a reasonable use, the property</i>

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				<i>owner may obtain a variance.</i>
BB4	B. Nysether	CCPH 6/13/11	And briefly, I wrote some numbers down and based on the approximation of 400 existing docks, 20 new ones, each dock would have to reduce in size by 60 square feet with the new ones to maintain that. But my bigger concern is that it almost allows smaller docks to become bigger but then forces bigger docks to be larger and I am not quite sure that that is the goal of it. So based on my numbers it kind of appears that the docks that are there can really stay the size they are and still maintain that 489,000 square feet.	The calculations used in the Cumulative Impacts Analysis used an average dock size in the calculations. Some docks are larger and some are smaller. However, it does allow for some docks to increase in size or dimensions outside the first 30 feet. The requirement for increasing light transmission in the first 30 feet allows for up to 19 new docks to be constructed. Existing docks can stay the same dimension and square footage, although they may need to add light transmission to new decking.
BC1	Kevin St. John, Resident	City Council Public Hearing 6/13/11	This Council asked at the May 23 meeting, if they should get environmental attorneys to look at the avoid, minimize and mitigate. The staff responds to that question with a definition of the terms avoid, minimize and mitigate and never address the actual question of legal counsel. I think this Council was very wisely asked if they should get legal advice from an attorney who specializes in the area of shoreline master plans to help give them guidance on what they can and cannot do.	See Response AY18. The City does have experts and legal counsel assisting with the proposed SMP.
BD1	Doug Bell, Resident	City Council Public Hearing 6/13/11	We have proposed language to correct this oversight to the extent that helicopters are not water dependent use and are prohibited from using overwater structures. That's the only section you need to change in Subsection A of the proposed ordinance not delete all of it, it does some good things.	Council could consider the request.
BE1	Steve Miller, Resident	City Council Public Hearing 6/13/11	My house apparently is about 27 feet off the water. It was 35 to 40 feet when I first moved in but now we have significantly higher lake out there, I use to have 18 feet in front of my house at the end of summer where along the shore where the little fish come up and we had rocks and some sand an all of that and that since has gone away we typically maintain about 6 or 8 inches of water on our bulkhead so I have some concern cause I	The City has a Hydraulic Permit Approval (HPA) for the weir on the northeast outflow from the lake. The weir consists of boards that can be placed in the weir to raise it 2.5 feet. Under the HPA from Fish & Wildlife, the weir is required to be used to keep water in the lake during the summer to assist fish passage in the fall.

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			actually helped them put in the weir or clean the outlet stream originally for the weir and in my opinion that has been a total failure. We were told upfront that was going to maintain a certain level. Well it definitely has not been able to do that.	
BE2	S. Miller	CCPH 6/13/11	My particular house is not only close to the lake but I have road right behind the house. So again I would be one of these homeowners that I want to sell the house, anybody looking at some potential regulations they will be looking at absolutely nothing that they can do.	There are many repairs, maintenance and remodeling allowed under the current and proposed SMPs. Neither SMP allows an increase in impervious surface area of more than 40 percent without a variance. However, the proposed SMP has additional allowance up to 50 percent impervious surface if native shoreline vegetation is planted. If setbacks or impervious area is nonconforming, the house could still be remodeled, but not increase into the setback or increase the foundation. However, the house could be increased in height up to 35 feet.
BE3	S. Miller	CCPH 6/13/11	You got the aerator out there, hasn't been turned on and why this year or what time it's suppose to be turned on.	The aerator only addresses nutrients coming from the sediments at the bottom of the lake. It is turned on when dissolved oxygen reaches a certain level. Running the aerator when nutrients are not being released from the sediment would not achieve the intended changes in the lake. The aerator does not treat the pollutants from lawn fertilizers, road and roof runoff, pet wastes, etc. These runoffs into the lake need to be minimized to assist in reducing the algae in the lake.
BF1	Nancy Mitchell, Resident	City Council Public Hearing 6/13/11	Pull this back because now you are telling me that when my bulkhead falls in I have to go back how many feet into my property which is up pretty high.	The State standards for bulkheads are very specific. Replacing bulkhead with like materials is allowed, if it is shown a softer method of protection cannot be used. Replacement bulkheads may be placed waterward of the existing structure whether soft or hard structures.
BF2	N. Mitchell	CCPH 6/13/11	I really feel that I am being told what is the point I can't do anything to repair.	Existing bulkheads can be repaired and replaced under the proposed SMP.
BG1	Cliff Call, Resident	City Council Public Hearing 6/13/11	But my biggest concern is this arbitrary setback number – 60 % of the current homes are not meeting the current setback. It seems to me that it really has nothing to do with the shoreline.	The lake setback of 50 foot with an additional 10 foot buffer to protect a critical area was set with the adoption of the 2007 Critical Areas Regulations based on Best Available Science to protect Fish and Wildlife Conservation Areas such as the lake. The proposed SMP is not changing the current setback from the lake.
BG2	C. Call	CCPH 6/13/11	I also would like to reiterate that my home probably depending on what your definition of this high water mark is. If it's the high water mark that was in existence when I bought the house in 1989 I would probably meet that 65 foot but with the weir you have probably raised the water level at least 2.5 feet right	The Ordinary High Water Mark (OHWM) is a mark that is found by examining the bed and banks and determining the common height of the water. So it could change over a long period of time. However, lake level does go up and down yearly, but because the level stays at a general level for longer periods of time, it marks the soil. But over decades, the OHWM could change if a region starts to receive more or less rain on a regular basis. So

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			now.	the OHWM could have changed since 1989.
BG3	C. Call	CCPH 6/13/11	And I think this arbitrary number if nothing else this 65 foot thing should be abandoned and existing homes should be allowed to stay where they are with no penalties in the future being non-conforming properties.	Existing houses are allowed to stay where they are in the current and proposed SMPs. There are no penalties for being a nonconforming structure. The structure may not be allowed to increase into the nonconformity, but is allowed to stay where it is with no penalties.
BH1	Gigi Burke, Resident	City Council Public Hearing 6/13/11	General comments about what others have said. No questions.	None required
BI1	Rich Mietzner, Resident	City Council Public Hearing 6/13/11	Regarding the bulkhead I just don't understand about 18 or 20 months ago when that Maker's guy was here in this room they talked about the opportunity for people to soften the edges, a different approach for repair/replacement of bulkheads. I think that kind of got thrown out somehow to where they're kinda requiring now to put language in there to be allowed to replace up to 50% of your bulkhead within a five year period.	No changes have been made to the proposed SMP since the beginning of the process. The State specifically regulates the bulkheads, so all jurisdictions have the same regulations for bulkheads in their SMPs. The preference is for a soft structure rather than a hard structure as it is better for the ecological health of the shoreline and lake. However, if a soft structure will not provide the protection required for the primary structure, a hard structure is allowed. The same maintenance and replacement regulations are proposed in the SMP as were discussed by the consultants earlier in the update process.
BI2	R. Mietzner	CCPH 6/13/11	I just have a question as how can the replacement of bulkhead landward of the existing bulkhead be a net impact on the shoreline environment and isn't that activity simply a replacement for like for like which would result in a net equal condition on the lake.	The shoreline extends 200 feet from the water. Therefore, any action within this area could impact the shoreline or the lake. The lake environment has changed over time as development has increased on the shoreline and fertilizers, pet wastes and runoff has entered the water. Lake Stevens has a large drainage basin with a small outflow and no inputs from a large river. So all pollutants that enter the lake tend to stay in the lake and are not diluted.
BI3	R. Mietzner	CCPH 6/13/11	I don't know if it's true, but that Anacortes allow bulkhead replacement. No net loss is the goal, I just don't understand with 80% of the shoreline being hard with rocks or bulkheads that people would have to be required to soften the edge with trees and stumps and boulders. I don't know if anybody has done like a wave analysis (not audible by transcriber) of the shoreline lake, kind of pounding itself with waves coming from and think people will start to take those out, could have a negative impact and we could wash away our little beach.	The Anacortes SMP has the same bulkhead regulations as all jurisdictions. Ecology has written specific bulkhead regulations that all jurisdictions are required to adopt. If there are waves against a property that erode the shoreline, soft structures must be considered, but if that will not provide protection for the primary structure, a hard structure may be allowed.
BI4	R. Mietzner	CCPH 6/13/11	I heard you were talking about this with somebody could rebuild their house and that's if there was damage or fire or whatever	The current SMP does not have a separate critical areas section, so the CAR is used. However, the proposed SMP has a separate appendix (B) which will be used in place of the

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			but I also heard and saw out there providing it was to the CAR. CAR is the critical area regulations setback. And I think that's up there Karen, could you pull that up. So then in my mind then it has to be 60 feet ...so the house is 25-35 feet from the neighbors where they could rebuild that house.	CAR for critical areas in shoreline jurisdiction. This appendix allows a structure to be rebuilt on the current dimensions without having to meet the new requirements in the proposed SMP. The proposed SMP does not propose any changes to the current setback from the lake of 60 feet.
BI5	R. Mietzner	CCPH 6/13/11	The simple thing is that in the first 30 feet that was 4 feet dock width, if it was grated. What's the difference with if its 4 foot or 6 foot or 8 foot if that's existing if it was grated cause light was going through it.	The proposed SMP allows existing docks to be retain in their current dimensions or square footage. However, if replaced, the decking in the first 30 feet will be required to provide light transmission. It is only new docks that require a four foot width in the first 30 feet and require light transmission.
BJ1	Kevin Mulvaney, Resident	City Council Public Hearing 6/13/11	I don't see any rivers coming in and out that the fish could be going up and down so it seems like you know as a constituent if you're rather than taking whatever the Fish & Wildlife say it seems like you should be trying to prove that the fish are in there that actually need protection. It's not the same as Lake Washington or that kind of stuff and one size fits all and taking something that they say is an endangered species and basically making everybody suffer for something that may or may not be there without some proof to us.	The Lake Stevens Basin does not have any major rivers coming into the system; however, the outfall to Catherine Creek and on to the Little Pilchuck Creek and then on to rivers is a connection for Coho salmon. The salmon come into the system and up Stevens Creek, Lundeen Creek and Stitch Lake to spawn. The fry stay in the lake for a while and then head through the outflow and on to the river system to the ocean according to Fish and Wildlife. There are many studies identified in the Inventory and Analysis Report of the presence of Coho fry in the lake from many agencies and statements from fishermen. WSDOT recently completed work on Catherine Creek to get Coho above State Route 92. If they are present in Catherine Creek, they are likely to be present in the lake.
BJ2	K. Mulvaney	CCPH 6/13/11	The only other issue I have was most of the lake, I am not sure of exactly the square footage but how much of the lake was part of the County rather than the City.	About 30,000 linear feet of shoreline is within the City and approximately 7,500 linear feet is within the UGA and under County jurisdiction. The proposed SMP is for the entire UGA, so when new areas are annexed, they are already included in the proposed SMP.
BJ3	K. Mulvaney	CCPH 6/13/11	And you know I don't remember ever getting any notice that this was going on 2½ years ago.	The first notice was sent out in April 2010 with additional mailings later in the year and this year. In addition, many notices of meetings have been published in the Lake Stevens Journal and Everett Herald.
BJ4	K. Mulvaney	CCPH 6/13/11	I think you guys have responsibility to us to prove that there is Coho out there.	See Response BJ1
BK1	Cory Burke, Resident	City Council Public Hearing 6/13/11	The dock length to meet 5.5 feet of water depth again is that ordinary high watermark? What determines that and if it fluctuates does the dock now become non-compliant?	The dock length is tied to the water depth and as the water level does fluctuate, it could be determined using the ordinary high water mark. So a dock could extend out where it is 5.5 feet deeper than the ordinary high water mark.
BK2	C. Burke	CCPH	Then also this 30 feet from shoreline grated 4 feet wide dock	Water depth is not taken into account. The 30 feet from shoreline is the general area where

#	Person/Group	Where	Issue (from Public Testimony)	City Response
		6/13/11	etc. How is that affected by water depth?	the young fry tend to move. Depth could have some affect on movement, but in order to determine general requirements, it isn't used.
BK3	C. Burke	CCPH 6/13/11	I am just curious what studies support this and if you guys have asked that question (not audible by transcriber).	We have hired consultants who have successfully completed 17 SMPs for other jurisdictions and are experts in their field. In addition, Fish and Wildlife responded to this same question at the June 6 City Council Workshop and stated studies show depth may affect some movement, but in general the 30 feet from shore is the area used by fish.
BK4	C. Burke	CCPH 6/13/11	And then last week on the replacement, the 6 months application and the 2 years. I think you have to have some time period in there for maybe a stipulation sometimes. Six months is not enough time to get the insurance company to write you a check.	This section is proposed to be modified to allow for 12 months for application and then completed within two years. Ecology has stated they could accept this change.
BL1	Steve Hobbs, Resident	City Council Public Hearing 6/13/11	And I am also curious about Coho salmon because I've lived here all my life and I've never caught one (not audible by transcriber) I have never seen.	See Response BJ1 and the Inventory and Analysis Report.
BM1	Roger Jobs, Resident	City Council Public Hearing 6/13/11	General comments on water level and past experience with Fish and Wildlife.	None required
BN1	Rose Granda, Resident	City Council Public Hearing 6/13/11	I am just curious how is the City proposing to maintain its own lakeside properties? Are you planning on conforming to all these regulations yourself? Are you going to downsize all your docks to the 3 or 4 feet for the first 30 feet with the grated material?	The City is required to meet all City codes, the same as for the public. However, the proposed SMP provides different regulations for public/commercial facilities providing public access, shared/joint facilities and single-family facilities. Public over-water structures may be constructed up to 12 feet in width, but requires decking to provide light transmission. There are very few public docks (four) on the lake, but any repairs, replacements or new structures will be required to meet the updated SMP after it is approved by Ecology.
BN2	R. Granda	CCPH 6/13/11	Are you going to hire an employee to go around the lake and manage these docks and floating dock and buoys and tied off row boats? Are we going to have to have another wage that we are going to be paying City employees to go out and be checking all these things?	The City does not plan to hire additional staff due to adoption of the proposed SMP. The City does not look for enforcement actions, but instead relies on information from the public.
BN3	R. Granda	CCPH	We have some of the largest floating docks, you have the largest	See Response BN1

#	Person/Group	Where	Issue (from Public Testimony)	City Response
		6/13/11	docks. I am just curious – are you going to be accountable to the same standards? For yourself and what is that going to do to your public properties? And who is going to manage this?	
BO1	Paul Olliges, Resident	City Council Public Hearing 6/13/11	As a property owner I want to make sure I can repair the property that I own. I don't want to be burdened by additional costs that I can't afford.	The proposed SMP allows a property owner to maintain, repair or replace an existing structure and build new structures. The City does not expect to increase any current Shoreline Permit fees due to the proposed SMP.
BP1	Julia McCord, Resident	City Council Public Hearing 6/13/11	Wouldn't it be better instead of spending all the money on this type of thing putting in sewers, we still have people living on the lake that are on septic. So changing your dock is that really going to help the fish. We sure want to look at a bigger picture and stop some of toxic waste that's coming into this lake.	Of the over 400 properties on the lake, only 11 are not currently hooked to sewers. These 11 have access to sewer lines which ring the lake. They are not required to install sewer unless the existing septic system fails. The major contributors to phosphorus in the lake, which increases milfoil growth and affects water quality, is from lawn fertilizers, pet wastes and stormwater runoff from roads and lawns. The aerator only reduces dissolved oxygen from the existing lake bottom, not from the additional inputs. After the proposed SMP is submitted to Ecology for their review, the City will be working on an education/information program for shoreline property owners and City residents on these issues. The shading of overwater structures creates a different ecological impact than the additional phosphorus in the lake, which is why it also needs to be restricted to no additional shading. By providing light transmission, an existing dock will reduce its footprint and allow for new docks to be constructed.
BQ1	Tim McCord, Resident	City Council Public Hearing 6/13/11	My personal experience says having this grating on the docks is based on, from my understanding, on marine requirements and not freshwater requirements.	Studies have shown the same effect on fish behavior and predator-prey relationships from shading in both marine waters and freshwater. The shading allows larger fish to hide from smaller prey fish regardless of the type of water. The smaller fish tend to avoid dark areas so swim around large shaded areas rather than the shorter route through the shade. Adding decking with light transmission, allows less shading for hiding and more light for small fish to go under, rather than around the docks.
BQ2	T. McCord	CCPH 6/13/11	The next issue I have is that dock repair, I don't know about the rest of you people, but I can't wait for my dock to get 50% damaged to replace it. I pay enough liability insurance as it is, so I replace my dock as it seems fit, when it needs to be repaired or replaced, part of it needs to be repaired, so my dock will never reach 50% damage.	The property owner determines when to maintain, repair or replace a dock. The proposed SMP does not set limits on when a property owner can modify a dock. The new regulations do explain what is considered maintenance, repair or replacement and therefore when and what type of permit, if any, is required.

#	Person/Group	Where	Issue (from Public Testimony)	City Response
BQ3	T. McCord	CCPH 6/13/11	When they talk about restoration of shorelands, what are they basing that on? What year are they basing that on?	As per the Shoreline Restoration Plan, restoration is not intended to encompass actions that reestablish historic conditions. Instead, it encompasses a suite of strategies that can be approximately delineated into four categories: <ul style="list-style-type: none"> • Creation (of a new resource), • Restoration (of a converted or substantially degraded resource), • Enhancement (of an existing degraded resource), or • Protection (of an existing high-quality resource). The baseline condition of the City’s Shorelines is described in the Inventory and Analysis Report. The purpose of restoration is to improve from existing conditions, not to reach a historic condition. On a lake as urbanized as Lake Stevens, the addition of native vegetation on the shoreline can greatly benefit the ecology of the lake.

ATTACHMENTS WILL BE INCLUDED AT A LATER DATE

- A – Letter dated April 8, 2011 to City of Lake Stevens City Council from Urban Concepts, LLC.
- B – Letter dated May 4, 2011 to City of Lake Stevens Planning Commission from Futurewise, People for Puget Sound & Pilchuck Audubon Society
- C – Public Testimony and Submittal by Kristin Kelly, Futurewise/Pilchuck Audubon Society/People for Puget Sound at the May 4, 2011 Planning Commission Public Hearing
- D – Public Testimony by Brad Nyschter, Resident at the May 4, 2011 Planning Commission Public Hearing
- E – Public Testimony and Submittal by Angela Larsh, Urban Concepts LLC for Rich Mietzner at the May 4, 2011 Planning Commission Public Hearing
- F – Public Testimony by Rich Mietzner, Resident at the May 4, 2011 Planning Commission Public Hearing; Ecology comments on docks and Army Corps of Engineers Permit #3
- G – Public Testimony and Submittal by Douglas Bell, Resident at the May 4, 2011 Planning Commission Public Hearing
- H – Public Testimony by Bill Barnet, Resident at the May 4, 2011 Planning Commission Public Hearing
- I – Public Testimony by Rose Granda, Resident at the May 4, 2011 Planning Commission Public Hearing
- J – Public Testimony by Fred Schmitz, Resident at the May 4, 2011 Planning Commission Public Hearing
- K – Public Testimony by Cory Burke, Resident at the May 4, 2011 Planning Commission Public Hearing
- L – Public Testimony and Submittal by Rosanne Cowles, Resident at the May 4, 2011 Planning Commission Public Hearing
- M – Public Testimony by Tom Matlack, Resident at the May 4, 2011 Planning Commission Public Hearing
- N – Public Testimony by Gigi Burke, Resident at the May 4, 2011 Planning Commission Public Hearing
- O – Public Testimony by Darrell Moore, Resident at the May 4, 2011 Planning Commission Public Hearing
- P – Public Testimony by Rich Mietzner, Resident at the May 4, 2011 Planning Commission Public Hearing
- Q – Public Testimony by D. Molenkamp, Resident at the May 4, 2011 Planning Commission Public Hearing
- R – Public Testimony by Douglas Bell, Resident at the May 18, 2011 Planning Commission Public Hearing
- S – Public Testimony by Angela Larsh, Urban Concepts LLC, at the May 18, 2011 Planning Commission Public Hearing
- T – Public Testimony by Gigi Burke, Resident at the May 18, 2011 Planning Commission Public Hearing

U – Public Testimony by Tom Matlack, Resident and Shoreline Citizen Advisory Committee, at the May 18, 2011 Planning Commission Public Hearing
V – Written Testimony from Snohomish County Public Works submitted at the May 18, 2011 Planning Commission Public Hearing
W – Written Testimony from Ted & Linda Boysen submitted at the May 18, 2011 Planning Commission Public Hearing
X – Written Testimony from James W & Judith Gottschalk submitted at the May 18, 2011 Planning Commission Public Hearing
Y – Written Testimony from Gigi and Cory Burke, Resident submitted at the May 23, 2011 City Council Public Hearing
Z – Written Testimony from Jeremy Clites, Resident submitted at the May 23, 2011 City Council Public Hearing
AA – Written Testimony from Robert M. Wade submitted at the May 23, 2011 City Council Public Hearing
AB – Written Testimony from Ray Granda & Family, Residents submitted at the May 23, 2011 City Council Public Hearing
AC – Written Testimony from The Lee Family, Residents submitted at the May 23, 2011 City Council Public Hearing
AD – Written Testimony from Leif Holmes, Resident submitted at the May 23, 2011 City Council Public Hearing
AE – Written Testimony from Earl & Amanda Rotherick, Residents submitted at the May 23, 2011 City Council Public Hearing
AF – Written Testimony from Michael White, Pacific West Financial Group submitted at the May 23, 2011 City Council Public Hearing
AG – Written Testimony from Kathy Nysether, Resident submitted at the May 23, 2011 City Council Public Hearing
AH – Written Testimony from The Lee Family, Residents submitted at the May 23, 2011 City Council Public Hearing
AI – Written Testimony from Jon & JoAnn Youngquist, Residents submitted at the May 23, 2011 City Council Public Hearing
AJ – Written Testimony from Bill Tsoukalas, Boys & Girls Club submitted at the May 23, 2011 City Council Public Hearing
AK – Written Testimony from Angela Evans, Residents submitted at the May 23, 2011 City Council Public Hearing
AL – Verbal Testimony and Submittal from Douglas Bell, Resident at the May 23, 2011 City Council Public Hearing
AM – Verbal Testimony from Angela Larsh, Urban Concepts LLC at the May 23, 2011 City Council Public Hearing
AN – Verbal Testimony from Tom Matlack, Resident and Citizen Advisory Committee, at the May 23, 2011 City Council Public Hearing
AO – Verbal Testimony from Ted Boysen, Resident at the May 23, 2011 City Council Public Hearing
AP – Verbal Testimony from Bruce Morton, Resident at the May 23, 2011 City Council Public Hearing
AQ – Verbal Testimony and Submittals from Gigi Burke, Resident at the May 23, 2011 City Council Public Hearing
AR – Verbal Testimony from Jennifer Soler, Resident at the May 23, 2011 City Council Public Hearing
AS – Verbal Testimony from Paul Olliges at the May 23, 2011 City Council Public Hearing
AT – Verbal Testimony from Tim McCord at the May 23, 2011 City Council Public Hearing
AU – Verbal Testimony from Patricia Perry at the May 23, 2011 City Council Public Hearing
AV – Verbal Testimony from Bill Tackitt, Resident at the May 23, 2011 City Council Public Hearing
AW – Verbal Testimony from Cory Burke, Resident at the May 23, 2011 City Council Public Hearing
AX – Written Testimony from Angela Larsh, Urban Concepts LLC, after the May 23, 2011 City Council Public Hearing
AY – Written Testimony from Kevin St. John, Resident, for the June 13, 2011 City Council Public Hearing
AZ – Written Testimony from Tom Matlack, Resident and Shoreline Citizen Advisory Committee Member, for the June 13, 2011 City Council Public Hearing
BA – Verbal Testimony from Ted Boyson, Resident at the June 13, 2011 City Council Public Hearing
BB – Verbal Testimony from Brad Nysether, Resident at the June 13, 2011 City Council Public Hearing
BC – Verbal Testimony from Kevin St. John, Resident at the June 13, 2011 City Council Public Hearing

- BD – Verbal Testimony from Doug Bell, Resident at the June 13, 2011 City Council Public Hearing
- BE – Verbal Testimony from Steve Miller, Resident at the June 13, 2011 City Council Public Hearing
- BF – Verbal Testimony from Nancy Mitchell, Resident at the June 13, 2011 City Council Public Hearing
- BG – Verbal Testimony from Cliff Call, Resident at the June 13, 2011 City Council Public Hearing
- BH – Verbal Testimony from Gigi Burke, Resident at the June 13, 2011 City Council Public Hearing
- BI – Verbal Testimony from Rich Mietzner, Resident at the June 13, 2011 City Council Public Hearing
- BJ – Verbal Testimony from Kevin Mulvaney, Resident at the June 13, 2011 City Council Public Hearing
- BK – Verbal Testimony from Cory Burke, Resident at the June 13, 2011 City Council Public Hearing
- BL – Verbal Testimony from Steve Hobbs, Resident and State Senator at the June 13, 2011 City Council Public Hearing
- BM – Verbal Testimony from Roger Jobs, Resident at the June 13, 2011 City Council Public Hearing
- BN – Verbal Testimony from Rose Granda, Resident at the June 13, 2011 City Council Public Hearing
- BO – Verbal Testimony from Paul Olliges, Resident at the June 13, 2011 City Council Public Hearing
- BP – Verbal Testimony from Julia McCord, Resident at the June 13, 2011 City Council Public Hearing
- BQ – Verbal Testimony from Tim McCord, Resident at the June 13, 2011 City Council Public Hearing

City Council Public Meeting

June 13, 2011

SMP Public Testimony

(Meeting begins at 7:00pm)

Public Hearing

Karen Watkins, Principal Planner provided brief overview of the Shoreline Master Plan (SMP) and issues that have arisen to date in a PowerPoint presentation.

Public Testimony From Audience

***Ted Boyson, Resident
10432 Sandy Beach Drive***

The presentation just now by Karen and the comments do make me feel better about my concerns. I really appreciate that. Good evening Planning Commissioners, City Council, and Mr. Mayor. We have lived in Lake Stevens for almost 10 years now. My wife Linda and I moved here to raise our family and to enjoy all of the wonderful things that Lake Stevens has to offer.

I oppose implementation of further restrictions to our shoreline structures. Such restrictions will lower our property values and threaten our enjoyment of the lake. Property owners must be able to easily maintain, repair, rebuild and even improve their dock systems through affordable and attainable processes and not be subjected to unreasonable restrictions or expensive theoretical variances. We must base the facts that excessive government controls and attempts to force the market and landowners to accept the lower substandard use of the lake will result in negative and unintended consequences, such as diminished land values, more unsold properties, a decreased tax base, a diminished enjoyment of the use of our land and lake and a general degradation of the Lake Stevens economy.

I understand that there are some 30 unsold properties on the lake. Some of which have dock systems in need of repair or updating. I think that fewer of these properties would be unsold if sellers and prospective buyers were more confident in their ability to maintain, repair, rebuild and even improve their dock systems.

I also wish to comment on the notion of following homeowners existing 6 foot wide docks down to 4 feet wide towards the shoreline. Not only would this funneling be unsightly and reduce our utility of our dock systems, but would be potentially very dangerous. If such a restriction were imposed, it would be only a matter of time until someone especially children or the elderly falls and gets badly hurt or killed.

Lake Stevens is a fully developed one thousand acre, gasoline powered craft, recreational preferred (not audible by transcriber) and we want to and need to keep it that way. I respectfully urge the Planning Commissioners, City Council and Mayor to use caution and resist over-reaching, to be strong and to help us rather than hurt us. To be on our side, to be our partners, to be our friend and not foe, to recognize that policies are negotiable with environmental entities and not rubber stamp harmful, destructive, extreme mandates. We do not want Lake Stevens to turn into a substandard failing, boondoggle with rotting, unusable, or inadequate dock

systems. We do not want to have to change the song this land is my land to this is no longer my land because it is now frozen and unusable due to over regulations. And just a few seconds to close. Respectfully, you do not have sign off on extremism. I have seen firsthand at another municipality that an overzealous local government can cause great harm and can be a big expensive mess for everyone not just property owners. The economic harm hurts everyone and eventually comes full circle back to hurt the City. Thank you very much for listening.

Brad Nysether, Resident
525 E Davies Loop Road

I've been a waterfront owner on Lake Stevens for 30 years and I've done my best to read through all the documentation and feel that if the SMP is approved that my property rights will be taken away. I have one fear, but based on the first meeting we had here, will someone knock on my door and tell me I need to take my bulkhead down and I was told the answer is no. So I am assuming that is still true.

I also feel that this should be an exemption or grandfather clause for existing piers or bulkheads so as not to diminish the private property owners' property value and I am not sure that is properly addressed in the document. I also feel there should be a tax break or credit to replace an existing non-compliant structure. If not, it appears, and I am not a lawyer, that this SMP is approaching eminent domain, which refers to the government taking away private property for public good. Which further goes on to say that when the government is going to take your land they must provide you with just compensation and instead of making us take our docks out and replace them with inferior structures and also given an opportunity to reject to the taking also called condemnations, which otherwise would be a violation of your constitutional rights.

And briefly, I wrote some numbers down and based on the approximation of 400 existing docks, 20 new ones, each dock would have to reduce in size by 60 square feet with the new ones to maintain that. But my bigger concern is that it almost allows smaller docks to become bigger but then forces bigger docks to be larger and I am not quite sure that that is the goal of it. So based on my numbers it kind of appears that the docks that are there can really stay the size they are and still maintain that 489,000 square feet. Anyway thank you for the time.

Kevin St John, Resident
701 Stitch Road

Personally, I thank the City Council for listening to its constituency and taking the time to firmly and comprehensively review and investigate the new regulations proposed by the SMP. Tonight I am speaking on behalf of myself and Save Our Shoreline Lake Stevens, a newly formed Washington State non-profit corporation whose mission is to assure that the development is balanced, fact based, and measureable shoreline regulations that respect and preserve private property rights. By forming this corporation, the citizens of Lake Stevens are following in the footsteps of other communities here in Washington who have similarly joined together to work for the adoption of the Shoreline Master Program that is sensible. We are not (not audible by transcriber) I have personally spoken with the representatives and citizens in group of action roots in Bellevue, Renton, and Bainbridge. They provided great insight into their shoreline plan. There are things that we need to do, there are changes that we need to make or should make. And there are a dozen more citizens groups who have been formed to address their concerns on the broad SMP language that is not consistent now consistent with State law or regulation requirements.

This Council asked at the May 23 meeting, if they should get environmental attorneys to look at the avoid, minimize and mitigate. The staff responds to that question with a definition of the terms avoid, minimize and mitigate and never address the actual question of legal counsel. I think this Council was very wisely asked if they should get legal advice from an attorney who specializes in the area of shoreline master plans to help give them guidance on what they can and cannot do.

Taking that lead we have spoken with Groen, Stephens, and Klinge, the law firm who is working with the cities of Bellevue and Lake Sammamish. They have conducted a preliminary review of all the proposed SMP's and expressed grave concerns on a number of the broad sweeping language and some breaching of property rights. It goes far beyond what is being currently required by the City. They have successfully helped other city councils and stand ready to assist Lake Stevens in developing a plan that is right for our community. A plan that is balanced, fact based, measurable and respect and preserve the property rights of Lake Stevens citizens.

Initially I contacted an independent planner who has also expressed grave concerns after reviewing the currently proposed SMP. Both the planner and the law firm have significant time and experience working with other cities in addressing the very same issues that we are all now facing. Both our planner and legal counsel have urgently warned us that the current SMP as proposed goes far beyond state requirements and contains provisions that would dramatically and negatively impact us all. They are unified in their opinion that as currently drafted these new regulations will diminish property value, erode the tax base, significantly hamstring the private property owner from enhancing or even maintain their own property.

The supporting material is over 500 pages and I read them all, I can say I concluded I don't understand it. There are a lot of rules, policies and regulations some of which conflict, some of which have unintended consequence and I believe we should all be expert non-partisan guidance to ensure making the best choice when it comes to this plan. On behalf of our citizens and the property owners here, I urge you to join with us and partner with the people we contacted that are experts in the field and can help us all. Thank you very much.

***Doug Bell, Resident
10830 Vernon Road***

Mr. Mayor, Council President and members of the Council, I am Doug Bell, 10830 Vernon Road, and I am here again tonight on behalf of Burgoyne, Kosche, Molenkamp, Barnet, Martin and Powell families in addition to myself. Now I will be brief tonight. I have given you my written comments at the last hearing you had. I am concerned with what I have read in terms of the staff report of June 6 to you regarding how to address the issue of helicopters. I am having some trouble keeping up with the broken (not audible by transcriber) that your staff is doing on this issue from not having addressed the helicopter issue at all initially. As I indicated in November, they correctly determined that helicopter use on overwater structures was a non-water dependent use and was prohibited. Since then they have gone back in the last draft before what they proposed now to outright allow such helicopters on all existing docks in Lake Stevens.

In the staff report to you of June 6 for your workshop, they have gone away from and said well the FAA regulation will be sufficient. Acknowledging at the same time that all the FAA essentially does is certify their worthiness of the aircraft and prior to issuing the license to the pilot. That isn't regulation for shoreline management or zoning purposes. Having come to that

tenuous conclusion they then suggest that their earlier proposal amend the Lake Stevens Municipal Code 14.44.070 be taken out because it is redundant.

Well it isn't redundant. It doesn't do what our families wish it did do but it does at least allow float planes to use existing and future docks. It limits the float plane or the helicopter either or to one single property. It suggests float planes to your watercraft and operational standards which by the way if a helicopter were to have floats put on it; it could be subjected to the same standard. The only redundancy in that proposed ordinance amendment is where it then says that float planes and helicopters are subject to FAA standards. Well of course they are. But that's the only redundancy. We find fault in an act it does allow although it be properly declared helicopters be non-water dependent uses and it then turns around and says they can use existing docks. We have proposed language to correct this oversight to the extent that helicopters are not water dependent use and are prohibited from using overwater structures. That's the only section you need to change in Subsection A of the proposed ordinance not delete all of it, it does some good things.

This is the bad thing it does. However, I will give credit to the staff for having also pointed out in this report that you should adopt what we suggest in the ordinance you do adopt, it will not affect any existing helicopter usage of which I believe there is but one on the same beach. So that issue goes away. No one ever intended and it has been repeatedly stated to defeat that gentleman and his family of the use of that helicopter, it's grandfathered. So let's move beyond that and deal with the real issue and that is balancing our family and the public safety versus what may simply be entertainment or convenience of a few. Thank you.

Steve Miller, Resident
11016 Maple Lane

Owns a house here on the lake and I don't have a big speech today, but I do have some concerns, I did buy on this lake. My house apparently is about 27 feet off the water. It was 35 to 40 feet when I first moved in but now we have significantly higher lake out there, I use to have 18 feet in front of my house at the end of summer where along the shore where the little fish come up and we had rocks and some sand an all of that and that since has gone away we typically maintain about 6 or 8 inches of water on our bulkhead so I have some concern cause I actually helped them put in the weir or clean the outlet stream originally for the weir and in my opinion that has been a total failure. We were told upfront that was going to maintain a certain level. Well it definitely has not been able to do that.

So I have some concerns again about all these different rules that we're proposing. That again they will not actually fix what problem you are looking for the fish or whatever types of issues you are concerned with. My particular house is not only close to the lake but I have road right behind the house. So again I would be one of these homeowners that I want to sell the house, anybody looking at some potential regulations they will be looking at absolutely nothing that they can do. And it will definitely bring down the value of my property.

We've tried a lot of different things out here on the lake. You got the aerator out there, hasn't been turned on and why this year or what time it's suppose to be turned on. My understanding is that when once they got rid of one of the city dumps or the dump out there it was actually cleaning itself and everything was kind of going on.

I just think that sometimes I purchased on this lake I love the activity on the lake. I don't want to see any of it diminished the boats, the activity, the crew, the water skiing all that. So I am like

this other gentleman you really have to take this and let's listen to what Kevin St John has said. Get on board with the Council and let's make this all a place that we can enjoy and our kids can enjoy for many years. Thank you.

Nancy Mitchell, Resident
1015 Stitch Road

I think you need a female voice. I am Nancy Mitchell and I live at 1015 Stitch Road, (tape change) my stretch of the lake, what I can't understand is when we put in the new bulkhead and did the dock we followed the permits that were required at that time. And now I feel I am being punished because I still live there, unfortunately. Pull this back because now you are telling me that when my bulkhead falls in I have to go back how many feet into my property which is up pretty high. I share a dock so that with my neighbors so we only take up half of the surface of the lake. We've tried to be good citizens for (not audible by transcriber) the lake and I really feel that I am being told what is the point I can't do anything to repair. That's my thoughts.

Cliff Call, Resident
625 Stitch Road

Been there since 1989 and would like to reiterate many of the things that have already been said before. But my biggest concern is this arbitrary setback number – 60 % of the current homes are not meeting the current setback. It seems to me that it really has nothing to do with the shoreline. And we have some very strange things written into the shoreline management protecting neighbors and things like that which I believe in terms of setbacks which I believe should really be written more into city codes, building codes, as opposed to a shoreline management act which is going to be looked by Fish & Wildlife and Department of Ecology in terms of permitting and things such as that.

I also would like to reiterate that my home probably depending on what your definition of this high water mark is. If it's the high water mark that was in existence when I bought the house in 1989 I would probably meet that 65 foot but with the weir you have probably raised the water level at least 2.5 feet right now. I have pictures to prove it. And I think this arbitrary number if nothing else this 65 foot thing should be abandoned and existing homes should be allowed to stay where they are with no penalties in the future being non-conforming properties. For a lot of the same reasons you are going to end up with properties that cannot be maintained, if people lose interest in maintaining them, so you're going to have both houses falling down because nobody is interested in buying them. You are also going to find that when you have docks falling into the water, people getting upset about and just let them sit there.

I think we need some common sense in this plan I think several people have already spoken have brought some of the things that we do need to think about. My primary concern is I think that houses that are on the lake now should all be deemed conforming. I'll leave it at that.

Gigi Burke, Resident
920 E Lakeshore Drive

I don't want to be redundant tonight cause you've already heard some of my concerns and I've shared the same concerns as several of people here tonight about property owners rights to improve existing docks and bulkheads and our property. Kevin St John and a couple other people already articulated. We want to help. We want to be a part of the solution and that's exactly why a few of us have talked to private planners and attorneys not to create an

adversarial situation but to try to come up with solutions where people that are going forward and helping other cities with same problems because we are not experts. We are property owners concerned about our rights and our property. And we probably as much as you and others want the lake to be healthy as it possibly can and want to be here for a long time. We want future families to be in our homes for a long time, but we just hope you'll work with us to find the right solution which is going to set for all of us.

And so one thing I want to make a clear point tonight is I hope you will take the time I know that there is a deadline at the end of the year for complete implementation and you have a deadline of August. But I would just encourage you to take the time that is necessary to make sure that it's the right thing for all of us for the next 20 years. Thank you.

***Rich Mietzner, Resident
10404 Sandy Beach Drive***

Lot of this is presented. Regarding the bulkhead I just don't understand about 18 or 20 months ago when that Maker's guy was here in this room they talked about the opportunity for people to soften the edges, a different approach for repair/replacement of bulkheads. I think that kind of got thrown out somehow to where they're kinda requiring now to put language in there to be allowed to replace up to 50% of your bulkhead within a five year period. I don't know of anybody who does that. I just have a question as how can the replacement of bulkhead landward of the existing bulkhead be a net impact on the shoreline environment and isn't that activity simply a replacement for like for like which would result in a net equal condition on the lake. Karen what do you think about that? Or Becky? Planning Director Ableman responded the bulkhead regulations in there are straight from the State law because the State requires that.

Mr. Mietzner continued I heard through the grapevine, I don't know if it's true, but that Anacortes allow bulkhead replacement. No net loss is the goal, I just don't understand with 80% of the shoreline being hard with rocks or bulkheads that people would have to be required to soften the edge with trees and stumps and boulders. I don't know if anybody has done like a wave analysis (not audible by transcriber) of the shoreline lake, kind of pounding itself with waves coming from and think people will start to take those out, could have a negative impact and we could wash away our little beach. So anyway I had that.

And then the setbacks, I heard you were talking about this with somebody could rebuild their house and that's if there was damage or fire or whatever but I also heard and saw out there providing it was to the CAR. CAR is the critical area regulations setback. And I think that's up there Karen, could you pull that up. So then in my mind then it has to be 60 feet. Planning Director commented – no the SMP has its own non-conforming so the CAR non-conforming will not apply once the shoreline is adopted. Mietzner – so the house is 25-35 feet from the neighbors where they could rebuild that house. Ms Ableman – in the same footprint. Mietzner – in the same footprint.

To really quickly sum it up. The simple thing is that in the first 30 feet that was 4 feet dock width, if it was grated. What's the difference with if its 4 foot or 6 foot or 8 foot if that's existing if it was grated cause light was going through it. So something to consider, but thank you. I know there was a lot of hard work by everyone and thank you very much.

***Kevin Mulvaney, Resident
617 Stinch Road***

Since that shoreline management thing especially the changing of the docks grating and all that kind of stuff has to do with the fish and the environment and the biggest one out there is the (not audible by transcriber) and the fish in the lake or dive in the lake. To me the lake seems like a pretty big puddle. It's groundwater fed and (not audible by transcriber) I don't see any rivers coming in and out that the fish could be going up and down so it seems like you know as a constituent if you're rather than taking whatever the Fish & Wildlife say it seems like you should be trying to prove that the fish are in there that actually need protection. It's not the same as Lake Washington or that kind of stuff and one size fits all and taking something that they say is an endangered species and basically making everybody suffer for something that may or may not be there without some proof to us. It seems wrong to me.

The only other issue I have was most of the lake, I am not sure of exactly the square footage but how much of the lake was part of the County rather than the City. And you know I don't remember ever getting any notice that this was going on 2½ years ago. It's disappointing to me that now it's basically already written.

I talked to people that are very involved from a homeowners point of view with the Sammamish shoreline management plan and they have been working on this as homeowners for three years already. And that we have just now gotten the notice saying that it's done and we have to be done by August otherwise we have to pay \$60,000 back. And it's not a very good excuse.

I think you guys have responsibility to us to prove that there is Coho out there. That's my point view. Thank you.

Cory Burke, Resident
920 E Lakeshore Drive

I have spoken before. I think you guys know my comments from the past meetings. I just have a couple of questions. The dock length to meet 5.5 feet of water depth again is that ordinary high watermark? What determines that and if it fluctuates does the dock now become non-compliant? As I know again ours is as everybody has spoken it's a lot higher than it used to be so what complies today may or may not in future times. I am curious what determines that.

Then also this 30 feet from shoreline grated 4 feet wide dock etc. How is that affected by water depth? Some places on the lake, 30 feet out is 2 feet deep and some places on the lake 30 feet out is 20 feet deep. Do the fish know where 30 feet is or is it more light transmission and depth of water and who did the study that determined that 30 feet was this magic number. Again I am wondering if the State has taken what worked over here and slapped it on Lake Stevens to save some time and money. If we are not all going down this path, we're all going to have these docks with grating 4 feet wide for 30 feet and we're going to have to determine that it should have been 60 feet or should have actually been 10 feet back not a certain feet out. I am just curious what studies support this and if you guys have asked that question (not audible by transcriber).

And then last week on the replacement, the 6 months application and the 2 years. I think you have to have some time period in there for maybe a stipulation sometimes. Six months is not enough time to get the insurance company to write you a check. Depending upon if you're contesting the amount on something like that so this maybe this stipulations that says you can prove you've made attempts to get what you need that sometimes you guys can work with that to give people additional time when they're making an attempt. I just don't believe that you

should be punished for this xyz insurance company hasn't gotten out to their property or hasn't settled with them. Just an option. Thank you.

Steve Hobbs, Resident
3309 114th Drive NE

I don't own a dock. I grew up here. I am your State Senator. I want everyone to know the City Council and Mayor are excellent. They will listen to you, they always have. (not audible by transcriber) with the people. Eric Ashley, my legislative aide, that's in here and he's taking all the notes and I am hoping that we can be of assistance to you, the citizens of Lake Stevens. I am coming here because obviously I want to hear your concerns. And I am also curious about Coho salmon because I've lived here all my life and I've never caught one (not audible by transcriber) I have never seen. Eric is going to get the information. Again I am going to assist you in any way. What this means perhaps introducing some kind of legislation I am sorry the State is doing this but as you know there has to be some kind of plans some kind of growth management plan that we can put out there for shoreline management. We don't want to make it onerous (not audible by transcriber) and I'm going to help out any way that I can. Thank you.

Roger Jobs, Resident
10918 Vernon Road

I guess (not audible by transcriber) I can remember when the water matched my existing bulkhead at the top and my dock was under water every year. So some of the shoreline water heights, there's been lots of water. By way of example, I have commercial property where I had to deal with the State, Fisheries, all the shoreline management people in another County. All I can say is the best thing I heard here tonight was the City Council asking about having an expert be it an attorney or some consultant to go through all of this before you make a decision. I was fully approved for my project, other than for Fisheries just (not audible by transcriber) was one hundred foot setback, which was the required amount. And Fisheries stuck another 10 feet on the north side of the creek in order to provide shade which they didn't require me to put anything on it. I just lost 10 feet of my property times 400. The things that are in those huge documents can definitely affect value, usability, and salability.

Rose Granda, Resident
12011 N. Lakeshore Drive

I am just curious how is the City proposing to maintain its own lakeside properties? Are you planning on conforming to all these regulations yourself? Are you going to downsize all your docks to the 3 or 4 feet for the first 30 feet with the grated material? Your beach down here by the City beach out where the old Police Station used to be and the dock part of its rotting. Are you going to hire an employee to go around the lake and manage these docks and floating dock and buoys and tied off row boats? Are we going to have to have another wage that we are going to be paying City employees to go out and be checking all these things? How are you going to know and remember and document what is really out there because each dock has such different things added to it including their own. We have some of the largest floating docks, you have the largest docks. I am just curious – are you going to be accountable to the same standards? For yourself and what is that going to do to your public properties? And who is going to manage this?

With the potential for taxes and money I can see potentially costing me as a homeowner; it scares me. I stand behind everybody here and would reiterate what everyone said and it would

be just redundant. I would certainly encourage getting a hold of some of the experts and taking their advise with at least just be willing to listen to it.

***Paul Olliges, Resident
824 E Lakeshore Drive***

I just wanted to make a few comments. Purchased our house 14 years ago. It has a dock that is 8 feet by 120; it has a full concrete bulkhead across the 100 feet of waterfront. It has structure within 10 feet of the waterfront. It has a fire pit out there also. Please come out, you guys are welcome to look at the property and figure out how deep it is at the end of the dock – it's about 5 five depending on what level the water is. You can come out and check out fish life underneath my dock also. It's open for you come out and do this study that needs to done to figure out what will help the lake.

Living on the lake 15 years with aeration system within, prior to the aeration system I saw very few fish around the front of my dock. After the aeration system went in I saw a lot of small fish swimming around the dock. In my opinion that's a strong impact to help the lake to grow. Let's figure out things that will help the lake improve; let's understand what the structures are on the lake.

We have talked about the houses that are close to the waterfront. Let's understand the bulkheads, the dock, all the existing structures that are there. As a property owner I want to make sure I can repair the property that I own. I don't want to be burdened by additional costs that I can't afford. Thank you for your time.

***Julia McCord, Resident
9827 N Davies Road***

I have lived there from the first day of my life. I don't normally say anything but since our Senator is here I feel that I need to get this off my chest. This act is focused on the shoreline and what I can't understand is how I look around the lake as a big giant holding basin, drainage basin, like all the contractors are putting in. And what I can't understand is why the State, I mean I understand we have to have guidelines, but they think, they are barking up the wrong tree. Wouldn't it be better instead of spending all the money on this type of thing putting in sewers, we still have people living on the lake that are on septic. So changing your dock is that really going to help the fish. We sure want to look at a bigger picture and stop some of toxic waste that's coming into this lake. And I just want to throw that out. I just think the State is not looking at the big picture, but anyway I just wanted to throw that out. Thank you.

***Tim McCord, Resident
9827 N. Davies Road***

Just a couple things. My personal experience says having this grating on the docks is based on, from my understanding, on marine requirements and not freshwater requirements. That's what's been going on, I maybe wrong, but something that I read in some of the documents.

The next issue I have is that dock repair, I don't know about the rest of you people, but I can't wait for my dock to get 50% damaged to replace it. I pay enough liability insurance as it is, so I replace my dock as it seems fit, when it needs to be repaired or replaced, part of it needs to be repaired, so my dock will never reach 50% damage.

When they talk about restoration of shorelands, what are they basing that on? What year are they basing that on? In the 1900's from my readings of the surveys done of Lake Stevens, the water levels were much lower. People probably would not need bulkheads right now if the water level was as it was back in the 1900. There are requirements for restoration based on what year, what did the lake look like, what are they trying to achieve. Some of these issues would not even be coming up if they were stating what the requirements are. Why do these requirements seem to be arbitrary and based on other entities rather than what's going on here in our neighborhood. Thank you.

DRAFT

CITY OF LAKE STEVENS
Lake Stevens, Washington
ORDINANCE NO. 856

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON APPROVING THE PROPOSED CITY OF LAKE STEVENS 2011 SHORELINE MASTER PROGRAM AND THE ACCOMPANYING ENVIRONMENT DESIGNATIONS, GOALS AND POLICIES, REGULATIONS, CUMULATIVE IMPACTS ANALYSIS, RESTORATION PLAN, AND NO NET LOSS REPORT SUMMARY UNDER THE PROCEDURES SET FORTH IN CHAPTER 90.58 RCW; AMENDING THE FOLLOWING CHAPTERS OF THE LAKE STEVENS MUNICIPAL CODE TO BE CONSISTENT WITH THE 2011 SHORELINE MASTER PROGRAM: CHAPTER 14.16C LSMC “LAND USE ACTIONS, PERMITS AND DETERMINATIONS – DECISION CRITERIA AND STANDARDS” BY AMENDING SECTION 14.16C.100, CHAPTER 14.40 LSMC “PERMISSIBLE USES” BY AMENDING TABLE 14.40-I USE DESCRIPTIONS, CHAPTER 14.44 LSMC “SUPPLEMENTARY USE REGULATIONS” BY AMENDING SECTIONS 14.44.070 AND 14.44.074, CHAPTER 14.48 LSMC “DENSITY AND DIMENSIONAL REGULATIONS” BY AMENDING SECTION 14.48.040, AND CHAPTER 14.76 LSMC “SCREENING AND TREES” BY AMENDING SECTION 14.76.090; AMENDING THE COMPREHENSIVE PLAN, ORDINANCES NO. 726 AND 739, AS AMENDED, BY APPROVING THE TEXT AMENDMENTS TO CHAPTER 10 “CRITICAL AREAS PROTECTION”; AND DIRECTING THAT THE APPLICABLE SHORELINE MASTER PROGRAM UPDATE MATERIALS BE PROVIDED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR ITS REVIEW.

WHEREAS, the Washington Shoreline Management Act (Chapter 90.58 RCW, (“SMA” or the “Shoreline Management Act”) recognizes that shorelines are among the most valuable and fragile resources of the State, and that State and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, the City of Lake Stevens (“City”) is required to update its Shoreline Master Program (“SMP” or “Shoreline Master Program”), [adopted in 1974](#), pursuant to the Shoreline Management Act and Chapter 173-26 WAC; and

WHEREAS, the City is updating its Shoreline Master Program under a two year grant (No. G1000027) from the Washington State Department of Ecology (“Ecology” or the “Department of Ecology”) to complete a comprehensive shoreline master program update ([LS2009-11](#)); and

WHEREAS, the Department of Ecology is authorized under the Shoreline Management Act to approve, deny or propose modifications to the City’s SMP; and

WHEREAS, Lake Stevens is classified as a unique shoreline by the State due to its size of 1,014 acres, and is known as a Shoreline of Statewide Significance; and

WHEREAS, the areas under State shoreline jurisdiction include, in general, the area around and within 200 feet of the shoreline of Lake Stevens, the shorelines of Catherine Creek and Little Pilchuck

Creek where the creeks run at least 20 cubic feet per second, and three associated wetland complexes, Stevens Creek, Lundeen Creek and Stitch Lake; and

WHEREAS, the Growth Management Act allows jurisdictions to amend comprehensive plans once a year, except in those situations enumerated in RCW 36.70A.130(2)(a); and

WHEREAS, RCW 36.70A.130(2)(a)(iii) allows jurisdictions to amend the comprehensive plan concurrently with the adoption or amendment of a shoreline master program under Chapter 90.58 RCW; and

WHEREAS, the Comprehensive Plan amendment includes one City Initiated Text Amendment, which proposes to amend Chapter 10, "Critical Areas Protection" section to update the information based on updates to the Shoreline Management Act and Shoreline Master Program; and

WHEREAS, the City has engaged in extensive public participation with respect to the Shoreline Master Program Update preceding the Local Adoption Process, including but not limited to the following: a Shoreline Citizens Advisory Committee, ~~four~~three public open houses, four briefings to Planning Commission, four briefings to City Council, e-mails to interested parties, postcard notices to shoreline property owners, published notices in the local newspapers, and meetings with residents and developers, as requested; and

WHEREAS, on April 19, 2011, the City issued a Final Draft Cumulative Analysis for City of Lake Stevens Shorelines, an inventory and characterization of the City's shorelines to assess ecological functions and ecosystem-wide processes operating within the City's shoreline jurisdiction and to serve as a baseline from which future development actions in the shoreline jurisdiction will be measured; and

WHEREAS, on April 19, 2011, the City issued a Final Draft 2011 Shoreline Master Program, including goals and policies, environmental designations for areas within the City and in the Urban Growth Area, and regulations, and replacing the previously adopted 1974 Shoreline Master Program; and

WHEREAS, on April 19, 2011, the City issued a Final Draft Shoreline Restoration Plan for the City of Lake Stevens ~~Shorelines~~shorelines, listing restoration goals and objectives and discussing existing or potential programs and projects that positively impact the shoreline environment; and

WHEREAS, a No Net Loss Report confirms the goals, policies and regulations of the 2011 Shoreline Master Program with mitigation for impacts pursuant to the Restoration Plan will result in "no net loss" in shoreline ecological function relative to the baseline due to its implementation and will ultimately produce a net improvement in shoreline ecological function; and

WHEREAS, the City is concurrently adopting the 2011 Shoreline Master Program with associated code amendments and; comprehensive plan amendments ~~and updated shoreline permit fees~~; and

WHEREAS, the adoption of code amendments and comprehensive plan amendments for sections relating to shoreline areas is necessary to retain consistency between the Lake Stevens Municipal Code, the GMA Comprehensive Plan and the Shoreline Master Program; and

WHEREAS, on _____, April 15, 2011, the City issued a State Environmental Policy Act (SEPA) Determination of Non-Significance for the adoption of the Shoreline Master Program and related code amendments and comprehensive plan amendments and published the notice in the _____; Everett Herald; and

WHEREAS, in taking the actions set forth in this ordinance, the City has complied with the requirements of the State Environmental Policy Act, Chapter 43.21C RCW; and

WHEREAS, the City submitted the proposed comprehensive plan amendments and code amendments related to the 2011 Shoreline Master Program to the Washington State Department of Commerce on April 5, 2011 for its 60-day review and received documentation of completion of the procedural requirement on June 1, 2011; and

WHEREAS, the Lake Stevens Planning Commission, after review of the proposed comprehensive plan amendments, code amendments and 2011 Shoreline Master Program, held duly noticed public hearings on May 4 and 18, 2011, and all public testimony was given full consideration before a recommendation was made to the City Council; and

WHEREAS, on May 23, and June 13 and July 11, and 2011, the Lake Stevens City Council reviewed the Planning Commission's recommendation relating to the proposed 2011 Shoreline Master Program and associated comprehensive plan amendments and code amendments and held duly noticed public hearings, and all public testimony has been given full consideration.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DO ORDAIN AS FOLLOWS:

Section 1. Conclusions. The City Council hereby concludes the following with regard to the 2011 Shoreline Master Program adopted and approved in this ordinance:

- A. Implementation of the 2011 Shoreline Master Program will result in "no net loss" in shoreline ecological function relative to the established baseline and will ultimately produce a net improvement in shoreline ecological function; and
- B. The 2011 Shoreline Master Program is consistent with and meets the State Shoreline Guidelines established under Chapter 173-26 WAC; and
- C. The 2011 Shoreline Master Program is consistent with and implements the Shoreline Management Act (Chapter 90.58 RCW) and the Growth Management Act (Chapter 36.70A RCW).

Section 2. With regard to the amendment criteria in the Comprehensive Plan, the City Council hereby finds that the City Initiated Text Amendment for Chapter 10:

1. Is consistent with the Growth Management Act and other applicable State laws;
2. Is consistent with the applicable County-wide Planning Policies;
3. Not in conflict with the Community Vision or other goals, policies, and provisions of the Comprehensive Plan;
4. Can be accommodated by all applicable public services and facilities, including transportation;
5. Will change the development or use potential of a site or area without creating significant adverse impacts on existing sensitive land uses, businesses, or residents;
6. Will result in long-term benefits to the community as a whole, and is in the best interest of the community.

Section 23. The City of Lake Stevens 2011 Shoreline Master Program, associated documents, and Comprehensive Plan Amendments as set forth in the following **Exhibits 1 through 5** (attached to this ordinance and incorporated by reference) are hereby approved adopted and replacing the 1974 Shoreline Master Program:

1. Exhibit 1 -- 2011 Shoreline Master Program including the Shoreline Environment Designation Map (Appendix A) and the Critical Areas Regulations Within Shoreline Jurisdiction (Appendix B).
2. Exhibit 2 -- Cumulative Impacts Analysis for City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek.
3. Exhibit 3 -- The Shoreline Restoration Plan for City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek, and Little Pilchuck Creek.
4. Exhibit 4 -- No Net Loss Report Summary.
5. Exhibit 5 -- Comprehensive Plan Amendments to Chapter 10 "Critical Areas Protection."

Section 34. Ch. 14.16C LSMC is hereby amended by amending LSMC 14.16C.100 to read as follows:

14.16C.100 Shoreline Permits.

(a) This section describes the procedures and requirements for development within specified areas related to lakes, rivers, streams, wetlands, and floodplains, as required to implement the Shoreline Management Act, as amended, Chapter 90.58 RCW, and as consistent with Chapter 14.92. To ensure no net loss of shoreline ecological functions:

(1) All proposed land uses, modifications, development or new agricultural activities shall be designed and conducted to achieve no net loss of shoreline ecological functions as defined in WAC 173-26-201(3)(d)(i)(C).

(2) Project proponents shall make all reasonable efforts to avoid and minimize impacts to wetlands, fish and wildlife habitat conservation areas, and their buffers as required under the Shoreline Master Program.

(b) Permit Required. A substantial shoreline development permit is required for development that either materially interferes with the normal public use of the water or shorelines of the City or exceeds a total cost or fair market value of \$5,718, or \$10,000 for docks, and is located within the shorelines of the City as defined in Section 14.92.010 and RCW 90.58.030. The current shoreline areas are described below:

(1) Shoreline Areas. The shoreline areas are designated in the Shoreline Master Program and are generally described as:

(i) Lake Stevens, its underlying land, associated wetlands, and a line 200 feet landward at the line of ordinary high water (elevation 27 feet above sea

level) plus the area within the one percent numerical probability floodplain (100-year floodplain) as defined by the best available data.

(ii) Catherine Creek for approximately one mile south of Hartford Drive NE, the confluence the outflow from Lake Stevens, where the mean annual flow is 20.0 cubic feet per second or more, and the territory between 200 feet on either side of the tops of the banks, plus associated wetlands and the area within the one percent probability floodplain (100-year floodplain) as defined by the best possible data.

(iii) Little Pilchuck Creek north of the confluence with Catherine Creek on the eastern edge of the Urban Growth Area where the mean annual flow is 20.0 cubic feet per second or more, and the territory between 200 feet on either side of the tops of the banks, plus associated wetlands and the area within the one percent probability floodplain (100-year floodplain) as defined by the best possible data.

(iv) Associated wetlands including areas along Stevens Creek, Lundeen Creek and Stitch Lake, which influence or are influenced by a lake or stream subject to the Shoreline Management Act.

(2) Adjacent Areas. Those parcels of land adjacent to the shoreline areas involving projects and developments that overlap into the shoreline areas.

(c) Exemptions. The following types of developments are exempt from the requirements of a shoreline substantial development permit but shall obtain a shoreline exemption under subsection (d)(1) of this section and comply with all other policies, plans, codes and regulations of the City and shall be consistent with the policy and intent of the Shoreline Management Act of 1971 and of this chapter and with the City's Shoreline Master Program:

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

(2) Construction of the normal protective bulkhead common to single-family residences.

(3) Emergency construction necessary to protect property from damage from the elements.

(4) Construction or modification of navigational aids such as markers and anchor buoys.

(5) Construction by a owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state agency or City government having jurisdiction, other than requirements imposed pursuant to Chapter 90.58 RCW and this title.

(6) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contractor purchaser of single- and multiple-family residences, when the fair market value of the dock does not exceed \$10,000, but if subsequent construction having a fair market value exceeding \$2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this section.

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

(8) The marking of property lines or corners on State-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

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

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

(i) The activity does not interfere with the normal public use of the surface waters;

(ii) The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(iii) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(v) The activity is not subject to the permit requirements of RCW 90.58.550.

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

(d) Procedures.

(1) Applications for a shoreline exemption shall follow the procedures for a Type I review pursuant to Chapter 14.16B.

(2) Applications for a shoreline substantial development permit shall follow the procedures for a Type II review pursuant to Chapter 14.16B.

(3) Applications for a shoreline conditional use permit shall follow the procedures for a Type III review pursuant to Chapter 14.16B.

(4) Applications for a shoreline variance shall follow the procedures for a Type III review pursuant to Chapter 14.16B.

(5) Special Requirements. No final action or construction shall be taken until 21 days after notice of the final action taken by the City is filed with the Department of Ecology.

(e) Decision Criteria. All applications, including exemptions, shall comply with WAC 173-27-140.

(1) Shoreline Exemption. Types of developments outlined in subsection (c) of this section are exempt from the requirements of a shoreline substantial development permit but shall comply with all other policies, plans, codes and regulations of the City.

(2) Shoreline Substantial Development Permit. Shoreline substantial development permit applications shall be reviewed pursuant to WAC 173-27-150 and the following shoreline policies:

(i) A permit shall be granted only when the proposed development is consistent with the Lake Stevens Shoreline Master Program.

(ii) A permit shall be granted only when the proposed development is consistent with the policy of RCW 90.58.020.

(iii) Surface drilling for oil and gas is prohibited in the waters of Lake Stevens from on all lands within 1,000 feet landward from the ordinary high water mark.

(iv) A permit shall be denied if the proposed development is not consistent with the above enumerated policies.

(v) The granting of any shoreline development permit by the City shall be subject to the conditions imposed by the Shoreline Hearings Board.

(3) Shoreline Conditional Use Permit. Uses which are not classified or set forth in the Shoreline Master Program or use regulations may be allowed, provided the applicant can demonstrate that they meet the criteria outlined in WAC 173-27-160.

(4) Shoreline Variance. Relief may be granted from specific provisions of the Shoreline Master Program or shoreline use regulations, provided the applicant can demonstrate that the variance will meet the criteria outlined in WAC173-27-170.

(f) Development Standards in Flood-prone Areas. Development of shoreline modification or shoreline uses in flood-prone areas identified by FEMA on the Flood Rate Insurance Map shall comply with adopted floodplain regulations.

Section 45. Ch. 14.40 L SMC is hereby amended by amending Table 14.40-I Use Descriptions 6.400, 6.500, 6.600 and adding Use Descriptions 6.700 and 6.800 as shown on attached incorporated **Exhibit A**, and by adding the following footnotes to said sections:

- ¹⁴ These structures are regulated by the Shoreline Master Program and Title 14 LSMC.
- ¹⁵ Allowed structures are jet-ski personal watercraft lifts, boatlifts, and fabric boatlift canopies. Temporary inflatable recreational equipment is allowed between May 1 and September 30. New recreational floats and swimming platforms are prohibited.
- ¹⁶ Accessory uses in support of boating facilities may include fuel docks and storage, boating equipment sales and rental, wash-down facilities, fish cleaning stations, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.

Section 56. Ch. 14.44 L SMC is hereby amended by amending L SMC 14.44.070 to read as follows:

14.44.070 Float Plane and Helicopter Facilities~~((Uses Within Commercial Recreational Districts to Be Compatible with Regional Recreation Facilities)).~~

((Repealed by Ord. 811.))Float plane and helicopter facilities for private use shall comply with the following guidelines:

(a) Location. Float planes are a water-dependent use and may use an existing, legally conforming dock or pier for moorage or a new dock, if no dock exists on the property, pursuant to subsection 14.44.074(c). Helicopters are not a water-dependent use, but may use an existing dock or pier for landing.

(b) Only one float plane or helicopter is allowed per lot.

(c) Float planes shall observe the watercraft operation requirements pursuant to Chapter 10.20, except for the speeds necessary for a short duration during landing and takeoff.

(d) Float plane and helicopter operations shall comply with Federal Aviation Administration standards Regulations (FARS).

Section 67. Ch. 14.44 L SMC is hereby amended by amending L SMC 14.44.074 to read as follows:

14.44.074 Over- and In-Water Structures (Docks, Boathouses, Boat Shelters, Etc.).

(a) It is unlawful to erect or construct any building or structure, except for docks, outward from the shores of Lake Stevens. This section shall not prohibit the construction or maintenance of docks, or maintenance of existing boathouses or boat shelters built upon piling, or floating docks, provided the same have been constructed or maintained in accordance with a lawful permit or have legal nonconforming status.

(b) All existing, legally conforming private piers or docks shall meet the following standards:

(1) Replacement of pier or dock, or up to 50 percent or ~~more-less~~ of the pier-support piles, can be replaced up to 100 percent of the square footage of the existing pier or dock. Areas greater than six feet wide must use grated decking with a minimum open space of 40 percent and ambient light transmission of 60 percent for the entire portion of the dock wider than six feet.

(2) Piles. New piles shall be either steel, PVC, or untreated wood, and shall be spaced a minimum of 12 feet apart, except when shown not to be feasible for site-specific engineering or design considerations. ~~Pilings shall not be maintained by placing PVC pipe around old pilings and filling with concrete as this increases the footprint of the pilings and the impact on the lake substrate.~~

(3) Additions. Additions may be permitted up to the size allowed for new piers in subsection (c) below. If proposed additions would exceed the maximums for new docks, the addition may be proposed under a shoreline variance.

(4) Single-family residences with more than one dock, must remove one of the docks as a condition of repair or replacement of a dock. The remaining dock may be improved to the same dimensions as either existing dock.

(5) Repair. Repairs of less than 50 percent of the existing pier-support piles require the decking to be removed in order to replace the piles on areas wider than six feet to be replaced with grated decking as per subsection (b)(1) above. Replacement piles must meet the requirements in subsection (b)(2) above.

(c) All new private docks shall meet the following standards:

(1) Maximum Length. No permit may be issued for a new private dock that extends beyond the average of ~~((an imaginary line drawn between))~~ the two most adjacent legally existing docks within 300 feet on either side of the proposed dock. If no legal docks exist within 300 feet of either side of the proposed dock, then the maximum length of the dock is the minimum necessary to reach a five and a half foot water depth below the ordinary high water mark ~~((shall be 50 feet))~~. The maximum length of ells, fingers and floats is 20 feet.

(2) Maximum Width. The maximum width of a dock walkway is four feet for the first 30 feet from shore and up to six feet for portions of walkways extending more than 30 feet from the shore. The maximum width of piers and floats is six feet. Additional fingers may be no wider than two feet. The maximum width of a ramp connecting a dock to a float is four feet.

~~(32)~~ Maximum Height of Decking. The maximum height of private docks shall be three feet~~((30 inches))~~ above the ~~mean-ordinary~~ high water mark.

~~(43)~~ Maximum Height of Hand Railings. The maximum height of hand railings on private docks shall be 36 inches.

~~(54)~~ Minimum Side Yard Requirements. See Section 14.48.040 (Building Setback Requirements).

(6) Decking Materials. At a minimum, the first 30 feet of decking shall be fully grated with a minimum open space of 40 percent and 60 percent ambient light transmission.

(7) Piles. Piles shall be either steel, PVC, or untreated wood and shall be spaced a minimum of 12 feet apart, except when shown not to be feasible for site-specific engineering or design considerations.

~~(de)~~ All public and commercial docks shall meet the following standards:

(1) Maximum Length. No permit may be issued for a public dock that extends beyond the shore more than 200~~((450))~~ feet.

(2) Maximum Width. The maximum width of a public or commercial dock is 12 feet in width.

~~(23)~~ Maximum Height of Decking. The maximum height of private docks shall be three feet~~((30 inches))~~ above the ~~mean-ordinary~~ high water mark.

~~(34)~~ Maximum Height of Hand Railings. The maximum height of hand railings on public docks shall be 42 inches.

~~(45)~~ Minimum Side Yard Requirements. See Section 14.48.040 (Building Setback Requirements).

(56) Existing public and commercial docks may be repaired and/or replaced in the same location as the existing structure.

(67) Decking Materials. At a minimum, the first 30 feet of decking shall be fully grated with a minimum open space of 40 percent and 60 percent ambient light transmission.

(78) P iles. P iles shall be ei ther steel, PVC, or untreated wood and s hall be spaced a minimum of 12 feet apart, except when shown not to be feasible for site-specific engineering or design considerations.

(89) New floating piers may be allowed in the first 30 feet from shore if it is shown to be necessary to support the launching of small watercraft.

Section 78. Ch. 14.48 LSMC is hereby amended by amending LSMC 14.48.040 to read as follows:

14.48.040 Building Setback Requirements.

(a) Table 14.48-I sets forth the minimum building and freestanding signs setbacks required from lot lines, ultimate street rights-of-way and street centerlines.

(1) If the ultimate street right-of-way line is readily determinable (by reference to the Comprehensive Plan Transportation Plan, a recorded map, set irons, a doped plan, or other means), the setback shall be measured from the ultimate right-of-way line. If it is not so determinable, the setback shall be measured from the actual street centerline.

(2) As used in this section, the term “lot boundary line” refers to all easements and lot boundaries other than those that abut streets. Setbacks from access easements and access tracts are considered lot boundary line setbacks.

(3) As used in this section, the term “building” includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. It also includes any element that is substantially a part of the building, such as eaves, bay windows and chimneys, and not a mere appendage, such as a flagpole. Without limiting the generality of the foregoing, for the purpose of determining setbacks the following structures are to be considered buildings:

- (i) Gas pumps and overhead canopies or roofs;
- (ii) Fences and hedges taller than 42 inches.

(b) Whenever a lot in a residential district abuts a nonresidential district, and its required setback is greater than that of the nonresidential lot, the nonresidentially zoned lot shall observe the more restrictive setback. Where a lot zoned General or Light Industrial shares a boundary with a residentially zoned lot, the setback for the industrial property along that common boundary shall be 30 feet.

(c) In the High Urban Residential District, one five-foot interior side yard setback of a lot may be reduced to a zero feet for portions of the house that shares a common wall with the home on the adjacent lot. Portions of a house which do not share a common wall must be setback a minimum of five feet. The Fire and Building Codes have special building requirements which must be met when setbacks are less than five feet.

(d) All docks and other permissible overwater structures shall be set back a minimum of ~~10~~(20) feet from side property lines. For the purposes of this section each property line extending into the lake shall be extended at the same angle as the property line on shore~~((construed as extending perpendicular from the shore from the point at which they leave the shore))~~.

Section 89. Ch. 14.76 LSMC is hereby amended by adding a new subsection LSMC 14.76.090 “Screening Requirements in Shoreline Areas” to read as follows:

14.76.090 Screening Requirements in Shoreline Areas.

(a) Parking areas within shoreline jurisdiction shall require a Type B screen using native species between the parking and the lake or stream in addition to landscaping requirements required per this chapter.

(b) Public access areas should include landscaped elements to soften the view from the water of hard surfaces or structures.

(c) Commercial buildings shall include native vegetation to break up longer sections of walls facing the shoreline in addition to other landscaping requirements per this chapter.

Section 910. The City Planning Director or designee shall forward the appropriate Shoreline Master Program documents to the Washington State Department of Ecology, pursuant to local approval submittal requirements in WAC 173-26-110, for formal review and approval.

Section 110. Severability. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

Section 142. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force ~~on the later of five days after the date of publication, or following~~ approval of the updated Shoreline Master Program by the Washington State Department of Ecology.

PASSED by the City Council of the City of Lake Stevens this ___ day of _____, 2011.

Vern Little, Mayor

ATTEST/AUTHENTICATION:

Norma J. Scott, City Clerk/Admin Asst

APPROVED AS TO FORM:

Grant K. Weed, City Attorney

First Reading:
Published:
Effective Date:

<u>USE DESCRIPTIONS</u>	<u>SR</u>	<u>WR</u>	<u>UR</u>	<u>HUR</u>	<u>MFR</u>	<u>NC⁴</u>	<u>LB</u>	<u>CBD</u>	<u>MU¹</u>	<u>PBD⁵</u>	<u>SRC</u>	<u>LI</u>	<u>GI</u>	<u>P/SP</u>
6.400 Over-Water or In-Water Structures, Other Than Boathouses or Boat Shelters, Accessible From Shore ¹⁴														
6.410 Privately owned, used by owner(s) of property only		P					C							
6.415 Privately owned, used by public							<u>C</u>							
6.420 Publicly owned, used by public		A					C							A
6.500 Boathouses or Boat Shelters ¹⁴														
6.600 Over-Water or In-Water Structures, Other Than Boathouses or Boat Shelters, Inaccessible From Shore ^{14, 15}														
6.610 Privately owned, used by owner(s) of property only		<u>P</u>												
6.620 Publicly owned, used by public		A												A
6.700 Marina ¹⁴							<u>C</u>							
6.800 Accessory Uses to a Boating Facility ^{14, 16}							<u>C</u>							

Grant No. G100027
Ordinance No.

Lake Stevens 2011 Shoreline Master Program

FINAL DRAFT FOR LOCAL ADOPTION

April 27, 2011

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CHAPTER 1

Introduction to the SMP

A. What is the Shoreline Master Program?

The City of Lake Stevens Shoreline Master Program (SMP) is a planning document that outlines goals and policies for the shorelines of the City, and also establishes regulations for development occurring within shoreline jurisdiction.

1. Applicable Documents

The Shoreline Master Program includes the SMP and related documents. The following documents are considered part of the SMP:

- Shoreline Master Program (SMP);
- Shoreline Environment Designations Map (Appendix A); and
- Critical Areas Regulations for Shoreline Jurisdiction (Appendix B).

2. Related Documents

There are many documents adopted by the City of Lake Stevens that are not a part of the SMP, but should be consulted when developing or making a land use action within shoreline jurisdiction. The SMP is the document controlling properties within shoreline jurisdiction, however, more general development regulations on the overall project application process, drainage requirements, roads, etc., are found in the Lake Stevens Municipal Code or adopted plans, policies, or programs. If there is a difference between the SMP and a related document, the more restrictive requirements should be followed.

The following list of related documents is not exhaustive, but a guide to the users of the SMP.

- Cumulative Impacts Analysis for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek and Little Pilchuck Creek (The Watershed Company and Makers 2010)
- Shoreline Restoration Plan for the City of Lake Stevens Shorelines: Lake Stevens, Catherine Creek and Little Pilchuck Creek (The Watershed Company and Makers 2010)
- City of Lake Stevens Comprehensive Plan (Adopted July 2006, as amended)
- Title 14 of the Lake Stevens Municipal Code, in particular, the following topics:
 - Administration and Procedures
 - Types of Land Use Review

- Land Use Actions, Permits and Determinations – Decision Criteria and Standards
 - Density and Dimensional Regulations
 - Streets and Sidewalks
 - Utilities
 - Parking
 - Screening and Trees
 - Floodways, Floodplains, Drainage and Erosion
 - Signs
 - Building and Construction
 - Fire Code
- City’s Surface Water Management Program
 - City’s Stormwater Management Plan
 - National Flood Insurance Program and adopted Flood Insurance Rate Maps

B. History of the SMA

In 1969, the Washington State Supreme Court decided in the case of *Wilbur v. Gallagher* (77 Wn.2d 302), commonly known as the "Lake Chelan Case," that certain activities along shorelines were contrary to the public interest. The court findings required that the public interest be represented in the proper forum for determining the use of shoreline properties. The ramifications of this decision were significant in that developers, environmentalists, and other interested parties began to recognize—although probably for different reasons—the need for a comprehensive planning and regulatory program for shorelines.

Wilbur v. Gallagher was a case primarily involving property rights. It was decided at a time of heightened environmental awareness. At the same time, Congress was considering environmental legislation and subsequently passed a number of laws relating to protection of the environment including the National Environmental Policy Act (1969) and the Coastal Zone Management Act (1972). "Earth Day" and the concept of "spaceship earth" were part of the American scene. "Conservationists" had become "environmentalists" and some had even gone so far as to call themselves "ecologists." Whatever the name or concept, concern for fragile ecological areas became important, along with the rights associated with property ownership.

Voters of the state, seeing the failure of the Seacoast Management Bill in the state legislature, validated an initiative petition commonly titled the "Shoreline Protection Act." The state legislature, choosing between adoption of the people’s initiative petition or its own alternative, passed into law the "Shoreline Management Act of 1971" (SMA) effective June 1, 1971, which contained the provision for both statutes to be deferred to the electorate in the November 1972 election. The election issue required that voters respond to two questions: (1) Did they favor shoreline management? and (2) Which alternative management program did they prefer? Most Washington voters favored both shoreline management and the legislature's alternative (providing greater local control), by an approximately 2-to-1 margin. It is important to keep in mind that the SMA was a response

to a people's initiative and was ratified by the voters, giving the SMA a populist foundation as well as an environmental justification.

The SMA's paramount objectives are to protect and restore the valuable natural resources that shorelines represent and to plan for and foster all "reasonable and appropriate uses" that are dependent upon a waterfront location or that offer opportunities for the public to enjoy the state's shorelines. With this clear mandate, the SMA established a planning and regulatory program to be initiated at the local level under State guidance.

This cooperative effort balances local and state-wide interests in the management and development of shoreline areas by requiring local governments to plan (via shoreline master programs) and regulate (via permits) shoreline development within SMA jurisdiction. (See "Geographic Applications of the SMA" below.) Local government actions are monitored by the Washington Department of Ecology (Ecology), which approves new or amended shoreline master programs (SMPs), reviews substantial development permits, and approves conditional use permits and variances.

After the SMA's passage in 1971, Ecology adopted Chapter 173-18 WAC to serve as a standard for the implementation of the SMA and to provide direction to local governments and Ecology in preparing SMPs. Two hundred forty-seven cities and counties have prepared SMPs based on that WAC chapter. Over the years, local governments, with the help of Ecology, developed a set of practices and methodologies, the best of which were collected and described in the 1994 *Shoreline Management Guidebook*.

In 1995, the state legislature passed Engrossed Substitute House Bill 1724, which included several RCW amendments to better integrate the Growth Management Act (GMA), the Shoreline Management Act, and the State Environmental Policy Act (SEPA). The bill also directed Ecology to review and update the state SMA guidelines every five years. In response, Ecology undertook a primarily in-house process to prepare a new WAC chapter (also referred to in this *SMP* as the "Guidelines"). After meeting with a series of advisory committees and producing a number of informal drafts, Ecology formally proposed a new WAC rule for the SMA in April 1999. Subsequently, in 2003, the Legislature further clarified the integration of the SMA and GMA.

The rule was appealed and then-Governor Gary Locke and former Attorney General Christine Gregoire cosponsored a year-long mediation effort in 2002 that culminated in a third draft, which was issued for public comment in July 2002. That proposal had the endorsement of the Association of Washington Business, the Washington Aggregates & Concrete Association, the Washington Environmental Council (WEC) and other environmental organizations – all of whom were parties to the lawsuit.

Ecology received about 300 comments on the version proposed in 2003. Seventeen changes were made in response to those comments, to clarify language and to delete obsolete or duplicative references. The final version was adopted December 17, 2003.

The City adopted Snohomish County's Shoreline Master Program in 1974, and has not subsequently updated the document other than minor revisions to the administrative

provisions found separately in Chapter 14.92 (Shoreline Management) of the Lake Stevens Municipal Code (LSMC). The City's Comprehensive Plan (Critical Areas Element) contains a few shoreline goals and policies. Regulations applicable to critical areas which are located within shoreline jurisdiction underwent a comprehensive update in 2008, consistent with Growth Management Act requirements for use of "best available science." In those regulations, the City specified a stream shoreline buffer of 150 feet, applicable to Catherine Creek and Little Pilchuck Creek.

Most of the uses, developments, and activities regulated under the Critical Areas Regulations are also subject to the City's Comprehensive Plan, the Lake Stevens Municipal Code, the International Building Code, and various other provisions of City, state and federal laws. Any applicant must comply with all applicable laws prior to commencing any use, development, or activity. Lake Stevens will ensure consistency between the SMP and other City codes, plans and programs by reviewing each for consistency during periodic updates of the City's Comprehensive Plan as required by State statute.

C. Implementation of the SMA

RCW 90.58.020 clearly states how the Shoreline Management Act shall be implemented in the following statement:

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

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

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

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

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

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

In implementation of the SMP, the terms "shall," "must," and "are required" and the imperative voice, mean a mandate; the action is required; the term "should" means that the particular action is required unless there is a demonstrated, compelling reason, based on a policy of the Shoreline Management Act and this chapter, for not taking the action; and the

term "may" indicates that the action is within discretion and authority, provided it satisfies all other provisions in this chapter. (WAC 173-26-191(2))

D. Geographic Applications of the SMA

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the state plus their associated “shorelands.” At a minimum, the waterbodies designated as shorelines of the state are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. Shorelands are defined as:

“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, lakes, and tidal waters which are subject to the provisions of this chapter...Any county or city may determine that portion of a one-hundred-year-floodplain to be included in its SMP as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom... Any city or county may also include in its SMP land necessary for buffers for critical areas (RCW 90.58.030)”

In addition, rivers with a mean annual cfs of 1,000 or more are considered shorelines of statewide significance.

The lateral extent of the shoreline jurisdiction shall be determined for specific cases based on the location of the ordinary high water mark (OHWM), floodway, and presence of associated wetlands.

Lake Stevens is 1,014 acres, and is therefore included in a classification of unique shorelines known as Shorelines of Statewide Significance. The City’s shoreline planning area has grown extensively due to multiple annexations around Lake Stevens, and eastward to also encompass the shorelines of Catherine Creek and Little Pilchuck Creek. The 20 cfs cutoff point for Catherine Creek is located at Hartford Drive NE in the City limits. The 20 cfs cutoff point for Little Pilchuck Creek is some distance upstream of the City and the UGA, and wanders in and out of the UGA along the eastern City boundary. Careful consideration of the hydrologic associations of known wetlands around Lake Stevens also resulted in significant expansions of shoreline jurisdiction from what had previously been understood.

1. Applicable Area

The City of Lake Stevens and its Urban Growth Area (UGA) is located in Snohomish County, WA. The City is bordered nearly on all sides by unincorporated Snohomish County jurisdiction, with a small shared border with Marysville along the northwest portion of the City. The City of Everett is located generally west and the City of Snohomish is located to the south. All of Lake Stevens is in the City’s shoreline

jurisdiction, either in City limits or the UGA. Catherine Creek is likewise split between City limits and the UGA, while Little Pilchuck Creek is entirely within the UGA. The City encompasses approximately 9 square miles. The study area for this report includes all land currently within the City's proposed shoreline jurisdiction (Appendix A). The total area subject to the City's updated SMP, not including aquatic area, is approximately 362 acres (0.57 square mile), and encompasses approximately 9.2 miles of shoreline. (See Appendix A)

E. How the Shoreline Master Program is Used

The City of Lake Stevens Shoreline Master Program is a planning document that outlines goals and policies for the shorelines of the City, and also establishes regulations for development occurring within shoreline jurisdiction.

In order to preserve and enhance the shorelines of the City of Lake Stevens, it is important that all development proposals relating to the shoreline are evaluated in terms of the City's Shoreline Master Program, and the City Shoreline Administrator is consulted. The Shoreline Administrator for the City of Lake Stevens is the Planning Director or his/her designee.

The Shoreline Management Act (SMA) defines for local jurisdictions the content and goals that should be represented in the Shoreline Master Programs developed by each community; within these guidelines, it is left to each community to develop the specific regulations appropriate to that community. Pursuant to the Guidelines, shorelines of the state that meet the criteria established in WAC 173-26-211 are given a shoreline environment designation. The purpose of the shoreline designation system is to ensure that land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and that consideration is given to the special requirements of that environment.

The Lake Stevens Shoreline Master Program addresses a broad range of uses that could be proposed in the shoreline area. This breadth is intended to ensure that the Lake Stevens shoreline area is protected from activities and uses that, if unmonitored, could be developed inappropriately and could cause damage to the ecological system of the shoreline, displace "preferred uses" as identified in Chapter 90.58 RCW, or cause the degradation of shoreline aesthetic values. The Lake Stevens Shoreline Master Program provides the regulatory parameters within which development may occur. In addition, it identifies those uses deemed unacceptable within Lake Stevens shoreline jurisdiction, as well as those uses which may be considered through a discretionary permit such as a Conditional Use Permit or Shoreline Variance.

1. When Is a Permit Required?

A Shoreline Substantial Development Permit is required when a development or activity meets the definition of "substantial development" contained within Chapter 6 of this SMP. Substantial development is discussed in more detail in Section 7.C of

this SMP. A development or activity is exempt if it meets the criteria listed in WAC 173-27-040. Some development may require a Shoreline Conditional Use Permit, if listed as such in the Use Tables contained in Section 5.B of this SMP; or a Shoreline Variance. Shoreline Conditional Use Permits and Shoreline Variances are discussed in more detail in Sections 7.D and E, respectively. However, **ALL** new development, uses, and activities must comply with the policies and regulations set forth in the City of Lake Stevens Shoreline Master Program, including those developments, uses, and activities that are exempt from permits. Review under the State Environmental Policy Act (SEPA) may also be required.

“Development,” is defined by the Shoreline Management Act of 1971 as:

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

This definition indicates that the “development” regulated by the Shoreline Management Act includes not only those activities that most people recognize as “development,” but also those activities that citizens may do around their own home. While the impact of these potential “developments” may seem inconsequential at first, they may have unwanted and damaging effects on the river ecology, the property of others, and the shoreline aesthetics.

Projects that are identified as “developments,” but not “substantial developments,” do not require a Shoreline Substantial Development Permit; however, they must still comply with all applicable regulations in the City’s Shoreline Master Program, including Critical Areas Regulations. In addition, some developments may require a Shoreline Conditional Use Permit or Shoreline Variance from the Shoreline Master Program’s provisions, although they do not meet the definition of “substantial development.”

“Substantial development” is any “development” where the total cost or fair market value exceeds five thousand seven hundred eighteen dollars (\$5,718), or any development that materially interferes with the normal public use of the water or shoreline of the state. The five thousand seven hundred eighteen dollar (\$5,718) threshold will be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. A dock is not considered substantial development if the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development.

Under the Shoreline Management Act, some types of development are exempt from the requirement to apply for and receive a permit before beginning work per RCW 90.58.030(3)(e). A complete list of developments and uses that are not considered

“substantial development” is found in Chapter 6: Definitions under “substantial development.” WAC 173-27-090, identifying exemptions from a Shoreline Substantial Development Permit, is included at Section 7.C.2.

2. The Permit Process

The Shoreline Administrator can help determine if a project is classified as a substantial development, determine if a permit is necessary or if a project is exempt from permit requirements, and identify which regulations in the SMP may apply to the proposed project. The Administrator can also provide information on the permit application process and how the SMP process relates to, and can coordinate with, the State Environmental Policy Act (SEPA) process.

3. The Shoreline Permits

There are three types of permits: the Shoreline Substantial Development Permit, the Shoreline Conditional Use Permit, and the Shoreline Variance. All of these permits use the same application form; however, they are processed slightly differently and have different criteria for approval. Shoreline Exemptions require City review to determine whether the proposal is indeed exempt from shoreline permits, and whether the proposal meets the policies and regulations of the Shoreline Master Program. Requests for Shoreline Exemption are made on a separate application form.

Requests for a Shoreline Exemption and Shoreline Substantial Development Permit are reviewed by the Shoreline Administrator. Requests for a Shoreline Variance or Shoreline Conditional Use Permit require review by the City of Lake Stevens Hearing Examiner. There may be instances where a Shoreline Conditional Use Permit or Shoreline Variance may be approved without the need for a Shoreline Substantial Development Permit. The Hearing Examiner will hold a public hearing on the proposal and approve, approve with conditions, or deny the application. The Hearing Examiner’s decision is final, unless an appeal is filed pursuant to the procedures described in Section 7.C.4. Requests for Shoreline Conditional Use Permits and Shoreline Variances require final approval by DOE.

A map of the shoreline jurisdiction is presented in Appendix A and descriptions of the various shoreline designations are presented in Chapter 2 of this SMP.

4. Relationship of this Shoreline Master Program to Other Plans

In addition to compliance with the provisions of the Shoreline Management Act of 1971, the Lake Stevens Shoreline Master Program (SMP) must be mutually consistent with local plans and policy documents, specifically, the Lake Stevens Comprehensive Plan and the Lake Stevens Municipal Code. The Lake Stevens SMP must also be mutually consistent with the regulations developed by the City to implement its plans, such as the zoning code and subdivision code, as well as building construction and safety requirements.

Submitting an application for a shoreline development, use, or activity does not exempt an applicant from complying with any other local, county, state, regional, or federal statutes or regulations, which may also be applicable to such development or use.

F. Public Process for SMP Adoption

The City of Lake Stevens involved the public and solicited feedback throughout the update process of this Shoreline Master Program. The City notified and solicited input from all relevant organizations and agencies at the beginning and throughout the local adoption process of the SMP update.

1. Shoreline Citizen Advisory Committee (CAC)

City staff and consultants worked closely with a Shoreline Citizen Advisory Committee throughout the update process. The CAC included seven Lake Stevens residents (City Council Representative, Planning Commission Representative, two Park Board Members, two shoreline property owners and one non-shoreline resident). Six meetings were held from March to December 2010. The CAC provide in-depth and structured input on draft policies and regulations, assisted in the outreach to various constituencies and interest groups, and helped to ensure that a broad spectrum of interests and considerations were incorporated into the SMP update.

2. Early Public Review

The City held a total of three public open houses during the writing phase of the SMP to solicit public input. For each open house, approximately 380 shoreline property owners and other property owners within shoreline jurisdiction were invited by a mailed postcard. The meetings were also advertised in the Lake Stevens Journal and/or Everett Herald. Each open house consisted of opportunities to talk with staff and consultants about proposed updates to the SMP, a presentation reviewing the SMP update and proposed changes, and opportunities to provide written feedback.

- Open House #1 (April 15, 2010) - ~70 people attended to provide meaningful feedback through a brainstorming exercise and by filling out questionnaires.
- Open House #2 (June 24, 2010) - ~24 people attended to provide feedback on a questionnaire.
- Open House #3 (November 18, 2010) - ~13 people attended to provide comments on the proposed SMP.

~~The City held the first public open house on April 15, 2010. Approximately 70 people attended this first open house and provided meaningful feedback through a brainstorming exercise and by filling out questionnaires. The second public open house was held on June 24, 2010. Approximately 24 people attended the second open house and provided feedback with a questionnaire. The third open house was held on November 18, 2010. Approximately 13 people attended this third open house.~~

3. Local Adoption Process

The local adoption process began on April 4, 2011 with submittal of draft documents to the Washington Department of Commerce for the required 60-day review and ended with adoption of a resolution by the City Council on June 27, 2011 for approval of the final draft Shoreline Master Program documents and direction to staff to forward them to the Washington Department of Ecology for formal review and approval.

A summary of the local adoption process is provided below:

- April 5, 2011 – Draft Shoreline Master Program and associated documents submitted to Washington Department of Commerce for 60-day review of Comprehensive Plan amendments and Development Regulations, including SMP documents.
- April 12, 2011 – Postcard notice for the SEPA Determination of Non-Significance and Public Meetings mailed to 2,080 shoreline property owners or within 300 feet.
- April 13, 2011 – Notice of Planning Commission Public Hearing on May 4 published in Lake Stevens Journal.
- April 15, 2011 – Issued SEPA Determination of Non-Significance (DNS) and published in the Everett Herald.
- April 19, 2011 – Final Draft Shoreline Master Program documents completed.
- April 20, 2011 – Notice of Planning Commission Public Hearing on May 4 published in Lake Stevens Journal. Final documents uploaded to City of Lake Stevens website.
- April 29, 2011 – Comment period ends for SEPA DNS.
- May 4, 2011 – Planning Commission Public Hearing on the SMP documents. Attendance: ~~25~~.
- May 4 & 11, 2011 – Notice of City Council Public Hearings on May 23 and June 13 published in Lake Stevens Journal.
- May 6, 2011 – Appeal period ends for SEPA DNS.
- May 11, 2011 – Notice of City Council Public Hearings on May 23 and June 13 published in Lake Stevens Journal.
- May 18, 2011 – Continuation of Planning Commission Public Hearing on the SMP documents and code amendments, and recommendation to City Council. Attendance: 9.
- May 23, 2011 – City Council Public Hearing and First Reading of Resolution to adopt Final Draft SMP documents. Attendance: 61.

- May 31, 2011 – City Council Workshop. Attendance: 60.
- June 6, 2011 – City Council Workshop with Ecology, Fish & Wildlife, and Consultants. Attendance: 33.
- June 6, 2011 – 60-day Washington Department of Commerce review complete.
- June 13, 2011 – City Council Public Hearing and Second (~~& FINAL????~~) Reading of Resolution to adopt Final Draft SMP documents. Attendance: ~~___~~71.
- ~~June 27~~July 11, 2011 – City Council Public Hearing and Third & Final Reading of Resolution to adopt Final Draft SMP documents. Attendance: ___.
- June 30, 2011 – Submittal of Draft Final SMP documents to the Washington Department of Ecology for formal review and approval.
- The City received numerous phone calls and emails from residents and property owners after sending the notice of the public hearings and during the public hearing process. ~~Approximately ___ phone calls were received.~~

CHAPTER 2

Environment Designation Provisions

A. Introduction

The Shoreline Management Act (Chapter 90.58 RCW) and Shoreline Guidelines (Chapter 173-26 WAC) provide for shoreline environment designations to serve as a tool for applying and tailoring the general policies of the SMA to local shorelines. Shoreline environment designations provide a means of adapting broad policies to shoreline sub-units while recognizing different conditions and valuable shoreline resources, and a way to integrate comprehensive planning into SMP regulations. In accordance with WAC 173-26-211, the following shoreline environment designation provisions apply; including purpose, designation criteria, and management policies. Where there is a contradiction between the matrices and another SMP text provision, the text provision shall apply.

All areas not specifically assigned a shoreline environment designation shall be designated "Urban Conservancy" (UC).

B. Shoreline Environment Designation Maps

The Shoreline Environment Designation Maps can be found in Appendix A. Pursuant to RCW 90.58.040, the maps illustrate the shoreline environment designations that apply to all shorelines of the state within the City of Lake Stevens' jurisdiction. The lateral extent of the shoreline jurisdiction shall be determined for specific cases based on the location of the ordinary high water mark (OHWM), floodway, and presence of associated wetlands. The maps should be used in conjunction with the Environment Designation tables in Section C below. In the event of a mapping error, the City will rely upon the boundary descriptions and the criteria in Section C below.

C. Policies and Regulations

1. "Natural" (N) Environment

a. Purpose

The purpose of the "Natural" environment is to protect and restore all wetlands associated with shoreline areas by applying the City of Lake Stevens Critical Areas Regulations in Appendix B (Ordinance 741 effective May 8, 2007 and updated by Ordinance 773 effective April 21, 2008). These systems require development restrictions to maintain the ecological functions and ecosystem-wide processes.

b. Designation Criteria

A "Natural" environment designation will be assigned to those wetland complexes in shoreline jurisdiction. Identified wetlands include those associated with Stevens Creek, Stich Lake, Lundeen Creek, and Lake Stevens. For the "Natural" areas that extend beyond 200 feet from OHWM, the exact location of the wetland boundary will be determined with a wetland delineation at the time of project application.

c. Management Policies

Uses

1. Any use that would substantially degrade the ecological functions or natural character of the designated wetland area should be prohibited.
2. New land division, development or shoreline modification that would reduce the capability of the wetlands to perform normal ecological functions should not be allowed.
3. Uses that are consumptive of physical, visual, and biological resources should be prohibited.

Access and Improvements

4. Access may be permitted for scientific, historical, cultural, educational, and low-intensity water-oriented recreational purposes such as nature study that do not impact ecological functions, provided that no significant ecological impact on the area will result.
5. Physical alterations should only be considered when they serve to protect or enhance a significant, unique, or highly valued feature that might otherwise be degraded or destroyed or for public access where no significant ecological impacts would occur.

Implementing Regulations

6. The ecological resources in the Natural-Wetlands environment should be protected through the provisions in the Critical Areas section of this SMP.

2. "High-Intensity" (H-I) Environment

a. Purpose

The purpose of the "High-Intensity" environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

b. Designation Criteria

A "High-Intensity" environment designation will be assigned to shorelands designated for commercial or industrial use in the Comprehensive Plan if they

currently support or are suitable and planned for high-intensity commercial, industrial, or institutional uses that either include, or do not detract from the potential for water-oriented uses, shoreline restoration and/or public access.

c. Management Policies

Uses

1. In regulating uses in the "High-Intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses.

The Shoreline Administrator will consider the provisions of this SMP and determine the applicability and extent of ecological restoration and/or public access required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of development in the "High-Intensity" environment.

2. Developments in the "High-Intensity" environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
3. Because Little Pilchuck Creek and Catherine Creek are non-navigable waterways, new nonwater-oriented development should be allowed in the High Intensity environment if ecological restoration is provided as a significant public benefit.

Public Access

4. Existing public access ways should not be blocked or diminished.
5. In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas should be encouraged.

Aesthetics

6. Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. These objectives may be implemented either through this SMP or other City ordinances.

d. Specific Environment Designations

The following table (Table 1) assigns areas within shoreline jurisdiction as a "High Intensity" environment. See attached Shoreline Environment Designation Maps (Appendix A).

Table 1. High Intensity Environment Designation Descriptions

Environment Designation	Sub-Unit	Begins (parcel No.)	Ends (parcel No.)
High Intensity	Lake Stevens Residential	29051200400200	29051200400100
High Intensity	Little Pilchuck Creek – UGA	Sliver of parcel 29060400301000	
High Intensity	Little Pilchuck Creek – UGA	Portion of parcel 29060900200800	
High Intensity	Little Pilchuck Creek – UGA	Portion of parcel 29060900206500	
High Intensity	Little Pilchuck Creek – UGA	Portions of N Machias Rd in Shoreline Jurisdiction	
High Intensity	Little Pilchuck Creek – UGA	Northeast corner or parcel 29060500402000	
High Intensity	Little Pilchuck Creek – UGA	Northern portion of Machias Rd at the intersection with SR 92	
High Intensity	Catherine Creek – City	SW portion of 00562200001801	Western portion of 29060800103000
High Intensity	Catherine Creek – City	00660100000101	29060800103400
High Intensity	Catherine Creek – City	29060900300900, 29060900301000	Southwest portion 29060900304400
High Intensity	Catherine Creek – UGA	Portion of 29060900304600	

3. "Urban Conservancy" (UC) Environment

a. Purpose

The purpose of the “Urban Conservancy” environment is to protect and “restore”, as defined in this SMP, ecological functions in urban and developed settings, while allowing public access and a variety of park and recreation uses.

b. Designation Criteria

An "Urban Conservancy" environment designation will be assigned to shorelands that are within public and private parks and natural resource areas, including park lands on Lake Stevens and Catherine Creek. Lands planned for park uses or resource conservation areas and lands with no other existing or planned

commercial or residential land uses should also be designated “Urban Conservancy.”

c. Management Policies

Uses

1. Water-oriented recreational uses should be given priority over nonwater-oriented uses. Water-dependent recreational uses should be given highest priority.
2. Commercial activities enhancing ecological functions or the public’s enjoyment of publically accessible shorelines may be appropriate.
3. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant ecological impacts to the shoreline are avoided or mitigated.
4. Development that hinders natural channel movement in channel migration zones should not be allowed.

Ecological Restoration and Public Access

5. During development and redevelopment, all reasonable efforts, as determined by the City, should be taken to restore ecological functions.
6. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Urban Conservancy" designation to ensure that new development does not further degrade the shoreline and is consistent with an overall goal to improve ecological functions and habitat.
7. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

d. Specific Environment Designations

The following table (Table 2) assigns areas within shoreline jurisdiction as an “Urban Conservancy” environment. See also the attached maps.

Table 2. Urban Conservancy Environment Designation Descriptions

Environment Designation	Sub-Unit	Begins (parcel No.)	Ends (parcel No.)
Urban Conservancy	Lake Stevens Residential – City Limits	29060700200800	
Urban Conservancy	Lake Stevens Residential – City Limits	00493300900101	
Urban Conservancy	Lake Stevens Residential – City Limits	00553800002000	
Urban Conservancy	Lake Stevens Residential – City Limits	00553800001602	00553800001500
Urban Conservancy	Lake Stevens Residential – City Limits	29060800303400	
Urban Conservancy	Lake Stevens Residential – UGA	00533400001500	
Urban Conservancy	Little Pilchuck Creek - UGA	29060900303300	
Urban Conservancy	Little Pilchuck Creek - UGA	29060900302400	
Urban Conservancy	Little Pilchuck Creek – UGA	Eastern portion of 29060400301000	
Urban Conservancy	Catherine Creek – City	Eastern portion of 29060800400100	00828600099900

4. "Shoreline Residential" (SR) Environment

a. Purpose

The purpose of the "Shoreline Residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate community access and recreational uses.

b. Designation Criteria

A "Shoreline Residential" environment designation will be assigned to City of Lake Stevens' shorelands if they are predominantly single-family or multifamily residential development or are planned for residential development.

c. Management Policies

Uses

1. Commercial development should be limited to water-oriented uses and not conflict with the residential character of lands in the "Shoreline Residential" environment.
2. Water-oriented recreational uses should be allowed.

3. New residential development should be supported by adequate land area and services.
4. Land division and development should be permitted only 1) when adequate setbacks or buffers are provided to protect ecological functions and 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.
5. Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
6. New multi-family development and new subdivisions of land into more than four parcels should provide public access. .
7. New residential development should be located and designed so that future shoreline stabilization is not needed.

d. Specific Environment Designations

The following table (Table 3) assigns areas within shoreline jurisdiction as a “Shoreline Residential” environment. See also the attached maps.

Table 3. Shoreline Residential Environment Designation Descriptions

Environment Designation	Sub-Unit	Begins (parcel No.)	Ends (parcel No.)
Shoreline Residential	Lake Stevens Residential – City Limits	00493200100100	29060800300600
Shoreline Residential	Lake Stevens Residential – City Limits	00553800001900	00553800001601
Shoreline Residential	Lake Stevens Residential – City Limits	00553800001302	29061700202600
Shoreline Residential	Lake Stevens Residential – UGA	00719200099900	29061900104800
Shoreline Residential	Lake Stevens Residential – City Limits	29061900107000	00493300200300
Shoreline Residential	Lake Stevens Residential – City Limits	00493300101700	29051200400700
Shoreline Residential	Lake Stevens Residential – City Limits	00604900400100	29060700201100
Shoreline Residential	Little Pilchuck Creek – UGA	Southeastern corner of 29060500102200	
Shoreline Residential	Little Pilchuck Creek – UGA	Northeastern corner of 29060900200600	Northeastern corner of 29060900207900
Shoreline Residential	Little Pilchuck Creek – UGA	Southeastern corner of 29060900300500	Northeastern corner of 29060900302000
Shoreline Residential	Little Pilchuck Creek – UGA	29060900302600	29060900305200
Shoreline Residential	Catherine Creek – UGA	Southern portion of 29060900302000	Southern portion of 29060900301900
Shoreline Residential	Catherine Creek – UGA	29060900301600	29060900301200
Shoreline Residential	Catherine Creek – City Limits	29060900301100	00814400001100
Shoreline Residential	Catherine Creek – City Limits	00828600002000	00705800002000

5. "Aquatic" Environment

a. Purpose

The purpose of the "Aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

b. Designation Criteria

An "Aquatic" environment designation will be assigned to shoreline areas waterward of the ordinary high-water mark.

c. Management Policies

1. New over-water structures should be prohibited except for water-dependent uses, public access, or ecological restoration.
2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
3. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
4. Provisions for the "Aquatic" environment should be directed towards maintaining and restoring habitat for aquatic species.
5. Uses that cause significant ecological impacts to critical freshwater habitats should not be allowed. Where those uses are necessary to achieve Shoreline Management Act objectives, their impacts shall be mitigated according to the sequence defined in Chapter 3 Section B.4.
6. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
7. Abandoned and neglected structures that cause adverse visual impacts or are a hazard to public health, safety, and welfare should be removed or restored to a usable condition consistent with this SMP.

CHAPTER 3

General Provisions

A. Introduction

General policies and regulations are applicable to all uses and activities (regardless of shoreline environment designation) that may occur along the City's shorelines.

This chapter is divided into twelve different topic headings and is arranged alphabetically. Each topic begins with a discussion of background SMP issues and considerations, followed by general policy statements and regulations. The intent of these provisions is to be inclusive, making them applicable over a wide range of environments as well as particular uses and activities.

B. Policies and Regulations

1. Universally Applicable Policies and Regulations

a. Applicability

1. The following regulations describe the requirements for all shoreline uses and modifications in all shoreline environment designations.
2. Within shoreline jurisdiction, the purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the SMP where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the SMP will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Specifically, LSMC14.16C.115 shall not apply. Variance procedures and criteria have been established in this SMP, Chapter 7 Section E and in Washington Administrative Code (WAC) 173-27-170.4 Environmental Impacts.

b. Policies

1. The City should periodically review conditions on the shoreline and conduct appropriate analysis to determine whether or not other actions are necessary to protect and restore the ecology to ensure no net loss of ecological functions, protect human health and safety, upgrade the visual qualities, and enhance residential and recreational uses on the City's shorelines. Specific issues to address in such evaluations include, but are not limited to:
 - a. Water quality.

- b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions).
 - c. Upland vegetation.
 - d. Changing visual character as a result of new residential development, including additions, and individual vegetation conservation practices.
 - e. Shoreline stabilization and modifications.
2. The City should keep records of all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.
 3. Where appropriate, the City should pursue the policies of this SMP in other land use, development permitting, public construction, and public health and safety activities. Specifically, such activities include, but are not limited to:
 - a. Water quality and stormwater management activities, including those outside shoreline jurisdiction but affecting the shorelines of the state.
 - b. Aquatic vegetation management.
 - c. Health and safety activities, especially those related to sanitary sewage.
 - d. Public works and utilities development.
 4. The City should involve affected federal, state, and tribal governments in the review process of shoreline applications.

c. Regulations

1. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act, Chapter 90.58 RCW, and to the policies and regulations of this SMP.
2. All new shoreline modifications must be in support of an allowable shoreline use that conforms to the provisions of this SMP. Except as otherwise noted, all shoreline modifications not associated with a legally existing or an approved shoreline use are prohibited.
3. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a shoreline variance or shoreline conditional use permit. See Chapter 5 for Shoreline Use Regulations, including exemptions, variances, conditional uses, and nonconforming uses.
4. The "policies" listed in this SMP will provide broad guidance and direction and will be used by the City in applying the "regulations." The policies, taken together, constitute the Shoreline Element of the Lake Stevens Comprehensive Plan.
5. Where provisions of this SMP conflict, the provisions most directly implementing the objectives of the Shoreline Management Act, as determined by the City, shall apply unless specifically stated otherwise.

6. The regulations of Chapters 2, 4, 5 and sections 2, and 4 through 12 of Chapter 3 in this SMP shall not apply to those land areas that are outside shoreline jurisdiction as of the date of adoption of this SMP but which do fall within shoreline jurisdiction due solely to a human-constructed shoreline restoration project, pursuant to the provisions of Washington State House Bill 2199 Chapter 405, 2009 Laws. That is, if a shoreline restoration project causes the expansion of shoreline jurisdiction onto a neighboring property or portion of the subject property, then SMP regulations noted above do not apply to the area of expanded jurisdiction. However, if the area newly falling into shoreline jurisdiction is a critical area, then the critical area provisions of this SMP do apply.
7. The regulations in Appendix B: Critical Areas Regulations for Shoreline Jurisdiction are fully enforceable and considered part of the SMP regulations.

2. Archaeological and Historic Resources

a. Applicability

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Records) and shall comply with Chapter 25-48 WAC as well as the provisions of this chapter.

b. Policies

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

c. Regulations

1. All shoreline permits shall contain provisions which require developers to immediately stop work and notify the City, the state office of archaeology and historic preservation, and affected Indian tribes if any phenomena of possible archaeological value are uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data are properly salvaged or mapped.
2. Permits issued in areas known to contain archaeological artifacts and data shall include a requirement that the developer provide for a site inspection and evaluation by a professional archaeologist in coordination with affected Indian tribes. The permit shall require approval by the City before work can begin

on a project following inspection. Significant archaeological data or artifacts shall be recovered before work begins or resumes on a project.

3. Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation. When the City determines that a site has significant archaeological, natural, scientific or historical value, a Substantial Development Permit shall not be issued which would pose a threat to the site. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.
4. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.
5. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with WAC 25-48 as well as the provisions of this SMP.
6. Archaeological excavations may be permitted subject to the provisions of this program.
7. Identified historical or archaeological resources shall be included in park, open space, public access and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment.
8. Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.
9. The City will work with affected tribes and other agencies to protect Native American artifacts and sites of significance and other archaeological and cultural resources as mandated by Chapter 27.53 RCW.

3. Critical Areas

Critical areas in shoreline jurisdiction are regulated by Appendix B of this SMP. The regulations in Appendix B: Critical Areas Regulations for Shoreline Jurisdiction are fully enforceable and considered part of the SMP regulations. The provisions of the Critical Areas Regulations do not extend shoreline jurisdiction beyond the limits specified in this SMP. Critical areas outside shoreline jurisdiction are regulated by the City's Critical Areas Regulations, Chapter 14.88 LSMC (Ordinance 741 effective May 8, 2007 and updated by Ordinance 773 effective April 21, 2008).

4. Environmental Impacts

a. Applicability

The following policies and regulations apply to all uses and development in shoreline jurisdiction that are not within the jurisdiction of the Critical Areas Regulations as addressed in Section B.3 above.

b. Policies

1. In implementing this SMP, the City should take necessary steps to ensure compliance with Chapter 43.21C RCW, the Washington State Environmental Policy Act of 1971, and its implementing guidelines.
2. All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible and provide mitigation to ensure no net loss of ecological function.

c. Regulations

1. All project proposals, including those for which a shoreline permit is not required, shall comply with Chapter 43.21C RCW, the Washington State Environmental Policy Act.
2. Projects that cause significant ecological impacts, as defined in Definitions, are not allowed unless mitigated according to the sequence in subsection c. 4 below to avoid reduction or damage to ecosystem-wide processes and ecological functions.
3. Projects that cause significant adverse impacts, other than significant ecological impacts, shall be mitigated according to the sequence in subsection c.4 below.
4. The City will set mitigation requirements or permit conditions based on impacts identified per this SMP. In order to determine acceptable mitigation, the City Shoreline Administrator may require the applicant to provide the necessary environmental information and analysis, including a description of existing conditions/ecological functions and anticipated shoreline impacts, along with a restoration plan outlining how proposed mitigation measures would result in no net loss of shoreline ecological functions.

When applying mitigation to avoid or minimize significant adverse effects and significant ecological impacts, the City will apply the following sequence of steps in order of priority, with (a) being top 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; and
 - f. Monitoring the impact and the compensation projects (from subsection (e) above) and taking appropriate corrective measures.
5. Exception to the sequencing noted above: The City may provide for or allow mitigation of an environmental impact through a comprehensive mitigation program such as a mitigation banking program if such mitigation measures will result in a greater benefit in terms of ecological functions and values. Such a program must be based on a comprehensive analysis of ecological systems such as provided by the analysis and restoration plan accomplished as part of this SMP.

Mitigation measures shall be accomplished at locations in the following order of preference:

- a. On the site where impacts occur (first preference).
 - b. If (a) is not feasible or beneficial in terms of ecological functions, then within or adjacent to the same water body.
 - c. If (b) is not feasible or beneficial in terms of ecological functions, then within the City of Lake Stevens.
 - d. If (c) is not feasible or beneficial in terms of ecological functions, then within the UGA.
6. All shoreline development shall be located and constructed to avoid locally-specific significant adverse impacts to human health and safety.

5. Flood Hazard Reduction and River Corridor Management

a. Applicability

The provisions in this section apply to those areas within shoreline jurisdiction lying along a floodplain corridor, including lakes, rivers, streams, associated wetlands in the floodplain, and river deltas.

The provisions in this section are intended to address two concerns especially relevant to river shorelines:

1. Protecting human safety and minimizing flood hazard to human activities and development.
2. Protecting and contributing to the restoration of ecosystem-wide processes and ecological functions found in the applicable watershed or sub-basin.

b. Policies

1. The City should implement a comprehensive program to manage the City's riparian corridors that integrates the following City ordinances and activities:
 - a. Regulations in this SMP.
 - b. The City's zoning code (Title 14 LSMC).
 - c. The City's Surface Water Management Program, Stormwater Management Plan, and implementing regulations.
 - d. The City's participation in the National Flood Insurance Program and compliance with the State's floodplain management law at Chapter 86.16. RCW.
 - e. The construction or improvement of new public facilities, including roads, dikes, utilities, bridges, and other structures.
 - f. The ecological restoration of selected shoreline areas.
2. In regulating development on shorelines within SMA jurisdiction, the City should endeavor to achieve the following:
 - a. Maintenance of human safety.
 - b. Protection and, where appropriate, the restoration of the physical integrity of the ecological system processes, including water and sediment transport and natural channel movement.
 - c. Protection of water quality and natural groundwater movement.
 - d. Protection of fish, vegetation, and other life forms and their habitat vital to the aquatic food chain.
 - e. Protection of existing legal uses and legal development of property (including nonconforming development) unless the City determines relocation or abandonment of a use or structure is the only feasible option or that there is a compelling reason to the contrary based on public concern and the provisions of the SMA.
 - f. Protection of recreation resources and aesthetic values, such as point and channel bars, islands, and other shore features and scenery.
 - g. When consistent with the provisions (a) through (f) above, provide for public access and recreation, consistent with Chapter 3 Section B.7.
3. The City should undertake flood hazard planning, where practical, in a coordinated manner among affected property owners and public agencies and consider entire drainage systems or sizable stretches of rivers ~~or~~ lakes, ~~or~~ ~~marine shorelines~~. This planning should consider the off-site erosion and accretion or flood damage that might occur as a result of stabilization or protection structures or activities. Flood hazard management planning should fully employ nonstructural approaches to minimizing flood hazard to the extent feasible.

4. The City should give preference to and use nonstructural solutions over structural flood control devices wherever feasible, including prohibiting or limiting development in historically flood-prone areas, regulating structural design and limiting increases in peak stormwater runoff from new upland development, public education, and land acquisition for additional flood storage. Structural solutions to reduce shoreline hazard should be allowed only after it is demonstrated that nonstructural solutions would not be able to reduce the hazard.

Where structural solutions are rebuilt, fish-friendly structures such as setback levees should be used.

5. In designing publicly financed or subsidized works, the City should provide public pedestrian access to the shoreline for low-impact outdoor recreation.
6. The City should encourage the removal or breaching of dikes to provide greater wetland area for flood water storage and habitat; provided, such an action does not increase the risk of flood damage to existing human development.

c. Regulations

1. New development must be consistent with (a) through (d) below in addition to the provisions of this SMP. In cases of inconsistency, the provisions most protective of shoreline ecological functions and processes shall apply:
 - a. The City's development regulations related to floodways, floodplains, drainage, and erosion regulations.
 - b. "The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas," dated November 8, 1999 in accordance with Chapter 86.16 RCW and the National Flood Insurance Program.
 - c. The City's Storm Water Management Utility Regulations.
 - d. Conditions of Hydraulic Project Approval, issued by Washington State Department of Fish and Wildlife, which may be incorporated into permits issued for flood protection.
2. New structural flood hazard reduction measures, including dikes, levees, and overflow channels, may be allowed only when consistent with development regulations related to floodways and floodplains and all of the following can be demonstrated:
 - a. The project does not further restrict natural channel movement, except that flood hazard reduction measures that protect an existing building, roadway, bridge, or utility line may be installed, provided the measure is placed as close to the existing structure as possible;
 - b. Other, nonstructural measures would not be feasible or adequate;

- c. The measures are necessary to protect existing development or new public development, such as a roadway, that cannot be located further from the stream channel; and
 - d. Shoreline vegetation necessary to provide ecological functions is protected or restored.
3. New flood hazard reduction measures, including dikes and levees, may be constructed to protect properties as part of a shoreline environmental restoration project, such as the breaching of a dike to create additional wetlands. Also refer to Chapter 3, Sections B3 (Critical Areas), B4 (Environmental Impacts), B11 (Vegetation Conservation), and B12 Water Quality and Quantity); Chapter 4, Section C6 (Shoreline Restoration and Ecological Enhancement); and the Restoration Plan (specifically Chapter 3 Restoration Goals and Objectives).
4. Otherwise allowed shoreline modifications in the 100-year floodplain and flood hazard reduction measures shall employ the type of construction or measure that causes the least significant ecological impacts. When authorizing development within the 100-year floodplain, the City will require that the construction method with the least negative significant ecological impacts be used. For example, the City will not allow rock revetments to be used for erosion control if a “softer” approach using vegetation plantings and engineered woody debris placement is possible.
5. Existing hydrological connections into and between water bodies, such as streams, tributaries, wetlands, and dry channels, shall be maintained. Also refer to Chapter 3, Sections B3 (Critical Areas), B4 (Environmental Impacts), B11 (Vegetation Conservation), and B12 Water Quality and Quantity); Chapter 4, Section C6 (Shoreline Restoration and Ecological Enhancement); and the Restoration Plan (specifically Chapter 3 Restoration Goals and Objectives).
6. Re-establishment of native vegetation waterward of a new structure on Catherine Creek and Little Pilchuck Creek is required where feasible. The City Shoreline Administrator may require re-establishment of vegetation on and landward of the structure if it determines such vegetation is necessary to protect and restore ecological functions.
7. Designs for flood hazard reduction measures and shoreline stabilization measures in river corridors must be prepared by qualified professional engineers (or geologists or hydrologists) who have expertise in local riverine processes.
8. Structural flood hazard reduction projects that are continuous in nature, such as dikes or levees, shall provide for public access unless the City determines that such access is not feasible or desirable according to the criteria in Chapter 3 Section B.7 Public Access.
9. Shoreline modification and development standards shall be as outlined in the matrices in Chapter 4 and Chapter 5 for allowable uses and modification and

development standards such as setbacks and clearing and grading within each shoreline environment designation.

10. Bridges, culverts, and other river, stream, and waterway crossings shall be designed and constructed so they do not restrict flood flows such that flood elevations are increased. Where a bridge, culvert, or other waterway crossing replaces an existing crossing, the replacement structure shall not increase flood heights over those caused by the original structure.
11. The removal of gravel for flood control may be allowed only if a biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological functions, and extraction is part of a comprehensive flood management solution.

6. Parking (Accessory)

a. Applicability

Parking is the temporary storage of automobiles or other motorized vehicles. Except as noted, the following provisions apply only to parking that is "accessory" to a permitted shoreline use. Parking as a "primary" use and parking which serves a use not permitted in the shoreline jurisdiction is prohibited.

b. Policies

1. Where feasible, parking for shoreline uses should be provided in areas outside shoreline jurisdiction.
2. Parking should be planned to achieve optimum use. Where possible, parking should serve more than one use (e.g. serving recreational use on weekends, commercial uses on weekdays).

c. Regulations

1. Parking in shoreline jurisdiction must directly serve a permitted shoreline use.
2. Parking as a primary use or that serves a use not permitted in the applicable shoreline environment designation shall be prohibited over water and within shoreline jurisdiction.
3. Parking facilities shall be designed and landscaped to minimize adverse impacts upon the adjacent shoreline and abutting properties. A minimum of 15 feet of Type B landscaping, as defined below, shall be provided between the parking and the shoreline unless there is a building between the parking and the shoreline. Landscaping shall consist of native vegetation and plant materials approved by the City Shoreline Administrator and shall be planted before completion of the parking area in such a manner that plantings provide effective screening between parking and the water body within five years of project completion. The City Shoreline Administrator may modify landscaping requirements to account for reasonable safety and security concerns.

Type B, semi-opaque screen with buffer. A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. In addition, a Type B screen includes a minimum five-foot-wide landscaped planting strip parallel and adjacent to the property line where the screening is required.

4. Parking facilities serving individual buildings on the shoreline shall be located landward, if feasible, to minimize adverse impacts on the shoreline.
5. Parking facilities for shoreline activities shall provide safe and convenient pedestrian circulation within the parking area and to the shorelines.
6. Parking facilities shall provide adequate facilities to prevent surface water runoff from contaminating water bodies, as per the most recent edition of the City of Lake Stevens Surface Water Management Plan.
7. Lighting associated with parking lots shall be beamed, hooded, or directed to minimize and avoid illumination of the water, setback areas, wetlands, and other wildlife habitat areas.
8. See Chapter 5 Section B Development Standards Matrix, for setback requirements.

7. Public Access

a. Applicability

Shoreline public access is the physical ability of the general public to reach and touch the water's edge and the ability to have a view of the water and the shoreline from upland locations. Public access facilities may include picnic areas, pathways and trails, floats and docks, promenades, viewing towers, bridges, boat launches, and improved street ends.

The City provides a number of public access and recreation sites along its shorelines, but should continue to improve existing sites and pursue opportunities to add new public access and recreation sites. The City should continue to work on opportunities for providing public access and recreation on Lake Stevens, particularly in the recently annexed portion of the lake and eventually in the UGA portion of the lake, which are underserved compared to the rest of the lake. Because the great majority of Lake Stevens shorelines are occupied by single-family residences, additional public access will most effectively be provided by land acquisition rather than SMP requirements.

Catherine Creek has a park that provides public access, but it is currently leased by the City and is owned by the School District. The City should work to ensure that this property continues to provide public access and recreational opportunities by securing a long-term lease or purchasing the site.

Little Pilchuck Creek does not currently have public access or recreation sites within the City's shoreline jurisdiction.

In addition to the above examples, comprehensive documentation of existing parks and recreation facilities, public access points and trails are identified and mapped in detail in the Parks & Recreation Element of the City's Comprehensive Plan. This element also identifies future park acquisition and development needs. Similarly, Chapter 4 of the Shoreline Inventory & Analysis Report identifies existing and potential public access sites for each of the City's shoreline waterbodies. The City's public access planning process provided by these documents provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A).

b. Policies

1. Public access should be considered in the review of all private and public developments with the exception of the following:
 - a. One- and two-family dwelling units; or
 - b. Where deemed inappropriate due to health, safety and environmental concerns.
2. Developments, uses, and activities on or near the shoreline should not impair or detract from the public's access to the water or the rights of navigation.
3. Public access should be provided as close as possible to the water's edge without causing significant ecological impacts and should be designed in accordance with the Americans with Disabilities Act.
4. Opportunities for public access should be identified on publicly owned shorelines. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and enhanced.
5. Public access should be designed to provide for public safety and comfort and to minimize potential impacts to private property and individual privacy. There should be a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.
6. Public views from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of existing native vegetation that partially impairs views.
7. Public access and interpretive displays should be provided as part of publicly funded restoration projects where significant ecological impacts can be avoided.
8. City parks, trails and public access facilities adjacent to shorelines should be maintained and enhanced in accordance with City and County plans.
9. Commercial and industrial waterfront development should be encouraged to provide a means for visual and pedestrian access to the shoreline area, wherever feasible.

10. The acquisition of suitable upland shoreline properties to provide access to publicly owned shorelands should be encouraged.
11. The City should acquire and develop waterfront property in the recently annexed portion of Lake Stevens to provide additional public access to the shoreline.
12. The City should work with the School District to ensure that Catherine Creek Park will continue to provide public access to Catherine Creek for future generations.

c. Regulations

1. Public access is required for the following development unless the conditions stated in 2, immediately below, apply.
 - a. Land division into more than four lots and PRDs
 - b. Nonwater-oriented uses
 - c. Water related and water oriented commercial uses
 - d. Development by public entities or on public land, including the City and public utility districts
 - e. Development or use that will interfere with an existing public access way. Impacts to public access may include blocking access or discouraging use of existing on-site or nearby accesses.
2. Public access is not required as part of development if any of the following conditions apply:
 - a. The development is a single family residence not part of a development planned for more than 4 parcels or the development is accessory to a single family residence
 - b. Public access is demonstrated to be infeasible or undesirable due to reasons of incompatible uses, safety, security or impact to the shoreline environment. In determining infeasibility or undesirability, the City will consider alternative means of providing public access such as off-site improvements, separation of uses, and restricting the hours of public access to avoid conflicts.
 - c. Where constitutional or legal limitations apply.
 - d. On properties (including public properties) adjacent to Little Pilchuck Creek or Catherine Creek where there is no other connecting trail or route to a public ROW. Provision 2.b regarding safety and security of public access sites shall apply. (The intent of this provision is to avoid isolated and unsafe access features, especially since development must be set back at least 160 feet from the OHWM of these water bodies.) *Exception:* Public access shall be maintained on public properties in the Urban Conservancy environment on Catherine Creek and Little Pilchuck Creek.

- e. Where the City determines that more effective public access can be provided through public access planning and other compensatory off-site public access improvements provided as part of the development.
- 3. The shoreline permit shall describe the impact, the required public access conditions, and how the conditions address the impact. Mitigation for public access impacts shall be in accordance with the definition of mitigation and mitigation sequencing in Chapter 3 Section B.4.

Where public access is required as part of development, the City may allow payment in lieu of site access, where access at the public site would be dangerous or undesirable. The City will use the payment for public access improvements elsewhere.

- 4. Shoreline substantial development (including land division into more than four lots and PRDs) or conditional uses shall minimize impact to public views of shoreline waterbodies from public land or substantial numbers of residences.
- 5. Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (This is a requirement of RCW 35.79.035 and RCW 36.87.130).
- 6. Public access sites shall be connected directly to the nearest public street or public right-of-way and shall include provisions for physically impaired persons, where feasible.
- 7. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.
- 8. Public access easements and permit conditions shall be recorded as a covenant against the title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use. Said recording with the County Assessor's Office shall occur prior to permit approval (RCW 58.17.110).
- 9. Minimum width of public access easements shall be sufficient to provide clear, safe access to the shoreline. The Shoreline Administrator may require that the proposed public access improvements be modified to take advantage of special opportunities or to prevent impacts to adjacent sites (especially single-family residences).
- 10. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. Signs may control or restrict public access as a condition of permit approval.
- 11. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.
- 12. Public access facilities may be developed over water provided that all ecological impacts are mitigated to achieve no net loss of ecological functions.

8. Shorelines of State-Wide Significance

a. Applicability

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of state-wide significance. Within the City of Lake Stevens jurisdiction, Lake Stevens is a shoreline of state-wide significance. Shorelines thus designated are important to the entire state. Because these shorelines are major resources from which all people in the state derive benefit, this jurisdiction gives preference to uses which favor long-range goals and support the overall public interest.

b. Policies

In implementing the objectives of RCW 90.58.020 for shorelines of statewide significance, the City will base decisions in preparing and administering this SMP on the following policies in order of priority, 1 being the highest and 6 being lowest.

1. Recognize and protect the state-wide interest over local interest.
 - a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating the SMP, and any proposed amendments affecting shorelines of state-wide significance, to state agencies, adjacent jurisdictions, citizen's advisory committees and local officials and state-wide interest groups.
 - b. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.
 - c. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.
2. Preserve the natural character of the shoreline.
 - a. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of man-made intrusions on shorelines.
 - b. Upgrade and redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high intensity uses to extend into low-intensity use or underdeveloped areas.
 - c. Protect and restore existing diversity of vegetation and habitat values, wetlands and riparian corridors associated with shoreline areas.
 - d. Protect and restore habitats for State-listed "priority species."

3. Support actions that result in long-term benefits over short-term benefits.
 - a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
 - b. In general, preserve resources and values of shorelines of state-wide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
4. Protect the resources and ecology of the shoreline.
 - a. All shoreline development should be located, designed, constructed and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.
 - b. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.
 - c. Shoreline development should be managed to ensure no net loss of ecological functions.
5. Increase public access to publicly owned areas of the shoreline.
 - a. Give priority to developing paths and trails to shoreline areas, to provide linear access along the shorelines.
 - b. Locate development landward of the ordinary high water mark so that access is enhanced.
6. Increase recreational opportunities for the public on the shoreline by planning for and encouraging development of facilities for recreational use of the shoreline.

9. Signage

a. Applicability

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes. The following provisions apply to any commercial or advertising sign located within shoreline jurisdiction that directs attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

Signs in shoreline jurisdiction shall also adhere to all sign regulations. In the case of overlapping or conflicting regulations, the most stringent regulation shall apply.

b. Policies

1. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
2. Signs should not block or otherwise interfere with visual access to the water or shorelands.

c. Regulations

1. Prohibited Signs: The following types of signs are prohibited:
 - a. Off-premises detached outdoor advertising signs.
 - b. Commercial signs for products, services, or facilities located off-site.
 - c. Spinners, streamers, pennants, flashing lights and other animated signs used for commercial purposes. Highway and railroad signs are exceptions.
 - d. Signs placed on trees or other natural features, unless the Shoreline Administrator finds that these signs are necessary for public safety reasons.
2. Allowable Signs: The following types of signs may be allowed in all shoreline environments:
 - a. Water navigational signs, and highway and railroad signs necessary for operation, safety and direction.
 - b. Public information signs directly relating to a shoreline use or activity. Public information signs shall include public park signs, public access identification signs, and warning signs.
 - c. Off-premise, free-standing signs for community identification, information, or directional purposes.
 - d. National, site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.
 - e. Temporary directional signs to public or quasi-public events if removed within 10 days following the event.
3. All signs shall be located and designed to avoid interference with vistas, viewpoints and visual access to the shoreline.
4. Over-water signs, signs on floats or pilings, and signs for goods, services, or businesses not located directly on the site proposed for a sign are prohibited.
5. Lighted signs shall be hooded, shaded, or aimed so that direct light will not result in glare when viewed from surrounding properties or watercourses.
6. Signs shall not exceed 32 square feet in surface area. On-site freestanding signs shall not exceed 6 feet in height. When feasible, signs shall be flush-mounted against existing buildings.

7. Temporary or obsolete signs shall be removed within timeframes pursuant to LSMC 14.68.030. Examples of temporary signs include: real estate signs, directions to events, political advertisements, event or holiday signs, construction signs, and signs advertising a sale or promotional event.
8. Signs that do not meet the policies and regulations of this section B.9 shall be removed or shall conform within two years of the adoption of this SMP.
9. No signs shall be placed in a required view corridor.

10. Utilities (Accessory)

a. Applicability

Accessory utilities are on-site utility features serving a primary use, such as a water, sewer or gas line connecting to a residence or business. Accessory utilities do not carry significant capacity to serve other users and are considered a part of the primary use. They are addressed in this section because they concern all types of development and have the potential to impact the quality of the shoreline and its waters.

b. Policies

1. Accessory utilities should be properly installed so as to protect the shoreline and water from contamination and degradation to ensure no net loss of ecological functions.
2. Accessory utility facilities and rights-of-way should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.
3. Accessory utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecological processes and functions and minimizes conflicts with present and planned land uses.

c. Regulations

1. In shoreline areas, accessory utility transmission lines, pipelines and cables shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way and/or bridge crossings whenever possible. Proposals for new corridors in shoreline areas involving water crossings must fully substantiate the infeasibility of existing routes.
2. Accessory utility development shall, through coordination with government agencies, provide for compatible multiple uses of sites and rights-of-way. Such uses include shoreline access points, trails and other forms of recreation and transportation systems, providing such uses will not unduly interfere with utility operations or endanger public health and safety.
3. Sites disturbed for utility installation shall be stabilized during and following construction to avoid adverse impacts from erosion and, where feasible, restored to pre-project configuration and replanted with native vegetation.

4. Utility discharges and outfalls shall be located, designed, constructed, and operated in accordance with best management practices to ensure degradation to water quality is kept to a minimum.
5. Utilities that need water crossings shall be placed deep enough to avoid the need for bank stabilization and stream/riverbed filling both during construction and in the future due to flooding and bank erosion that may occur over time. Boring is a preferred method of utility water crossing over open trenching.
6. Stormwater management systems shall conform to applicable Lake Stevens' stormwater regulations. Any conveyance pipes, detention tanks, or retention facilities shall be placed as far upland away from the shoreline as is feasible.

11. Vegetation Conservation

a. Applicability

The following provisions apply to any activity that results in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities. They do not apply to forest practices managed under the Washington State Forest Practices Act. See Chapter 6 for definitions of “significant vegetation removal,” “ecological functions,” “clearing,” “grading,” and “restore.”

b. Policies

1. Vegetation within the City shoreline areas should be enhanced over time to provide a greater level of ecological functions, human safety, and property protection. To this end, shoreline management activities, including the provisions and implementation of this SMP, should be based on a comprehensive approach that considers the ecological functions currently and potentially provided by vegetation on different sections of the shoreline, as described in Chapter 5 of the February 2010 City of Lake Stevens Draft Shoreline Inventory and Analysis Report.
2. This SMP in conjunction with other City development regulations should establish a coordinated and effective set of provisions and programs to protect and restore those functions provided by shoreline vegetation.
3. Aquatic weed management should stress prevention first. Where active removal or destruction is necessary, it should be the minimum to allow water-dependent activities to continue, minimize negative impacts to native plant communities, and include appropriate handling or disposal of weed materials.
4. The removal of invasive or noxious weeds and replacement with native vegetation should be encouraged. Removal of noxious or invasive weeds should be conducted using the least-impacting method feasible, with a preference for mechanical rather than chemical means.

c. Regulations

For All Shoreline Environments:

1. In order to create a new lot partially or wholly within shoreline jurisdiction, the applicant must demonstrate that development can be accomplished without significant vegetation removal within the required SMP setback area. The Shoreline Administrator may make exceptions to this standard for water dependent development and for development in the High Intensity environment only.
2. New development, including clearing and grading, shall minimize significant vegetation removal in shoreline jurisdiction to the extent feasible. In order to implement this regulation, applicants proposing development that includes significant vegetation removal, clearing, or grading within shoreline jurisdiction must provide, as a part of a substantial development permit or a letter of exemption application, a site plan, drawn to scale, indicating the extent of proposed clearing and/or grading. The Shoreline Administrator may require that the proposed development or extent of clearing and grading be modified to reduce the impacts to ecological functions.
3. Vegetation restoration of any shoreline that has been disturbed or degraded shall use native plant materials with a diversity and type similar to that which originally occurred on-site unless the Shoreline Administrator finds that native plant materials are inappropriate or not hardy in the particular situation.
4. In addressing impacts from significant vegetation removal, the Shoreline Administrator will apply the mitigation sequence described in Chapter 3 Section B.4.
5. Where shoreline restoration is required, the vegetation plantings shall adhere to the following specifications, unless the Shoreline Administrator finds that another method is more appropriate:

Property owners must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- a. Requires the preparation of a revegetation plan;
- b. Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions;
- c. Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect water quality; and
- d. Includes a monitoring and maintenance program.

This plan shall be recorded with the Snohomish County Assessor's Office as a covenant against the real property and a copy shall be provided to the Shoreline Administrator.

Where new vegetation would block significant views from a public right-of-way or two residential properties, the Shoreline Administrator may allow the

planting of trees and shrubs with a shorter mature height; provided the trees provide the applicable ecological functions.

6. A condition of all development shall be that those areas within the required SMP setback area that have been cleared or where significant vegetation removal has occurred and that are not otherwise occupied by approved structures or uses shall be revegetated with native vegetation. The Shoreline Administrator may require replanting of previously cleared areas or removal of invasive or noxious weeds and replanting with native vegetation as part of mitigation of ecological impacts.
7. Snags and living trees (i.e., large cottonwoods) shall not be removed within the required SMP setback area unless an arborist determines them to be extreme hazards and likely to fall into a park use area, or unless removal is part of an approved development that includes mitigation for impacts to ecological functions. Snags and living trees within the setback which do not present an extreme hazard shall be retained. Selective pruning of trees for safety and view protection is allowed. The City may make exceptions to this standard for water dependent development and for development in the High Intensity environment, or where the City determines that the removal of such vegetation is in the public interest and is consistent with the goals of the Shoreline Management Act as stated in section RCW 90.58.020.

For Shorelines in the Natural Environment

8. Shorelines in the natural environment are critical areas and managed under those provisions. See Section 3.B.3.

For Shorelines in the Urban Conservancy Environment

9. For properties within areas planned for residential development within the Urban Conservancy environment, new development that will cause significant vegetation removal within the required setbacks specified in Chapter 5 Sections B and C.8 shall not be allowed. In cases where the dimensions of existing lots or parcels are not sufficient to accommodate permitted primary residential structures outside of the vegetation conservation area or where the denial of reasonable use would result in a takings, the applicant shall apply for a Shoreline Variance. 10. The enhancement of vegetation shall be a condition of all nonwater-dependent development, dike or levee construction, and shoreline modifications in the Urban Conservancy environments, except where the Shoreline Administrator finds that:
 - a. Vegetation enhancement is not feasible on the project site. In these cases the Shoreline Administrator may require off-site vegetation enhancement that performs the same ecological functions. Enhancement opportunities on the same waterbody shall be explored first, prior to consideration of enhancement opportunities in the same basin or watershed.

- b. The restoration of ecological processes and functions can be better achieved through other measures such as the removal of channel constraints.
 - c. Sufficient native vegetation already exists.
11. Minor vegetation removal may be done to provide for development and maintenance of public access and trails on public property provided impacts are mitigated.

For Shorelines in the High-Intensity Environment

12. The impacts due to significant vegetation removal shall be mitigated according to the sequence described in Chapter 3 Section B.4.
13. A condition of all development shall be that those shorelands on the site not occupied by structures, shoreline uses, or human activities shall be revegetated, in accordance with subsection c.5 above. Vegetation within the required setbacks specified in Chapter 5 Section B and C.8 of the shoreline, to the extent the setback extends onto the subject development site, must be native vegetation or species approved by the Shoreline Administrator.

For Shorelines in the Shoreline Residential Environment

14. Development is subject to requirements in Chapter 5 Section C.8 Residential Development.

For Shorelines in the Aquatic Environment

15. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.
16. The control of aquatic weeds by hand pulling, mechanical harvesting, or placement of aqua screens, if proposed to maintain existing water depth for navigation, shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a shoreline substantial development permit.
17. The control of aquatic weeds by derooting, rotovating or other method which disturbs the bottom sediment or benthos shall be considered development for which a substantial development permit is required, unless it will maintain existing water depth for navigation in an area covered by a previous permit for such activity, in which case it shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a substantial development permit.
18. Where large quantities of plant material are generated by control measures, they shall be collected and disposed of in an appropriate, identified upland location.

19. Use of herbicides to control aquatic weeds shall be prohibited except for those chemicals specifically approved by the Department of Ecology for use in aquatic situations and where no reasonable alternative exists and weed control is demonstrated to be in the public's interest. Application of herbicides for the control of aquatic weeds requires approval from the Department of Ecology. The Shoreline Administrator must be notified of all herbicide usage in aquatic areas and supplied with proof of approval from the Department of Ecology. Additionally, all herbicides shall be applied by a licensed professional.

12. Water Quality and Quantity

a. Applicability

The following section applies to all development and uses in shoreline jurisdiction that affect water quality, as defined below.

1. As used in this SMP, “water quality” means the physical characteristics of water within shoreline jurisdiction, including water quantity and hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics.
2. Where used in this SMP, the term “water quantity” refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of this SMP, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

Because the policies of this SMP are also policies of the City’s Comprehensive Plan, the policies also apply to activities outside shoreline jurisdiction that affect water quality within shoreline jurisdiction, as determined by the Shoreline Administrator. However, the regulations apply only within shoreline jurisdiction.

b. Policies

1. All shoreline uses and activities should be located, designed, constructed, and maintained to avoid significant ecological impacts that alter water quality, quantity, or hydrology.
2. The City should require reasonable setbacks, buffers, and stormwater storage basins and encourage low-impact development techniques and materials to achieve the objective of lessening negative impacts on water quality.
3. All measures for controlling erosion, stream flow rates, or flood waters through the use of stream control works should be located, designed, constructed, and maintained so that net off-site impacts related to water do not degrade the existing water quality and quantity.
4. As a general policy, the City should seek to improve water quality, quantity (the amount of water in a given system, with the objective of providing for ecological functions and human use), and flow characteristics in order to protect and restore ecological functions and ecosystem-wide processes of shorelines within Shoreline Management Act jurisdiction. The City should

implement this policy through the regulation of development and activities, through the design of new public works, such as roads, drainage, and water treatment facilities, and through coordination with other local, state, and federal water quality regulations and programs. The City should implement the City of Lake Stevens Surface Water Management Plan, as updated and adopted by City ordinance.

5. All measures to treat runoff in order to maintain or improve water quality should be conducted on-site before shoreline development creates impacts to water.
6. Shoreline use and development should minimize the need for chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and groundwater and/or soils, and adverse effects on shoreline ecological functions and values.
7. The City should create a public education campaign to educate shoreline property owners and local stores about best management practices for shorelines. This could include specific information about fertilizers, herbicides, and pesticides.

c. Regulations

1. All shoreline development, both during and after construction, shall avoid or minimize significant ecological impacts, including any increase in surface runoff, through control, treatment, and release of surface water runoff so that water quality and quantity are not adversely affected. Control measures include, but are not limited to, low impact development techniques, dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.
2. All development shall conform to local, state, and federal water quality regulations, provided the regulations do not conflict with this SMP.
3. Uses and development that require the application of pesticides, herbicides, fertilizers and other chemicals that could adversely affect water quality (except for those chemicals specifically approved by the Department of Ecology for use in aquatic situations) are prohibited in shoreline jurisdiction.
4. The application of pesticides or herbicides in shoreline jurisdiction is prohibited except for those products specifically approved for use by the Department of Ecology in aquatic situations, and then only if used according to approved methods of and standards for application.

CHAPTER 4

Shoreline Modification Provisions

A. Introduction and Applicability

Shoreline modifications are structures or actions which permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modification activities include, but are not limited to, structures such as revetments, bulkheads, levees, breakwaters, docks, and floats. Actions such as clearing, grading, landfilling, and dredging are also considered shoreline modifications.

Generally, shoreline modification activities are undertaken for the following reasons:

1. To prepare a site for a shoreline use
2. To provide shoreline stabilization or shoreline protection
3. To support an upland use

The policies and regulations in this chapter are intended to prevent or mitigate the adverse environmental impacts of proposed shoreline modifications. General provisions, which apply to all shoreline modification activities, are followed by provisions tailored to specific shoreline modification activities. This chapter provides policies and regulations for shoreline modification features including shoreline stabilization measures and docks and floats.

If a shoreline development entails more than one shoreline modification, then all of the regulations pertaining to each type of modification apply.

Even though a shoreline modification may not require a shoreline substantial development permit, it must still conform to the regulations and standards in this SMP. The City requires that a property owner contemplating a shoreline modification contact the Shoreline Administrator and apply for a “letter of exemption” or a shoreline permit. No shoreline modification shall be undertaken without either a shoreline permit or a letter of exemption.

B. Shoreline Modification Matrix

The following matrix (Table 4) is the shoreline modification matrix. The matrix provides the permitted, conditional, and prohibited uses in all shoreline environmental designations. The numbers in the matrix refer to footnotes which may be found immediately following the matrix. These footnotes provide additional clarification or conditions applicable to the associated modification. Where there is a conflict between the matrix and the written provisions in this chapter, the written provisions shall apply.

Table 4. Shoreline Modification Matrix

	Natural	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic ⁴
Shoreline stabilization:					
Environmental restoration/enhancement	P	P	P	P	P
Bioengineering	C	P	P	P	C
Revetments	X	P	C	P	C ⁵
Bulkheads	X	P	C	P	C ⁵
Breakwaters/jetties/rock weirs/groins	X	X	X	X	X
Dikes/levees	X	C	C	C	C
Clearing and Grading	X	P	P	P	N/A
Dredging	N/A	N/A	N/A	N/A	C
Hazardous waste cleanup	P	P	P	P	P
Fill ¹	X	P	P	P	C ²
Piers/docks ³	X	P	P	P	P
Moorage piles, mooring buoys, & permanent swim floats	X	X	X	X	X
<u>Boardwalks, public</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>

P = May be permitted
 C = May be permitted as a conditional use only
 X = Prohibited; the use is not eligible for a variance or conditional use permit
 N/A = Not applicable

All shoreline modifications are subject to other provisions in this SMP. See, especially, Section C “Policies and Regulations” below.

Shoreline Modification Matrix Notes:

1. Fill in the floodplain must meet all federal, state, and local flood hazard reduction regulations.
2. Fill in aquatic areas for the purposes of shoreline ecological restoration may be allowed as a permitted use if the Shoreline Administrator determines that there will be an increase in desired ecological functions.
3. New non-public piers and docks are prohibited on Little Pilchuck Creek and Catherine Creek.
4. A shoreline modification may be allowed in the Aquatic Environment if the chart indicates that it is allowed in both the Aquatic Environment and the adjacent upland environment.
5. A conditional use permit is not required for replacement walls or bulkheads in the Aquatic Designation if the residence was occupied prior to January 1, 1992.

C. Policies and Regulations

1. General Policies and Regulations

a. Applicability

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

b. Policies

1. Structural shoreline modifications should be allowed only where they are demonstrated to be necessary:
 - a. To support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage; or
 - b. For reconfiguration of the shoreline to mitigate impacts or enhance the shoreline ecology.
2. The adverse effects of shoreline modifications should be reduced, as much as possible, and shoreline modifications should be limited in number and extent.
3. Allowed shoreline modifications should be appropriate to the specific type of shoreline and environmental conditions in which they are proposed.
4. The City should take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions, as stated in WAC 173-26-231. This is to be achieved by preventing unnecessary shoreline modifications, by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions, and by requiring mitigation of identified impacts resulting from shoreline modifications.
5. Where applicable, the City should base decisions on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant, as stated in WAC 173-26-231.
6. Impaired ecological functions should be enhanced where feasible and appropriate while accommodating permitted uses, as stated in WAC 173-26-231. As shoreline modifications occur, the City will incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.
7. In reviewing shoreline permits, the City should require steps to reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201(2)(e).

c. Regulations

1. All shoreline modification activities must be in support of a permitted shoreline use or to provide for human health and safety. Shoreline modification activities which do not support a permitted shoreline use are

considered “speculative” and are prohibited by this SMP, unless it can be demonstrated that such activities are necessary to protect human health and safety, ecological functions, and the public interest.

2. Structural shoreline modification measures shall be permitted only if nonstructural measures are unable to achieve the same purpose or are not feasible. See Chapter 6 for definition of “feasible”. Nonstructural measures considered shall include alternative site designs, increased setbacks, drainage improvements, relocation of proposed structures, and vegetation enhancement.
3. Shoreline modifications in flood-prone areas identified by FEMA on the Flood Rate Insurance Map shall comply with adopted floodplain regulations.
4. Stream channel modification (i.e., realignment) shall be prohibited as a means of shoreline stabilization or shoreline protection, unless it is the only feasible alternative and includes environmental enhancement.
45. All new shoreline development shall be located and designed to prevent or minimize the need for shoreline modification activities.
56. Proponents of shoreline modification projects shall obtain all applicable federal and state permits and shall meet all permit requirements.
67. Shoreline modification materials shall be only those approved by the City and applicable state agencies. No toxic (e.g., creosote) or quickly degradable materials (e.g., plastic or fiberglass that deteriorates under ultraviolet exposure) shall be used.
78. In channel migration zones, natural geomorphic and hydrologic processes shall not be limited and new development shall not be established where future shoreline modifications will be required and shall include appropriate protection of ecological function.

2. Shoreline Stabilization (Including Bulkheads)

a. Applicability

Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, businesses, or essential structures caused by processes, such as current, flood, wind, or wave action. Structural shoreline modifications are only allowed to protect a primary structure or legally existing shoreline use (WAC 173-26-231). These include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, erosion and groundwater management, planning and regulatory measures to avoid the need for structural stabilization.

Structural methods include “hard” and “soft” structural stabilization measures.

Hard Structural Shoreline Stabilization means erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders,

dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, groins, and similar structures.

Soft Structural Shoreline Stabilization means erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide stability in a non-linear, sloping arrangement. On lakes such as Lake Stevens, non-structural and soft structural stabilization measures can be cost-effective and practicable solutions.

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

Maintenance, Repair, and Replacement WAC 173-27-040(2)(b) defines normal maintenance and repair of existing structures and notes that many maintenance and repair activities are exempt from the requirement for a shoreline substantial development permit. As indicated in that section, normal maintenance and repair actions are not exempt from substantial development permits if “by their intrinsic nature, may have a significant ecological impact on shoreline ecological functions or shoreline resources depending on location, design, and site conditions.” Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

For the purposes of this section, repair of shoreline stabilization means the strengthening or reconstruction of less than 50 percent of the length of a shoreline stabilization measure over a five-year period. Reconstruction or strengthening of more than 50 percent of the length of a shoreline stabilization structure over a five-year period constitutes replacement.

Some shoreline stabilization measures for single-family residences may be exempt from a shoreline substantial development permit in accordance with WAC 173-27-040(2). However, such measures must comply with the provisions of this SMP.

b. Policies

1. Non-structural stabilization measures are preferred over soft structural measures. Soft structural shoreline stabilization measures are strongly preferred over hard structural shoreline stabilization. Proposals for hard and soft structural solutions, including bulkheads, should be allowed only when it is demonstrated that nonstructural methods are not feasible. Hard structural shoreline stabilization measures should be allowed only when it is demonstrated that soft structural measures are not feasible.
2. Bulkheads and other structural stabilizations should be located, designed, and constructed primarily to prevent damage to existing primary structures and minimize adverse impacts to ecological functions.

3. New development requiring bulkheads and/or similar protection to protect a primary structure should not be allowed. Shoreline uses should be located in a manner so that bulkheads and other structural stabilization are not likely to become necessary in the future.
4. Shoreline modifications individually and cumulatively shall not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

c. Regulations

New Development

1. New primary structures shall, where feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization. New non-water dependent primary structures that would require shoreline stabilization that would cause significant adverse impacts to adjacent or down-current properties or restrict channel migration in Channel Migration Zones is prohibited.
2. New primary structures, including single-family residences, which include structural shoreline stabilization, will not be allowed unless all of the conditions below are met:
 - a. The need to protect the primary structure from damage due to erosion caused by natural processes, such as currents, waves, and by manmade processes such as boat wakes, is demonstrated through a geotechnical report.
 - b. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
 - c. Nonstructural measures, such as placing the primary structure farther from the shoreline, planting vegetation, low impact development measures, or installing on-site drainage improvements, are not feasible or not sufficient.
 - d. The structure will not result in a net loss of shoreline ecological functions.
3. New primary structures on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis by a geotechnical engineer or related professional licensed and in good standing in the State of Washington.

New or expanded shoreline stabilization measures

4. New stabilization measures are not allowed except to protect or support an existing or approved primary structure, as necessary for human safety, for the restoration of ecological functions, or for hazardous substance remediation pursuant to Chapter 70.105D RCW. The construction of a bulkhead for the

primary purpose of retaining or creating dry land that is not specifically authorized as a part of the permit is prohibited.

5. New or replacement structural shoreline stabilization measures are allowed on Catherine Creek and Little Pilchuck Creek shorelines for necessary flood hazard reduction provided that all feasible steps are taken to minimize adverse impacts to the natural environment. The structures must be in conformance with a City-approved flood hazard reduction program.
6. New or enlarged structural shoreline stabilization measures for a primary structure or residence shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis (see definition in Chapter 6), that the structure is in danger from shoreline erosion caused by currents, waves, or boat wakes. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis by a licensed geotechnical engineer or related licensed professional, is not demonstration of need. The geotechnical report must demonstrate that erosion rates projected within three years would result in damage to an existing primary structure. The report must also evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The project design and analysis must also evaluate vegetation enhancement and low impact development measures as a means of reducing undesirable erosion.
7. Hard structural shoreline stabilization measures, such as bulkheads, are not allowed unless the applicant can demonstrate through a geotechnical analysis that soft structural measures such as vegetation or beach enhancement, or nonstructural measures, such as additional building setbacks, are not feasible.
8. Where structural shoreline stabilization measures are demonstrated to be necessary, as described in subsections c.6 and 7 above, the size of stabilization measures shall be limited to the minimum necessary. The Shoreline Administrator may require that the proposed structure be altered in size or design or impacts otherwise mitigated. Impacts to sediment transport shall be avoided or minimized.
9. The Shoreline Administrator will require mitigation of adverse impacts to shoreline functions in accordance with the mitigation sequence defined in Chapter 3 Section B.4 of the General Provisions. The Shoreline Administrator may require the inclusion of vegetation conservation, as described in Chapter 3 Section B.11, as part of shoreline stabilization, where feasible. In order to determine acceptable mitigation, the Shoreline Administrator may require the applicant to provide necessary environmental information and analysis, including a description of existing conditions/ecological functions and anticipated shoreline impacts, along with a restoration plan outlining how proposed mitigation measures would result in no net loss of shoreline ecological functions.
10. Shoreline stabilization measures that incorporate ecological restoration through the placement of rocks, gravel or sand, and native shoreline

vegetation may be allowed. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM as long as the overriding intent is not to create dry land. Where the ecological restoration includes placement of new substrates, measures shall be taken to ensure that these substrates do not erode and reduce water depth of neighboring properties.

11. Following completion of shoreline modification activities, disturbed shoreline areas shall be restored to pre-project conditions or conditions set by the Shoreline Administrator (see regulation 9 above). Vegetation conservation measures, including the planting of native vegetation along the shoreline, may be required. Plantings shall consist of native grasses, shrubs, and trees as approved by the Shoreline Administrator in keeping with preexisting or typical naturally occurring bank vegetation. Vegetation shall be fully reestablished within three years. All revegetation projects shall include a program for monitoring and maintenance. Areas which fail to adequately reestablish vegetation shall be replanted with approved plants and/or vegetation until the plantings/vegetation is successfully reestablished.

Replacement and Repair

12. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is need to protect primary structures from erosion caused by currents or waves and a nonstructural measure is not feasible. At the discretion of the Shoreline Administrator, the demonstration of need does not necessarily require a geotechnical report by a geotechnical engineer or related professional licensed and in good standing in the State of Washington. The replacement structure shall be designed, located, sized, and constructed to minimize harm to ecological functions.

Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structures unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. When an existing bulkhead is being repaired or replaced by construction of a vertical wall fronting the existing wall, it shall be constructed no farther waterward of the existing bulkhead than is necessary for construction of new footings. Developments using the above exception would not require a conditional use permit. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or near the actual OHWM.

Design of Shoreline Stabilization Measures

13. Bulkhead design and development shall conform to all other applicable City and state agency policies and regulations, including the Washington State Department of Fish and Wildlife criteria governing the design of bulkheads.

14. Gabions (wire mesh filled with concrete or rocks) are prohibited, except as a conditional use where it is determined that gabions are the least environmentally disruptive method of shoreline stabilization.
15. Stairs and other allowed structures may be built as integral to a bulkhead but shall not extend waterward of the bulkhead or structure unless it is necessary to access the shoreline or a use or structure is otherwise allowed over water.
16. Bulkheads shall be designed to permit the passage of surface water or groundwater without causing ponding or over-saturation of retained soil/materials of lands above the OHWM.
17. Adequate toe protection and proper footings shall be provided to ensure bulkhead stability without relying on additional riprap.
18. Materials and dimensional standards:
 - a. New bulkheads and other shoreline stabilization structures shall not be constructed higher than 24 inches above the OHWM or, if the bulkhead is set back from the shoreline, 24 inches above grade at the base of the bulkhead or structure. On steep slopes, new bulkheads may be built taller than 24 inches high if necessary to meet the existing slope. Replacement bulkheads may be built to the height of the original bulkhead.

Exception: The Shoreline Administrator may waive this provision for flood hazard minimization measures conforming to this SMP.
 - b. While structural materials are not the preferred method of shoreline stabilization, if structural shoreline measures are allowed according to subsections c.6 and 7 above, the following are examples of acceptable materials for shoreline stabilization structures, listed in order of preference from top to bottom:
 - i. Large stones, with vegetation planted in the gaps. Stones should not be stacked steeper than 2 horizontal to 1 vertical slope.
 - ii. Timbers or logs. Note the prohibition against toxic wood treatments.
 - iii. Stacked masonry units (e.g., interlocking cinder block wall units).
 - iv. Cast-in-place reinforced concrete.
 - c. The following materials are not acceptable for shoreline stabilization structures:
 - i. Degradable plastics and other nonpermanent synthetic materials.
 - ii. Sheet materials, including metal, plywood, fiberglass, or plastic.
 - iii. Broken concrete, asphalt, or rubble.
 - iv. Car bodies, tires or discarded equipment.
 - v. Other materials deemed inappropriate by the Shoreline Administrator.
19. Fill behind bulkheads shall be limited to an average of 1 cubic yard per running foot of bulkhead. Any filling in excess of this amount shall be

considered landfill and shall be subject to the provisions for landfill and the requirement for obtaining a shoreline substantial development permit.

Bioengineering

20. Bioengineering projects shall use native trees, shrubs, and grasses and/or ground cover, unless such an approach is not feasible.
21. All bioengineering projects shall include a program for monitoring and maintenance.

3. Over-Water Structures - Including Piers and Docks, Floats, and Boardwalks

a. Applicability

Over-water structures for moorage, boat-related, float plane-related, and other direct water-dependent uses or development, including docks, piers, boat launches, and swimming/diving platforms, inflatable recreational equipment, as well as public access boardwalks, fishing piers, and viewpoints, in shoreline areas shall be subject to the following policies and regulations. All over-water structures shall also conform to all applicable state and federal requirements.

b. Policies

1. Moorage associated with a single-family residence is considered a water-dependent use provided that it is designed and used as a facility to access watercraft (including float planes).
2. New moorage, excluding docks accessory to single-family residences, should be permitted only when the applicant/proponent has demonstrated that a specific need exists to support the intended water-dependent or public access use. To demonstrate “need”, the applicant shall provide a statement of intent that clearly shows the intent to provide for a water-dependent or public access use as well as the provision of all other services and support (e.g. utilities, access, etc.) needed for the intended use.
3. To minimize continued proliferation of individual private moorage, reduce the amount of over-water and in-water structures, and reduce potential long-term impacts associated with those structures, shared moorage facilities are preferred over single-user moorage. New subdivisions of more than two (2) lots and new multi-family development of more than two (2) dwelling units should provide shared moorage.
4. Docks, piers, and other water-dependent use developments including those accessory to single-family residences, should be sited and designed to avoid adversely impacting shoreline ecological functions or processes, and should mitigate for any unavoidable impacts to ecological functions.
5. Moorage and other water-dependent use developments should be spaced and oriented in a manner that minimizes hazards and obstructions to public

navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating.

6. Moorage and other water-dependent use developments should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of over-water structures and other developments regulated by this section should be no greater than that required for safety and practicality for the primary use.
7. Moorage and other water-dependent use developments should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

c. Regulations

General Regulations for Private and Public Structures

1. All new, reconstructed, repaired, or modified over-water structures shall be allowed only in support of an allowed water-dependent use and must comply with all other regulations as stipulated by State and Federal agencies. Non-water-dependent uses may use a dock constructed for a water-dependent use as long as they do not impede the water-dependent use. Over-water structures built solely for the purpose of a non-water-dependent use are prohibited.
2. All moorage and other over-water structures shall be designed and located so as not to constitute a hazard to navigation or other public uses of the water.
3. Proposed private over-water structures which do not comply with the dimensional standards contained in this chapter may only be approved if they obtain a shoreline variance. See Chapter 7 Section D.
4. No portion of the deck of a pier shall, during the course of the normal fluctuations of the elevation of the waterbody, protrude more than three (3) feet above the OHWM. Temporary cabanas without a permanent frame and diving boards over 3 feet in height may be allowed. Temporary structures are allowed for only five months of the year (May 1 – September 30).
5. Docks, piers, and other developments for water-dependent uses shall be located at least ten (10) feet from the extended side property lines (extended at the same angle as the property line on shore), except for joint use structures. Where a ten (10) foot setback is not feasible, as determined by the Shoreline Administrator, a five (5) foot setback from the side property line may be permitted. All over-water structures shall be configured to minimize interference with rights of navigation.
6. No residential use may occur over water, including houseboats, live-aboards, or other single- or multi-family dwelling units.
7. ~~Only piers and ramps are permitted in the first 30 feet of the OHWM. All floats, ells, and fingers, and lifts~~ must be at least 30 feet waterward of the OHWM.

8. All pier and dock dimensions shall be minimized to the maximum extent feasible. The proposed length must be the minimum necessary to support the intended use.
9. Skirting that extends to the water is not permitted on any structure except to contain or protect floatation material.
10. All piers, docks, and similar structures shall at no time rest on the lake substrate.
11. All over-water structures and other water-dependent use developments shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.
12. Lighting associated with over-water structures shall be beamed, hooded or directed to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety, no more than 1 footcandle measured 10 feet from the source. All lights shall be shielded and light directed to prevent directly lighting the water surface and light shining toward the uplands.
13. Piles, floats and other overwater structures that are in direct contact with water or over water shall not be treated or coated with herbicides, fungicides, paint, pentachlorophenol, or other materials deemed inappropriate by the Shoreline Administrator. Use of wood members treated with arsenate compounds or creosote is prohibited.
14. Temporary moorages shall be permitted for vessels used in the construction of shoreline facilities. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition within one (1) year at no cost to the environment or the public.
15. New covered moorage, boathouses, or other walled covered moorage are prohibited. Covered boat lifts in conformance with other provisions in this section may be allowed. The nonconforming use clause in Chapter 7 Section G shall apply to existing enclosed moorage structures.
16. If a dock is provided with a safety railing, such railing shall not exceed 36 inches in height and shall be an open framework that does not unreasonably interfere with shoreline views of adjoining properties.
17. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish shall be generally non-reflective.
18. Public boardwalks are allowed for public access in shoreline areas.
19. The Shoreline Administrator has flexibility in dock dimensional standards to accommodate disability (ADA) needs for single-family homeowners when the house is accessible to ADA standards (including an accessible entry and bathroom) and there is an ADA accessible pathway to the dock.

New Private, Non-Commercial Piers

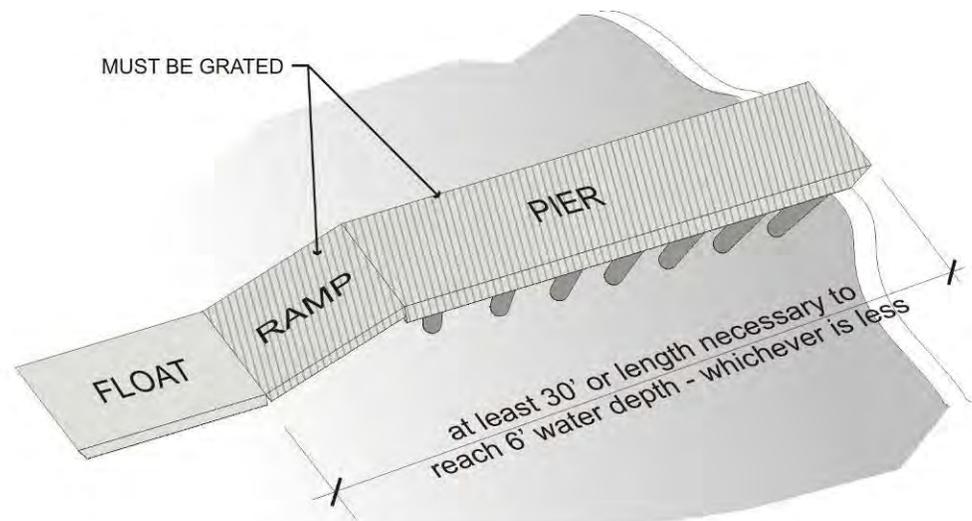
Regulations ~~18-20~~ – ~~329~~ below apply specifically to residential and private recreational properties not used for commercial purposes.

~~1820~~. A new private pier or dock may be permitted on lots owned for residential or for private recreational use, provided:

- a. The applicant has demonstrated a need for moorage.
- b. No more than one (1) pier is permitted for each single-family residence or private recreational lot not used for commercial purposes.
- c. On waterfront lots subdivided to create additional waterfront lots, upland lots with waterfront access rights, or lots with waterfront multi-family development, joint-use piers shall be required.

~~1921~~. A new, joint-use pier may be permitted on a community recreation lot shared by a number of waterfront or upland lots provided the applicant has demonstrated a need for moorage or other allowed water-dependent use.

~~229~~. New floating docks located within the first 30 feet of shoreline, measured waterward of the OHWM, are prohibited except where the float is located in water at least six (6) feet in depth, measured from the OHWM. Piers that terminate in a waterward float are allowed; provided that the landward edge of the float is over water with a depth of six (6) feet or more, measured from the OHWM, or is at least 30 feet waterward of the OHWM. All float tubs shall be fully encapsulated.

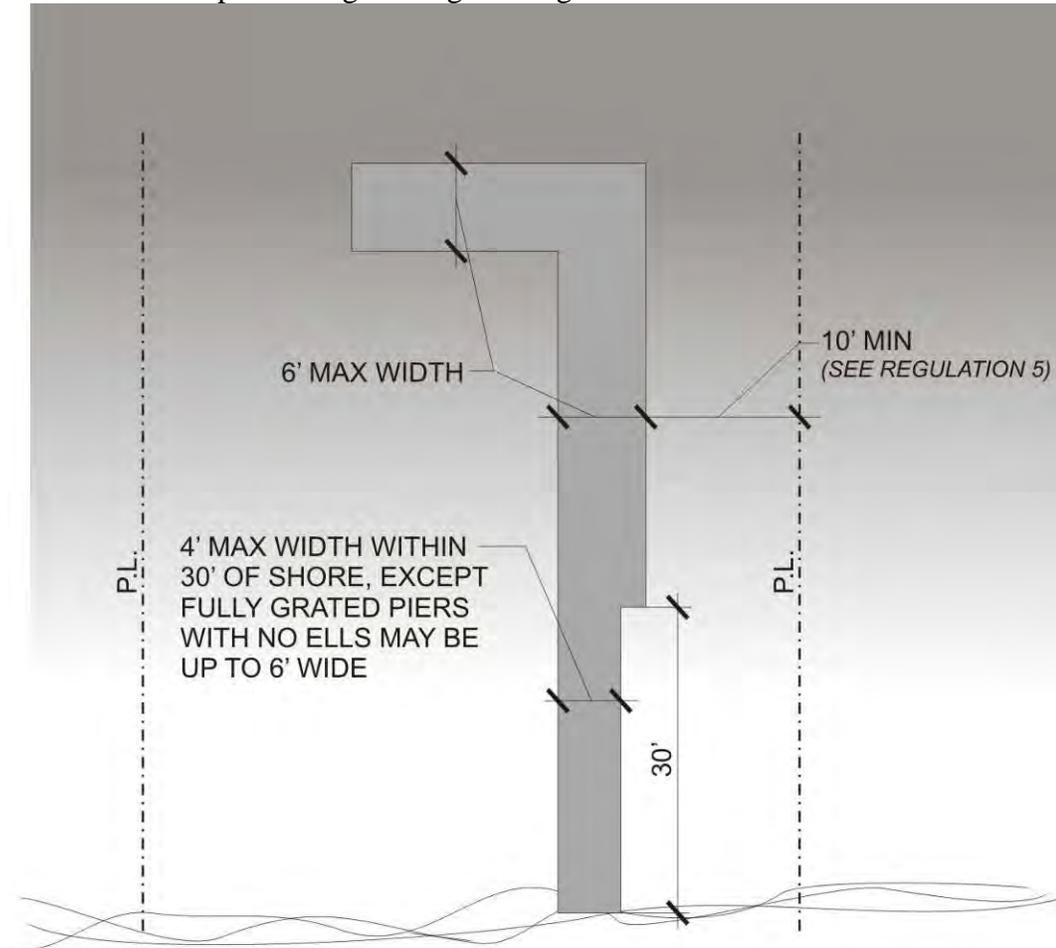


Requirement to offset new floats from pier

Figure 1. Pier approach length. (See regulation 4.C.3.c.~~229~~.)

~~231~~. Development Standards for New Docks

- a. Decking: All new docks **must be fully grated** require decking with a **minimum of 60 percent ambient light transmission within 30 feet of the shoreline**. Decking shall have a minimum open space of 40 percent. See regulations C.3.c.275 to 3028 for dock repair requirements.
- b. Piles. Piles shall be either steel, PVC, or untreated wood and shall be spaced a minimum of 12 feet apart, except when shown not to be feasible for site-specific engineering or design considerations.



Residential dock width and geometric dimension requirements

Figure 2. Residential dock width and geometric dimension requirements.

- c. Length.
 - i. The maximum waterward intrusion of any portion of the dock shall not extend beyond the average of the two most adjacent legally existing docks within 300 feet on either side of the proposed dock. If no legal docks exist within 300 feet, the maximum length of the dock is the minimum necessary to reach a 5 ½ -foot water depth below the OHWM.
Exception: If the above dock limits do not allow the dock to reach an adequate depth to moor a boat, the Shoreline Administrator may

approve a longer dock up to the minimum necessary to reach 5½ feet of depth, as measured from the OHWM. However, in no case shall a dock extend more than 200 feet from the shoreline, measured perpendicularly to the shoreline.

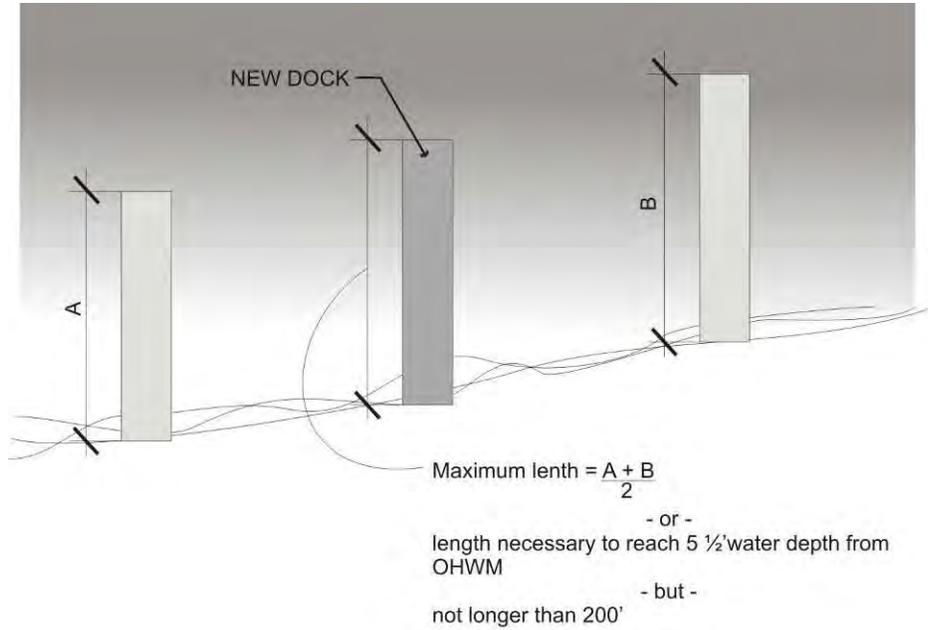


Figure 3. Allowable length of new docks. (See regulation 4.C.3.c.231.a.i.)

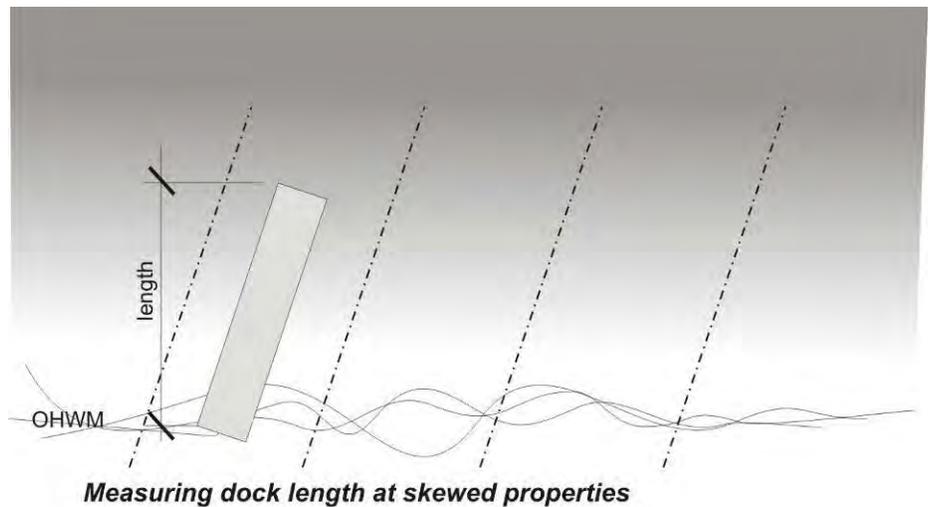


Figure 4. Dock length measurement.

- ii. The maximum length of ells, fingers, and floats is 20 feet.
- d. Width.
 - i. The maximum width of a dock walkway is 4 feet for the first 30 feet from shore and up to 6 feet for portions of walkways which extend more than 30 feet from the shore.

Exception: Provided the applicant receives Washington Department of Fish and Wildlife (WDFW) Hydraulic Project Approval (HPA), the maximum width of the dock in the nearshore 30 feet can extend up to 6 feet if the docks are only linear and do not terminate in an ell, float, or other non-linear configuration OR the dock is ~~grated~~ consists of decking allowing for a minimum of 60 percent ambient light transmission for the entire ~~portion of the~~ dock (not just the first 30 feet).

- ii. The maximum width of ells and floats is 6 feet. Ells and floats shall be positioned beyond 30 feet from shore.
- iii. Any additional fingers must be no wider than 2 feet.
- iv. The maximum width of a ramp connecting a dock to a float is 4 feet.

Replacement of Existing Private Pier or Dock

242. Proposals involving replacement of the entire private pier or dock, or 50 percent or more of the pier-support piles can be replaced up to 100% of the size (square footage and dimension) of the existing pier or dock and shall comply with the following standards:

- a. Decking: All replacement piers must ~~be grated~~ include decking with a minimum of 60 percent ambient light transmission as described in subsection ~~Cc.234~~.a. above.
- b. Replacement piles must be sized as described above under 21.b, and must achieve the minimum 12-foot spacing to the extent allowed by site-specific engineering or design considerations.

Additions to Private Pier or Dock

253. Additions to existing, legally conforming piers or docks may be permitted up to the size allowed for new piers as described in subsection 4.C.3.c.~~234~~, provided any additions in the nearshore 30 feet ~~are grated~~ consists of decking allowing for a minimum of 60 percent ambient light transmission. If the existing dock's dimensions are non-conforming, additions are prohibited.

264. When proposed additions to a private residential pier result in a pier that exceeds the maximum total length or width allowances for new docks as described in 4.C.3.c.~~234~~, the addition may be proposed under a Variance application and subject to the following provisions:

- a. The applicant must remove any in-water structures rendered obsolete by the addition;
- b. The additional length of walkway or ell must be no wider than 6 feet;
- c. The decking of all new pier elements ~~must be grated~~ include decking with a minimum of 60 percent ambient light transmission as described in subsection ~~Cc.234~~.a. above; and

- d. Any proposed new piles must comply with standards under subsection ~~Cc.234~~.b. above.

Repair of Existing Private Pier or Dock

275. Repair proposals which replace less than 50 percent of the existing pier-support piles must comply with the following:
 - a. If the width of pier element is wider than 6 feet in the area where the piles will be replaced, the decking that would be removed in order to replace the piles shall be replaced with ~~grated~~ decking with a minimum of 60 percent ambient light transmission as described in subsection ~~Cc.234~~.a. above.
 - b. Replacement piles must be sized as described under subsection ~~Cc.234~~.b. above, and must achieve the minimum 12-foot spacing to the extent allowed by site-specific engineering or design considerations. Pilings shall not be maintained by placing PVC pipe around old pilings and filling with concrete as this increases the footprint of the pilings and the impact on the lake substrate.
286. Repair proposals which replace 50 percent or more of the decking on any pier element (i.e., pier walkway, ell, etc.) greater than 6 feet wide must use ~~grated~~ decking with ambient light transmission for the entire portion of that element that is wider than 6 feet as described in subsection ~~Cc.234~~.a. above.
297. If the cumulative repair proposed over a three-year period exceeds thresholds established in subsection c.242 above, the current repair proposal shall be reviewed under subsection c.242 above.
3028. Other repairs to existing legally established moorage facilities where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations.
3129. If a single-family residence has two or more existing docks and one requires replacement or repair as described in regulations C.3.c.242 to .286, then one dock must be removed as a condition of the repair. The remaining dock may be improved to the same dimensions as either existing dock.

Jet-Ski Personal Watercraft Lifts, Boatlifts, Boatlift Canopies, and Covered Moorage (see also regulation C.3.c.5)

320. Boatlifts and boatlift canopies may be permitted as an accessory to residential development provided that:
 - a. Jet-ski Personal watercraft lifts are movable equipment employed to temporarily lift jet-skis personal watercraft above the water for protection and storage and are allowed only as an accessory to a dock and not as a separate structure.

- b. Boatlifts are movable equipment employed to temporarily lift boats above the water for protection and storage. Residential piers may have one boatlift per single-family lot having legal use of the structure.
- c. All lifts are placed at least 30 feet waterward from the ordinary high water mark as far waterward as feasible and safe, and within the limits of the dimensional standards for docks in this chapter.
- d. Boatlift canopies (covers over the raised boat) must not be constructed of permanent structural material. The bottom of a boatlift canopy is elevated above the boatlift to the maximum extent practicable, the lowest edge of the canopy must be at least 4 feet above the ordinary high water mark, and the top of the canopy must not extend more than 8 ½ feet above the adjacent pier.
- e. Boatlift canopies must be made of fabric material.
- f. Any platform lifts are fully grated or open allowing ambient light transmission.
- g. The lifts and canopies comply with all other regulations as stipulated by State and Federal agencies.

Boat Launching Facilities

- 331. The maximum waterward intrusion of any portion of any launching ramp or lift station shall be the point where the water depth is six (6) feet below the ordinary high water mark.
- 342. Boat ramps are only permitted for public access, public or joint recreational uses, and emergency access. Any asphalt or concrete launch that solidly covers the substrate below the ordinary high water mark are not permitted accessory to private residential uses.
- 353. Launching rails are prohibited.

Recreational Floats/Swim Platforms

- 364. New recreational floats and swimming platforms for private properties are prohibited. Temporary inflatable recreational equipment (e.g., floating trampolines) is allowed from May 1 through September 30. Temporary inflatable recreational equipment shall be located a maximum of ten feet waterward from the end of the associated dock. If there is no associated dock, the temporary inflatable recreational equipment shall be located a maximum of ten feet waterward from the average of the two most adjacent legally existing docks.

Public and Commercial Over-Water Structures – including Docks, ~~and~~ Piers and Boardwalks

375. Existing public and commercial over-water structures such as docks, piers, or boardwalks may be repaired and/or replaced in the same location as the existing structure.
386. Public and commercial over-water structures may be expanded in size subject to the following:
- a. The existing structure is not large enough to support the intended use.
 - b. The applicant must remove any in-water structures rendered obsolete by the expansion (e.g., portions of an existing dock that are no longer needed must be removed).
 - c. Piles. Piles shall be either PVC, steel, or untreated wood and shall be spaced a minimum of 12 feet apart except when shown not to be feasible for site-specific engineering or design considerations.
 - d. At no point shall any new portion of the pier exceed 12 feet in width.
 - e. All new dock portions shall ~~be grated~~ consist of decking allowing for a minimum of 60 percent ambient light transmission.
 - f. The length of the pier is the minimum necessary to accommodate the intended public usage of the pier.
397. New public docks or piers may be permitted if increased public usage of existing structures has required the need for additional over-water cover. For new public docks or piers, floating piers located in the first 30 feet may be allowed as a conditional use if it is found to be necessary to support the launching of small watercraft (such as canoes, kayaks, or rowing shells).
4038. One new commercial dock or pier may be permitted per commercial waterfront lot, provided it is in support of a water-oriented use.
4139. New public and commercial over-water structures shall be subject to the standards under 386.c through f above.

4. Fill

a. Applicability

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

b. Policies

1. Fills waterward of OHWM should be allowed only when necessary to support allowed water-dependent or public access uses, cleanup and disposal of

contaminated sediments, and other water-dependent uses that are consistent with this SMP.

2. Shoreline fill should be designed and located so there will be no significant ecological impacts and no alteration of local currents, surface water drainage, channel migration, or flood waters which would result in a hazard to adjacent life, property, and natural resource systems.

c. Regulations

1. Fill waterward of OHWM requires a conditional use permit and may be permitted only when:
 - a. In conjunction with a water-dependent or public use permitted by this SMP;
 - b. In conjunction with a levee, bridge, or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or
 - c. As part of an approved shoreline restoration project.
2. Waterward of OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven not feasible.
3. Fill **prohibited** in floodplains where the fill would alter the hydrologic characteristics, flood storage capacity, or inhibit channel migration that would, in turn, increase flood hazard or other damage to life or property. Fill **prohibited** in floodway, except when approved by conditional use permit and where required in conjunction with a proposed water-dependent or other use specified in subsection 4.c.2 above.
4. Fill shall be permitted only where it is demonstrated that the proposed action will not:
 - a. Result in significant ecological damage to water quality, fish, shellfish, and/or wildlife habitat; or
 - b. Adversely alter natural drainage and circulation patterns, currents, river flows or significantly reduce flood water capacities.
 - c. Alter channel migration, geomorphic, or hydrologic processes.
5. Environmental cleanup action involving excavation/fill, as authorized by the Shoreline Administrator, may be permitted.
6. Sanitary fills shall not be located in shoreline jurisdiction.
7. Fill waterward of the ordinary high water mark that is for the purpose of restoring ecological functions is a permitted use and does not require a conditional use permit.

5. Dredging and Disposal

a. Applicability

Dredging is the removal or displacement of earth or sediment (e.g., gravel, sand, mud, silt and/or other material or debris) from a stream, river, lake, marine water body, or associated marsh, bog or swamp. Activities which may require dredging include the construction and maintenance of navigation channels, levee construction, recreation facilities, boat access, and ecological restoration.

Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the by-products of dredging.

b. Exemptions

Pursuant to WAC 173-27-040, dredging or dredge disposal actions may be exempt from the requirement for a shoreline substantial development permit, but may still require a conditional use or variance permit.

c. Policies

1. Dredging operations should be planned and conducted to minimize interference with navigation and adverse impacts to other shoreline uses, properties, and values.
2. When allowed, dredging and dredge material disposal should be limited to the minimum amount necessary.
3. Disposal of dredge material within a channel migration zone shall be discouraged.

d. Regulations

General

1. Dredging and dredge disposal shall be permitted only where it is demonstrated that the proposed actions will not:
 - a. Result in significant or ongoing damage to water quality, fish, and shoreline habitat;
 - b. Adversely alter natural drainage and circulation patterns, currents, river flows, channel migration processes or significantly reduce flood water capacities; or
 - c. Cause other significant ecological impacts.
2. Proposals for dredging and dredge disposal shall include all feasible mitigating measures to protect marine habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of food chains, loss of benthic productivity and disturbance of fish runs and important localized biological communities.

3. Dredging and dredge disposal shall not occur in wetlands, except as authorized by conditional use permit as a shoreline restoration project.
4. Dredging and dredge disposal shall be carefully scheduled to protect ecological function (e.g., fish runs, spawning, benthic productivity, etc.) and to minimize interference with fishing activities.
5. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the Washington State Register of Historic Places until such time that they have been released by the State Archaeologist.
6. Dredging shall utilize techniques which cause minimum dispersal and broadcast of bottom material.
7. Dredging shall be permitted only:
 - a. For navigation or navigational access and recreational access;
 - b. In conjunction with a water-dependent use of water bodies or adjacent shorelands;
 - c. As part of an approved habitat improvement project;
 - d. To improve water quality;
 - e. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist;
 - f. To improve water flow or manage flooding only when consistent with an approved flood/stormwater comprehensive management plan; or
 - g. To clean up contaminated sediments.
8. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.
9. New dredging activity is prohibited:
 - a. In shoreline areas with bottom materials which are prone to significant sloughing and refilling due to currents, resulting in the need for continual maintenance dredging, except by conditional use permit; and
 - b. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish or wildlife.
10. Dredging for the primary purpose of obtaining material for landfill is prohibited.
11. New development shall be located and designed to avoid or minimize the need for new or maintenance dredging where feasible.
12. Maintenance dredging of established navigation channels, public access facilities and basins is restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

Regulations -- Dredge Material Disposal

13. Depositing clean dredge materials in water areas shall be allowed only by conditional use permit for one or more of the following reasons:
 - a. For wildlife habitat improvement or shoreline restoration; or
 - b. To correct problems of material distribution adversely affecting fish and wildlife resources.
14. Where the Shoreline Administrator requires, revegetation of land disposal sites shall occur as soon as feasible in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Native species and other compatible plants shall be used in the revegetation.
15. Proposals for disposal in shoreline jurisdiction must show that the site will ultimately be suitable for a use permitted by this SMP.
16. The Shoreline Administrator may impose reasonable limitations on dredge disposal operating periods and hours and may require provision for buffers at land disposal or transfer sites in order to protect the public safety and other lawful interests from unnecessary adverse impacts.
17. Disposal of dredge material within a channel migration zone shall require a conditional use permit.

6. Shoreline Restoration and Ecological Enhancement

a. Applicability

Shoreline restoration and ecological enhancement are the improvement of the natural characteristics of upland or submerged shoreline using native materials. The materials used are dependent on the intended use of the restored or enhanced shoreline area. An Ecological Restoration Plan accompanies this SMP and recommends ecological enhancement and restoration measures.

b. Policies

1. The City should consider shoreline enhancement as an alternative to structural shoreline stabilization and protection measures where feasible.
2. All shoreline enhancement projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.
3. Where possible, shoreline restoration should use maintenance-free or low-maintenance designs.
4. The City should pursue the recommendations in the shoreline restoration plan prepared as part of this SMP update. The City should give priority to projects consistent with this plan.
5. Shoreline restoration and enhancement should not extend waterward more than necessary to achieve the intended results.

c. Regulations

1. Shoreline enhancement may be permitted if the project proponent demonstrates that no significant change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
2. Shoreline restoration and enhancement projects shall use best available science and management practices.
3. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
4. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided:
 - a. The project's purpose is the restoration of natural character and ecological functions of the shoreline, and
 - b. It is consistent with the implementation of a comprehensive restoration plan approved by the Shoreline Administrator, or the Shoreline Administrator finds that the project provides an ecological benefit and is consistent with this SMP.

7. Dikes and Levees

a. Applicability

Dikes and levees are manmade earthen embankments utilized for the purpose of flood control, water impoundment projects, or settling basins.

b. Policies

1. Dikes and levees should be constructed or reconstructed only as part of a comprehensive flood hazard reduction program.
2. Environmental enhancement measures should be a part of levee improvements.

c. Regulations

1. Dikes and levees shall be designed, constructed, and maintained in accordance with Washington State Department of Fish and Wildlife Hydraulic Project Approval, federal levee criteria, and in consideration of resource agency recommendations.
2. Dikes and levees shall protect the natural processes and resource values associated with streamways and deltas, including, but not limited to, wildlife habitat.
3. Dikes and levees shall be limited in size to the minimum height required to protect adjacent lands from the projected flood stage.

4. Dikes and levees shall not be placed in the floodway, except for current deflectors necessary for protection of bridges and roads.
5. Public access to shorelines should be an integral component of all levee improvement projects. Public access shall be provided in accordance with public access policies and regulations contained herein.
6. Dikes and levees shall only be authorized by conditional use permit and shall be consistent with “The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas,” dated September 16, 2005, as amended.
7. Dikes and levees shall be set back at convex (inside) bends to allow streams to maintain point bars and associated aquatic habitat through normal accretion, if feasible.
8. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainages.
9. Underground springs and aquifers shall be identified and protected.
10. Where feasible, the construction, repair, or reconstruction of dikes or levees shall include environmental restoration. The Lake Stevens Restoration Plan accompanying this SMP provides guidance the Shoreline Administrator will use in determining the amount and type of restoration required.

CHAPTER 5

Shoreline Use Provisions

A. Introduction

The provisions in this section apply to specific common uses and types of development to the extent they occur within shoreline jurisdiction.

B. Shoreline Use and Development Standards Matrices

The following matrices (Table 5 and Table 6) indicate the allowable uses and some of the standards applicable to those uses and modifications. Where there is a conflict between the matrices and the written provisions in Chapters 3, 4, or 5 of this SMP, the written provisions shall apply. The numbers in the matrices refer to footnotes which may be found immediately following the matrix. These footnotes provide additional clarification or conditions applicable to the associated use or shoreline environment designation.

Table 5. Shoreline Use Matrix

- P = May be permitted
- C = May be permitted as a conditional use only
- X = Prohibited; the use is not eligible for a variance or conditional use permit¹⁰
- N/A = Not applicable

SHORELINE USE	Natural	High-Intensity	Urban Conservancy¹¹	Shoreline Residential	Aquatic¹²
Agriculture	C ⁹	X	P	X	X
Aquaculture	X	X	X	X	X
Boating facilities ¹⁴	X	P	P	P	P
Commercial:					
Water-dependent	X	P	P ¹	X	X
Water-related, water-enjoyment	X	P	P ¹	X	X
Nonwater-oriented	X	C ⁴	X	X	X
Flood hazard management	X	P	P	P	C
Forest practices	X	X	X	X	X

P = May be permitted
C = May be permitted as a conditional use only
X = Prohibited; the use is not eligible for a variance or conditional use permit¹⁰
N/A = Not applicable

SHORELINE USE	Natural	High-Intensity	Urban Conservancy¹¹	Shoreline Residential	Aquatic¹²
Industrial:					
Water-dependent	X	P	X	X	X
Water-related, water-enjoyment	X	P	X	X	X
Nonwater-oriented	X	P ⁴	X	X	X
In-stream structures	C	C	C	C	C
Mining	X	X	X	X	X
Parking (accessory)	X	P ²	P ²	P ²	X
Parking (primary, including paid)	X	X	X	X	X
Recreation:					
Water-dependent	P ³	P	P	P	P
Water-enjoyment	P ³	P	P	P	X
Nonwater-oriented	X	P ⁴	P ⁴	P	X
Single-family residential	X	X	X	P ⁸	X
Multi-family residential	X	P	C ¹³	P	X
Land subdivision	P	P	P ⁵	P	X
Signs:					
On premise	X	P	P ⁶	X	X
Off premise	X	X	X	X	X
Public, highway	X	P	P	X	X
Solid waste disposal	X	X	X	X	X
Transportation:					
Water-dependent	X	P	P	C	P
Nonwater-dependent	X	P	C	C	C ⁷
Roads, railroads	C ⁷	P	P ⁷	P	C ⁷
Private non-commercial float plane landing and mooring facilities on Lake Stevens	X	X	X	X	P
Utilities (primary)	C ⁷	P ¹⁵	P ⁷	P ⁷	C ^{7, 16}

Use Matrix Notes:

1. Park concessions, such as small food stands, cafes, and restaurants with views and seating oriented to the water, and uses that enhance the opportunity to enjoy publicly accessible shorelines are allowed.

2. *Accessory parking is allowed in shoreline jurisdiction only if there is no other feasible option, as determined by the Shoreline Administrator.*
3. *Passive activities, such as nature watching and trails, that require little development with no significant adverse impacts may be allowed.*
4. *Nonwater-oriented uses may be allowed as a permitted use where the Shoreline Administrator determines that water-dependent or water-enjoyment use of the shoreline is not feasible due to the configuration of the shoreline and water body or due to the underlying land use classification in the comprehensive plan.*
5. *Land division is only allowed where the Shoreline Administrator determines that it is for a public purpose.*
6. *Signs are allowed for public facilities only.*
7. *Roadways and public utilities are allowed if there is no other feasible alternative, as determined by the Shoreline Administrator, and all significant adverse impacts are mitigated.*
8. *Residences are allowed in shoreline jurisdiction only if it is not feasible, as determined by the Shoreline Administrator, to locate the building on the portion of the property outside shoreline jurisdiction.*
9. *Agricultural activities existing at the time of adoption of this SMP only.*
10. *For the treatment of existing nonconforming development, see Chapter 7 Section G.*
11. *Development in channel migration zones is allowed only by conditional use permit where it can be shown that such development would not prevent natural channel migration.*
12. *Uses noted as allowed in the Aquatic environment are allowed only if allowed in the adjacent upland environment.*
13. *Multifamily residences may be allowed as part of a mix of uses, provided public access and ecological restoration are included as part of the project.*
14. *No new marinas allowed. See Chapter 5 Section C.3. for specific boating facilities regulations.*
15. *See Chapter 5 Section C.10 for specific regulations for utilities.*
16. *Publicly owned and operated aerators are allowed in the aquatic environment without a conditional use permit.*

Table 6. Shoreline Development Standards Matrix³

<p style="text-align: center;">DEVELOPMENT STANDARDS^{3, 4} (See also section cited in parentheses)</p>	<p style="text-align: center;">Natural</p>	<p style="text-align: center;">High-Intensity</p>	<p style="text-align: center;">Urban Conservancy</p>	<p style="text-align: center;">Shoreline Residential</p>	<p style="text-align: center;">Aquatic</p>
Commercial Development (Ch. 5 Sec. C.4)					
Lakes:					
Water-dependent setback	N/A	60'	60'	N/A ²	N/A
Water-related, water-enjoyment setback	N/A	60'	60'	N/A ²	N/A
Nonwater-oriented setback	N/A	60'	60'	N/A ²	N/A
Rivers and Streams:					
Water-dependent setback	N/A	160'	160'	N/A	N/A
Water-related, water-enjoyment setback	N/A	160'	160'	N/A	N/A
Nonwater-oriented setback	N/A	160'	160'	N/A	N/A
Industrial Development (Ch. 5 Sec. C.5)					
Rivers and Streams:					
Water-dependent	N/A	160'	N/A	N/A	N/A
Water-related and water-enjoyment	N/A	160'	N/A	N/A	N/A
Nonwater-oriented	N/A	160'	N/A	N/A	N/A
Accessory Parking (Ch. 3 Sec. B.6)					
Setbacks	N/A	70' ¹	70' ¹	75' ²	N/A
Recreational Development					
Water-dependent park structures setback	N/A	60'	60'	N/A	N/A
Water-related, water enjoyment park structures setback	N/A	60'	60'	N/A	N/A
Nonwater-oriented park structures setback (Ch. 5 Sec. C.7.c.4)	N/A	60' ¹	60' ¹	N/A	?
Miscellaneous					
New agricultural activities setback (Ch. 5 Sec. C.2.c.4)	N/A	N/A	20' ¹	N/A	N/A
Residential Development²					

Other provisions in this SMP also apply.

Development Standards Matrix Notes:

1. *The Shoreline Administrator may reduce this dimension if it determines that the type of development allowed within this SMP and other municipal, state, and federal codes cannot be accommodated within the allowed site development area by reconfiguring, relocating, or resizing the proposed development. Where the Shoreline Administrator reduces a requirement, compensatory mitigation, such as vegetation enhancement or shoreline armoring removal, must be provided as determined by the Shoreline Administrator.*
2. *See regulation 5.C.8.c for residential development standards.*
3. *The maximum height of structures in shoreline jurisdiction is 35 feet above grade measured as called for in the City's zoning code and with exceptions as noted in the City's zoning code.*
4. *Setbacks from the shoreline do not apply to development separated from the shoreline by a public roadway.*

C. Shoreline Use Policies and Regulations

1. General Policies and Regulations

a. Applicability

The following provisions apply to all uses in shoreline jurisdiction.

b. Policy

1. The City should give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.
2. The City should ensure that all proposed shoreline development will not diminish the public health, safety, and welfare, as well as the land or its vegetation and wildlife, and should endeavor to protect property rights while implementing the policies of the Shoreline Management Act.
3. The City should reduce use conflicts by prohibiting or applying special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference should be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.
4. The City should encourage the full use of existing urban areas before expansion of intensive development is allowed.

c. Regulations

1. Developments that include a mix of water-oriented and nonwater-oriented uses may be considered water-oriented provided the Shoreline Administrator finds that the proposed development does give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, are dependent on a shoreline location, or enhance the public's ability to enjoy the shoreline.

2. All uses not explicitly covered in the SMP require a conditional use permit. The Shoreline Administrator should impose conditions to ensure that the proposed development meets the policies of this SMP.
3. All development and uses must conform to all of the provisions in the SMP.
4. All development and uses shall conform to the shoreline use matrix and the development standards matrix in Section B of this chapter unless otherwise stated in this chapter.
5. In channel migration zones, natural geomorphic and hydrologic processes shall not be limited and new development shall not be established where future stabilization would be required to protect the development. (Refer to the Channel Migration Zone Map, Figure No. 10.2 in the June 9, 2009 Final Shoreline Inventory and Analysis Report).
6. As described in WAC 173-26-221(3)(c), appropriate development may be allowed in areas landward of roads because the road prevents active channel movement and flooding. This area is therefore not within a channel migration zone (refer to Channel Migration Zone Map, Figure No. 10.2 in the Inventory and Analysis Report).
7. Development of uses in flood-prone areas identified by FEMA on the Flood Rate Insurance Map shall comply with adopted floodplain regulations.

2. Agriculture

a. Applicability

Agriculture includes, but is not limited to, the commercial production of: horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, or seed; Christmas trees not subject to the excise tax imposed by Chapter 84.33. RCW; finfish in upland hatcheries; or livestock.

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

b. Policies

1. The creation of new agricultural lands by diking, draining, or filling marshes, channel migration zones, and associated marshes, bogs, and swamps should be prohibited.
2. A vegetative buffer should be maintained between agricultural lands and water bodies or wetlands in order to reduce harmful bank erosion and resulting sedimentation, enhance water quality, reduce flood hazard, and maintain habitat for fish and wildlife.

3. Animal feeding operations, retention and storage ponds, and feedlot waste and manure storage should be located out of shoreline jurisdiction and constructed to prevent contamination of water bodies and degradation of the adjacent shoreline environment.
4. Appropriate farm management techniques should be utilized to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life from fertilizer and pesticide use and application.
5. Where ecological functions have been degraded, new development should be conditioned with the requirement for ecological restoration to ensure no net loss of ecological functions.

The Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of an agricultural development.

c. Regulations

1. Agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this SMP to ensure no net loss of ecological function.
2. New manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within shoreline jurisdiction.
3. A buffer of natural or planted permanent native vegetation not less than 20 feet in width, measured perpendicular to the shoreline, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters, channel migration zones, and marshes, bogs, and swamps. The Shoreline Administrator shall determine the extent and composition of the buffer when the applicant applies for a permit or letter of exemption.
4. Stream banks and water bodies shall be protected from damage caused by concentration and overgrazing of livestock. Provide fencing or other grazing controls to prevent bank compaction, bank erosion, or the overgrazing of or damage to buffer vegetation. Provide suitable bridges, culverts, or ramps for stock crossing.
5. Agricultural practices shall prevent and control erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
6. Existing and ongoing agricultural uses may be allowed within a channel migration zone or floodway provided that no new restrictions to channel movement occur.
7. See Chapter 3 Section B.12.c.3-4 for water quality regulations related to the use of pesticides, herbicides, and fertilizers.

8. Agriculture in the natural environment is limited to those activities existing at the date of adoption of this SMP.

3. Boating Facilities

a. Applicability

Boating facilities include marinas, both dry storage and wet-moorage types; boat launch ramps; covered moorage; mooring buoys; and marine travel lifts.

A marina is a water-dependent use that consists of a system of piers, buoys, or floats to provide moorage for four or more boats. For regulatory purposes, commercial and community moorage facilities, yacht club facilities, and camp or resort moorage areas would also be reviewed as marinas. Publicly owned docks for transient moorage or small craft rental are not considered marinas. Boat launch facilities and supplies and services for small commercial and/or pleasure craft may be associated with marinas.

Accessory uses in support of boating facilities may include fuel docks and storage, boating equipment sales and rental, wash-down facilities, fish cleaning stations, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.

There are uses and activities associated with boating facilities that are identified in this section as separate uses (e.g., Commercial Development and Industrial Development, including ship and boat building, repair yards, utilities, and transportation facilities) or as separate shoreline modifications (e.g., piers, docks, bulkheads, breakwaters, jetties and groins, dredging, and fill). These uses are subject to the regulations established for those uses and modifications in addition to the standards for boating facilities established in this section.

This section does not apply to residential moorage serving an individual single-family residence, including piers, docks, landing ramps, boat houses, float plane moorage, and moorage buoys serving a single-family residence. See Chapter 4 Section C.3 regarding single-family residential moorage facilities.

b. Policies

1. Boating facilities should be located, designed, and operated to provide maximum feasible protection and restoration of ecological processes and functions and all forms of aquatic, littoral, or terrestrial life—including animals, fish, shellfish, birds, and plants—and their habitats and migratory routes. To the extent possible, boating facilities should be located in areas of low ecological function.
2. Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. However, the need to protect and restore ecological functions and to provide for water-dependent uses carries higher priority than protection of views.

3. Boat launch facilities should be provided at appropriate public access sites.
4. Existing public moorage and launching facilities should be maintained.

c. Regulations

1. It is the applicant's responsibility to comply with all other applicable state agency policies and regulations, including, but not limited to the following: the Department of Fish and Wildlife criteria for the design of bulkheads and landfills; Federal Marine Sanitation standards (EPA 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10); U.S. Army Corps of Engineers dredging standards (Section 404); and state and federal standards for the storage of fuels and toxic materials.
2. New boating facilities shall not significantly impact the rights of navigation on the waters of the state.
3. Accessory uses that support boating facilities, such as fuel service, pump out stations, or potable water stations, are allowed provided they meet all health and safety regulations.
4. Live aboard vessels, crafts and/or structures are prohibited.

Location

5. Boating facilities shall not be located where their development would reduce the quantity or quality of critical aquatic habitat or where significant ecological impacts would necessarily occur.
6. Accessory uses associated with a boating facility that require a building or structure, such as a marina office, grocery, cafe or restaurant, or boating rental or sales, shall be located as far landward as is feasible, with a minimum setback of 30'.

Design/Renovation/Expansion

7. Boating facilities shall be designed to avoid or minimize significant ecological impacts. The Shoreline Administrator shall apply the mitigation sequence defined in Chapter 3 Section B.4 in the review of boating facility proposals. On degraded shorelines, the Shoreline Administrator may require ecological restoration measures to account for environmental impacts and risks to the ecology to ensure no net loss of ecological function.

The Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of the proposed boating facility.

8. Boating facility design shall:
 - a. Provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water habitat.

- b. Minimize interference with geohydraulic processes and disruption of existing shoreline ecological functions.
- 9. Dry moorage shall require a conditional use permit.
- 10. The perimeter of parking, dry moorage, and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas. See Chapter 14.76 LSMC for specific landscape requirements.
- 11. Moorage of floating homes is prohibited.
- 12. New covered moorage is prohibited.

Boat Launches

- 13. Launch ramps shall, where feasible, be located where:
 - a. There are stable, non-erosional banks, where no or a minimum number of current deflectors or other stabilization structures will be necessary.
 - b. Water depths are adequate to eliminate or minimize the need for offshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other river, lake, harbor, and channel maintenance activities.
 - c. There is adequate water mixing and flushing, and the facility is designed so as not to retard or negatively influence flushing characteristics.
- 14. Boat ramps shall be placed and kept as flush as possible with the foreshore slope to permit launch and retrieval and to minimize the interruption of hydrologic processes.

4. Commercial Development

a. Applicability

Commercial development means those uses that are involved in wholesale, retail, service, and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices, and private or public indoor recreation facilities. Commercial nonwater-dependent recreational facilities, such as sports clubs and amusement parks, are also considered commercial uses. This category also applies to institutional and public uses such as hospitals, libraries, schools, churches and government facilities.

Uses and activities associated with commercial development that are identified as separate uses in this program include Mining, Industry, Boating Facilities, Transportation Facilities, Utilities (accessory), and Solid Waste Disposal. Piers and docks, bulkheads, shoreline stabilization, flood protection, and other shoreline modifications are sometimes associated with commercial development and are subject to those shoreline modification regulations in Chapter 4 in addition to the standards for commercial development established herein.

b. Policies

1. Multi-use commercial projects that include some combination of ecological restoration, public access, open space, and recreation should be encouraged in the High-Intensity Environment consistent with the City's Comprehensive Plan.
2. Where possible, commercial developments are encouraged to incorporate low impact development techniques into new and existing projects.

c. Regulations

1. Water-oriented commercial developments may be permitted as indicated in Chapter 5 Section B, "Shoreline Use and Development Standards Matrices."
2. Nonwater-oriented commercial developments may be permitted only where they are either separated from the shoreline and there is no opportunity for water-oriented uses **or** where all three (3) of the following can be demonstrated:
 - a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, incompatible surrounding land uses, physical features, or the site's separation from the water.
 - b. The proposed development does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.
 - c. The proposed development will be of appreciable public benefit by increasing ecological functions together with public use of or access to the shoreline.
3. Nonwater-oriented uses may be allowed as part of a mixed-use facility that includes water-dependent uses.
4. Commercial development shall be designed to avoid or minimize ecological impacts, to protect human health and safety, and to avoid significant adverse impacts to surrounding uses and the shoreline's visual qualities, such as views to the waterfront and the natural appearance of the shoreline. To this end, the Shoreline Administrator may adjust the project dimensions and setbacks (so long as they are not relaxed below minimum standards without a shoreline variance permit) or prescribe operation intensity and screening standards as deemed appropriate.
5. All new commercial development proposals will be reviewed by the Shoreline Administrator for ecological restoration and public access requirements consistent with Chapter 3 Section B.7. When restoration or public access plans indicate opportunities exist, the Shoreline Administrator may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

All new water-related and water-enjoyment development shall be conditioned with the requirement for ecological restoration and public access unless those activities are demonstrated to be not feasible.

All new nonwater-oriented development, where allowed, shall be conditioned with the requirement to provide ecological restoration and public access.

The Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration and/or public access required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of a commercial development.

6. All commercial loading and service areas shall be located or screened to minimize adverse impacts to the shoreline environment.
7. Commercial development and accessory uses must conform to the setback and height standards established in Section B “Development Standards Matrix” in this Chapter.
8. Low impact development (LID) techniques shall be incorporated where appropriate.

5. Industry

a. Applicability

Industrial developments and uses are facilities for processing, manufacturing, and storing of finished or semi-finished goods and include, but are not limited to such activities as log storage, log rafting, petroleum storage, hazardous waste generation, transport and storage, ship building, concrete and asphalt batching, construction, manufacturing, and warehousing. Excluded from this category and covered under other sections of the SMP are boating facilities, piers and docks, mining (including on-site processing of raw materials), utilities, solid waste disposal, and transportation facilities.

Shoreline modifications and other uses associated with industrial development are described separately in this SMP. These include dredging, fill, transportation facilities, utilities, piers and docks, bulkheads, breakwaters, jetties and groins, shoreline stabilization and flood protection, and signs. They are subject to their own regulations in Chapter 4 in addition to the provisions in this chapter.

b. Policies

1. Because Little Pilchuck Creek and Catherine Creek are non-navigable waterways, new nonwater-oriented industrial development should be allowed if ecological restoration is provided as a significant public benefit.
2. Where possible, industrial developments are encouraged to incorporate low impact development techniques into new and existing projects.

c. Regulations

1. The amount of impervious surface shall be the minimum necessary to provide for the intended use. The remaining land area shall be landscaped with native plants according to Chapter 3 Section B.11.c.5.
2. Water-dependent industry shall be located and designed to minimize the need for initial and/or continual dredging, filling, spoil disposal, and other harbor and channel maintenance activities.
3. Storage and disposal of industrial wastes is prohibited within shoreline jurisdiction; provided, that wastewater treatment systems may be allowed in shoreline jurisdiction if alternate, inland areas have been adequately proven infeasible.
4. At new or expanded industrial developments, the best available facilities practices and procedures shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water, and optimum means shall be employed for prompt and effective cleanup of those spills that do occur. The Shoreline Administrator may require specific facilities to support those activities as well as demonstration of a cleanup/spill prevention program.
5. Display and other exterior lighting shall be designed, shielded, and operated to avoid illuminating the water surface.
6. All industrial loading and service areas shall be located or screened to minimize adverse impacts to the shoreline environment (including visual impacts) and public access facilities.
7. Low impact development (LID) techniques shall be incorporated where appropriate.
8. Ship and boat building and repair yards shall employ best management practices (BMPs) concerning the various services and activities they perform and their impacts on the surrounding water quality. Standards for BMPs are found in the City of Lake Stevens Surface Water Management Plan.
9. All nonwater-oriented industrial development shall provide ecological restoration sufficient to mitigate for any impacts to ecological function as a result of the development.

6. In-Stream Structures

a. Applicability

In-stream structures are constructed waterward of the OHWM and either cause or have the potential to cause water impoundment or diversion, obstruction, or modification of water flow. They typically are constructed for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreational, or fisheries enhancement.

b. Policies

1. In-stream structures should provide for the protection, preservation, and restoration of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and/or natural scenic vistas. Within the City of Lake Stevens, in-stream structures should be allowed only for the purposes of environmental restoration, maintenance of water levels, or water quality treatment.

c. Regulations

1. In-stream structures are permitted only for the purposes of environmental restoration, water quality management, or maintenance of water levels.
2. The Shoreline Administrator may require that projects with in-stream structures include public access, provided public access improvements do not create adverse environmental impacts or create a safety hazard.

7. Recreational Development

a. Applicability

Recreational development includes public and commercial facilities for recreational activities such as hiking, photography, viewing, fishing, boating, swimming, bicycling, picnicking, and playing. It also includes facilities for active or more intensive uses, such as parks, campgrounds, golf courses, and other outdoor recreation areas. This section applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, group, association or individual.

Recreational uses and development can be part of a larger mixed-use project. For example, a resort will probably contain characteristics of, and be reviewed under, both the Commercial Development and the Recreational Development sections. Primary activities such as boating facilities, resorts, subdivisions, and hotels are ~~not~~ addressed directly in this category in separate categories in this chapter in sections C.3, C.4 and C.8.

Uses and activities associated with recreational developments that are identified as separate use activities in this SMP, such as boating facilities, piers and docks, residential development, and commercial development, are subject to the regulations established for those uses in addition to the standards for recreation established in this section.

Commercial indoor nonwater-oriented recreation facilities, such as bowling alleys and fitness clubs, are addressed as commercial uses.

b. Policies

1. The coordination of local, state, and federal recreation planning should be encouraged to satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.
2. Recreational developments and plans should promote the conservation of the shoreline's natural character, ecological functions, and processes.
3. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.
4. Water-dependent recreational uses, such as angling, boating, and swimming, should have priority over water-enjoyment uses, such as picnicking and golf. Water-enjoyment uses should have priority over nonwater-oriented recreational uses, such as field sports.
5. Recreation facilities should be integrated and linked with linear systems, such as hiking paths, bicycle paths, easements, and scenic drives.
6. Where appropriate, nonintensive recreational uses may be permitted in floodplain areas. Nonintensive recreational uses include those that do not do any of the following:
 - a. Adversely affect the natural hydrology of aquatic systems.
 - b. Create any flood hazards.
 - c. Damage the shoreline environment through modifications such as structural shoreline stabilization or vegetation removal.
7. Opportunities to expand the public's ability to enjoy the shoreline in public parks through dining or other water-enjoyment activities should be pursued.

c. Regulations

1. Water-oriented recreational developments and mixed-use developments with water-oriented recreational activities may be permitted as indicated in Chapter 5 Section B, "Shoreline Use and Development Standard Matrices." In accordance with this matrix and other provisions of this SMP, nonwater-oriented recreational developments may be permitted only where it can be demonstrated that all of the following apply:
 - a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features, or the site's separation from the water.
 - b. The proposed use does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.
 - c. The proposed use and development will appreciably increase ecological functions or, in the case of public projects, public access.

2. Accessory parking shall not be located in shoreline jurisdiction unless all of the following conditions are met:
 - a. The Shoreline Administrator determines there is no other feasible option.
 - b. The parking supports a water-oriented use.
 - c. All adverse impacts from the parking in the shoreline jurisdiction are mitigated.
3. All new recreational development proposals will be reviewed by the Shoreline Administrator for ecological restoration and public access opportunities. When restoration or public access plans indicate opportunities exist for these improvements, the Shoreline Administrator may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

All new nonwater-oriented recreational development, where allowed, shall be conditioned with the requirement to provide ecological restoration and, in the case of public developments, public access. The Shoreline Administrator shall consult the provisions of this SMP and determine the applicability and extent of ecological restoration and public access required.
4. Nonwater-oriented structures, such as restrooms, recreation halls and gymnasiums, recreational buildings and fields, access roads, and parking areas, shall be set back from the OHWM at least 70 feet unless it can be shown that there is no feasible alternative.
5. See Chapter 3 Section 12.c.3-4 for water quality regulations related to the use of pesticides, herbicides, and fertilizers.

8. Residential Development

a. Applicability

Residential development means one or more buildings, structures, lots, parcels or portions thereof which are designed for and used or intended to be used to provide a place of abode, including single-family residences, duplexes, other detached dwellings, floating homes, multi-family residences, mobile home parks, residential subdivisions, residential short subdivisions, and planned residential development, together with accessory uses and structures normally applicable to residential uses, including, but not limited to, garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas, and guest cottages. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

Single-family residences are a preferred use under the Shoreline Management Act when developed in a manner consistent with this Shoreline Master Program.

b. Policies

1. Residential development should be prohibited in critical areas including, but not limited to wetlands, steep slopes, floodways, and buffers.
2. The overall density of development, lot coverage, and height of structures should be appropriate to the physical capabilities of the site and consistent with the comprehensive plan.
3. Recognizing the single-purpose, irreversible, and space consumptive nature of shoreline residential development, new development should provide adequate setbacks or open space from the water to provide space for community use of the shoreline and the water, to provide space for outdoor recreation, to protect or restore ecological functions and ecosystem-wide processes, to preserve views, to preserve shoreline aesthetic characteristics, to protect the privacy of nearby residences, and to minimize use conflicts.
4. Adequate provisions should be made for protection of groundwater supplies, erosion control, stormwater drainage systems, aquatic and wildlife habitat, ecosystem-wide processes, and open space.
5. Sewage disposal facilities, as well as water supply facilities, shall be provided in accordance with appropriate state and local health regulations.
6. New residences should be designed and located so that shoreline armoring will not be necessary to protect the structure. The creation of new residential lots should not be allowed unless it is demonstrated the lots can be developed without:
 - a. Constructing shoreline stabilization structures (such as bulkheads).
 - b. Causing significant erosion or slope instability.
 - c. Removing existing native vegetation within 20 feet of the shoreline.

c. Regulations

Properties within Shoreline Jurisdiction on Lakes

1. A summary of regulations for residential properties within shoreline jurisdiction is presented in Table 7 below. Refer to written provisions within this section for exceptions and more detailed explanations. See also Chapter 3 Section B.11 for vegetation conservation provisions.

Table 7. Shoreline Regulations for Residential Properties on Lakes

	Regulation:
Standard Minimum Building Setback from OHWM	60 feet ¹
Standard Minimum Deck Setback from OHWM	50 feet
Maximum Impervious Surface of Lot Area Above OHWM	40%

¹ Standard 2.a.i. discussed below requires the averaging of the setbacks of adjacent dwelling units with a minimum setback of 60 feet.

2. New residential development, including new structures, new pavement, and additions, within shoreline jurisdiction on lakes shall adhere to the following standards:
 - a. Setbacks:
 - i. Buildings: Set back all covered or enclosed structures the average of the setbacks of existing houses on adjacent lots on both sides of the subject parcel, with a minimum setback of 60 feet from the OHWM. Where the Shoreline Administrator finds that an existing site does not provide sufficient area to locate the residence entirely landward of this setback, the Shoreline Administrator may allow the residence to be located closer to the OHWM, provided all other provisions of this SMP are met and impacts are mitigated.
 - ii. Patios and decks: Uncovered patios or decks that are no higher than 2 feet above grade may extend a maximum of 10 feet into the building setback, up to within 50 feet of the OHWM. See Section d below for exception to this requirement.

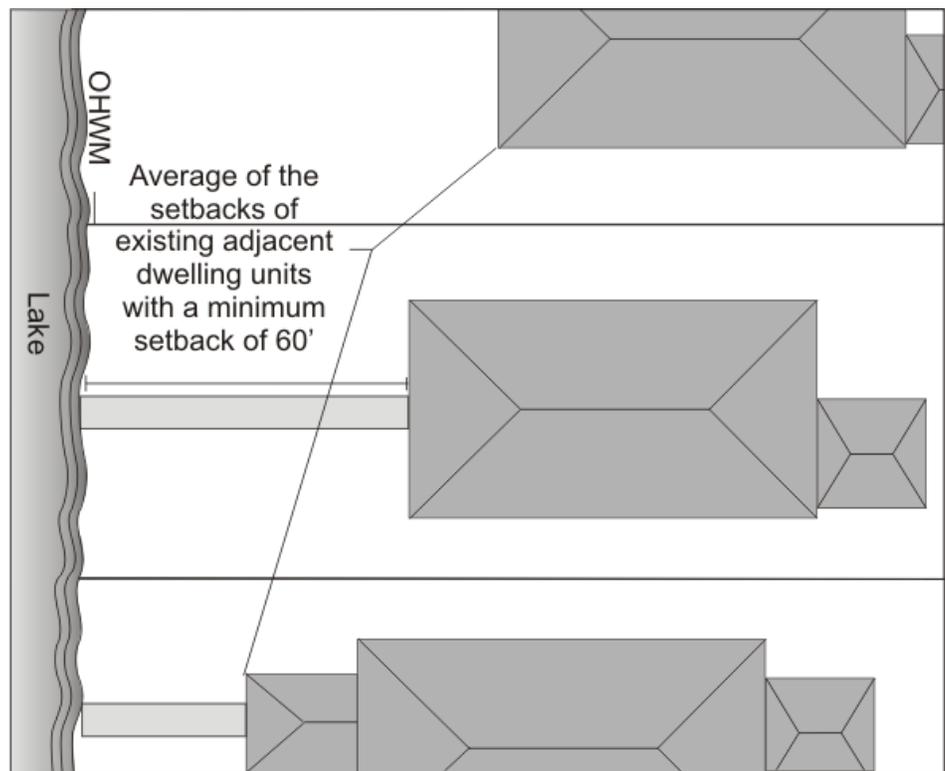


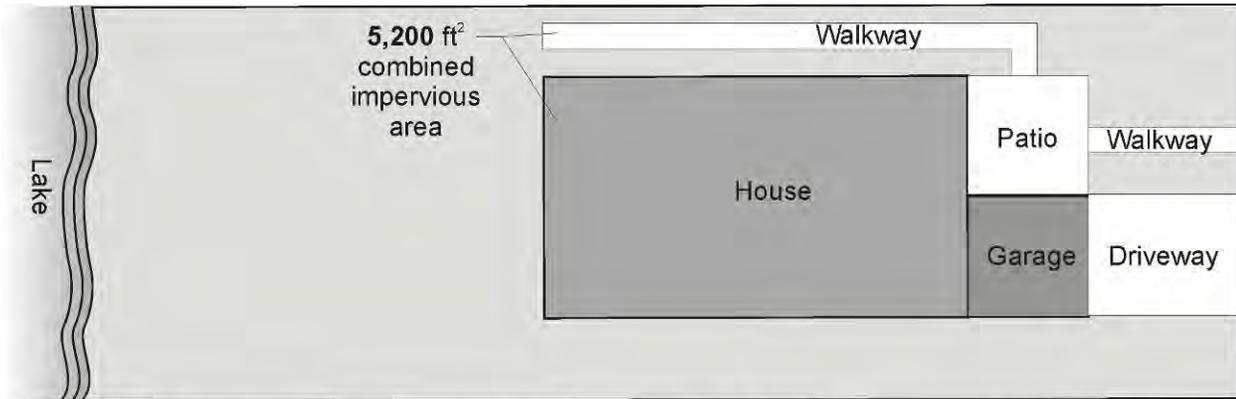
Figure 5. Standard setback from residential development on lakes.

- b. Maximum amount of impervious surface: The maximum amount of impervious surface for each lot, including structures and pavement shall be no greater than 40 percent of the total lot area above OHWM.

In calculating impervious surface, pavers on a sand bed may be counted as 50 percent impervious and wood decks with gaps between deck boards may be counted as permeable if over bare soil or loose gravel (such as pea

gravel). Pervious concrete and asphalt may be counted as per manufacturer's specifications. To calculate the net impervious surface, multiply the area of the pavement by the percentage of imperviousness.

The City may determine the percentage of imperviousness for pavements that are not specified here.



Maximum amount of impervious surface is 40%. With a 13,000 square foot lot (65'x200'), 5,200 square feet of combined impervious surface is allowed.

Figure 6. Illustration of maximum impervious surface.

- c. Incentives to provide shoreline vegetation. The maximum amount of impervious surface area can be increased if native vegetation, including trees and shrubs, is included along the shoreline. For every five feet of vegetation depth (measured perpendicular to the shoreline) added along the OHWM, the percentage of total impervious surface area can increase by 2 percent, up to a maximum of 50 percent for total impervious surface area. Twenty-five percent of the native vegetated area may be left open for views and access. The vegetation provided cannot also be counted toward the incentive in d. below. If the property owner wants to take advantage of both incentives, the vegetation cannot be double counted.

All property owners who obtain approval for increase in the impervious surface cover in exchange for planting native vegetation must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- i. Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions,
- ii. Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality, and
- iii. Includes a monitoring and maintenance program.

This plan shall be recorded as a covenant against the property after approval by the Shoreline Administrator. A copy of the recorded covenant shall be provided to the Shoreline Administrator.

- d. If there is no bulkhead, or if a bulkhead is removed, a small waterfront deck or patio can be placed along the shoreline provided:
 - i. Waterfront deck or patio covers less than 25 percent of the shoreline frontage (width of lot measured along shoreline) and native vegetation covers a minimum of 75 percent of the shoreline frontage. The waterfront deck would count toward total impervious surface calculations.
 - ii. Within 25 feet of the shoreline, for every 1 square foot of waterfront deck or patio, 3 square feet of native vegetated area (not lawn) shall be provided along the shoreline. The vegetation provided cannot also be counted toward the incentive in c. above. If the property owner wants to take advantage of both incentives, the vegetation cannot be double counted.
 - iii. The total area of the waterfront deck or patio along the shoreline shall not exceed 400 square feet.
 - iv. The deck or patio is set back 5 feet from the OHWM.
 - v. The deck or patio is no more than 2 feet above grade and is not covered.
 - vi. There are no permanent structures above the level of the deck within 20 feet of the property line.

All property owners who obtain approval for a waterfront deck or patio in exchange for removing a bulkhead and retaining or planting native vegetation must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- i. Requires the preparation of a revegetation plan,
- ii. Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions,
- iii. Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality, and
- iv. Includes a monitoring and maintenance program.

This plan shall be recorded as a covenant against the property after approval by the Shoreline Administrator. A copy of the recorded covenant shall be provided to the Shoreline Administrator.

Lots with no bulkhead or if bulkhead is removed

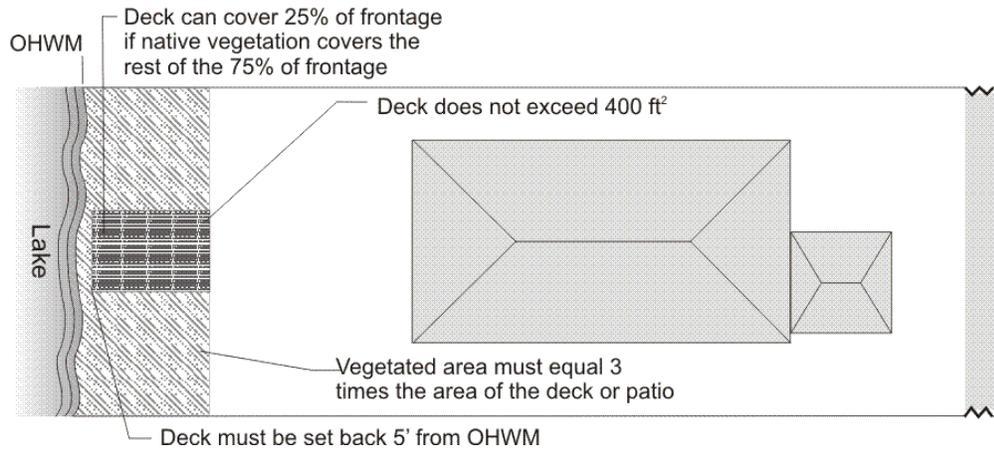


Figure 7. Waterfront deck bonus for lots with no bulkhead or if bulkhead is removed.

3. For new development on previously undeveloped lots, any existing native vegetation shall be retained along the shoreline to 20 feet from the OHWM. If little or no native vegetation exists on the previously undeveloped lot, native vegetation shall be planted along the shoreline to 20 feet from the OHWM. 25 percent of the required vegetated area can be cleared or thinned for view maintenance and waterfront access, provided 75 percent of the area remains vegetated. Invasive species may be removed, vegetation trimmed, and trees “limbed up” from the ground to provide views. In the 25 percent cleared area, pathways for access to the water are allowed.

Property owners must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- a. Requires the preparation of a revegetation plan,
- b. Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions,
- c. Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality, and
- d. Includes a monitoring and maintenance program.

This plan shall be recorded as a covenant against the property after approval of the Shoreline Administrator. A copy of the recorded covenant shall be provided to the Shoreline Administrator.

Property owners who provide more native vegetation than the minimum required can apply any additional vegetation over 20 feet to take advantage of the incentives described in subsection c.2.c and c.2.d above. For example, if 30 feet of vegetation is provided, 10 feet can be applied to the calculations described in subsection c.2.c above, for a total increase in impervious surface area of 4%.

New development on previously undeveloped lots

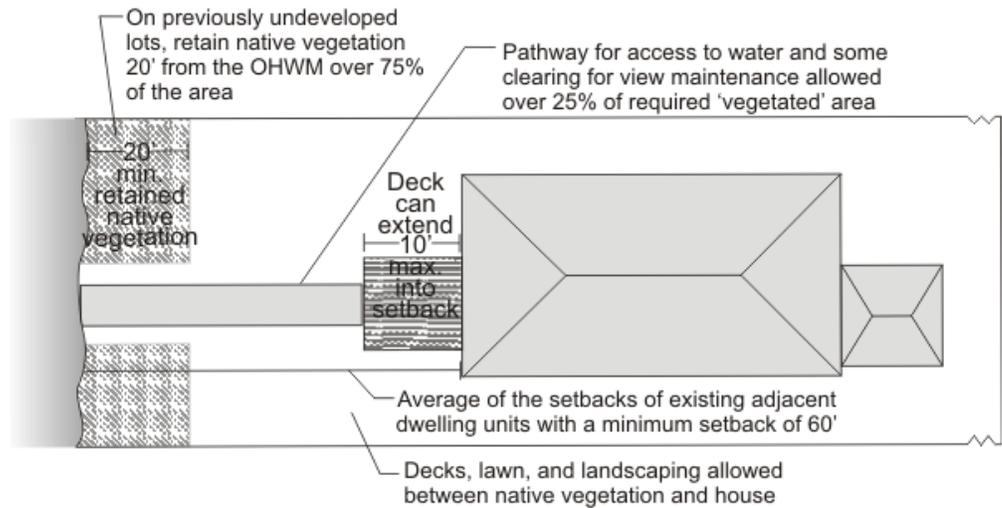


Figure 8. Standards for new development on previously undeveloped lots.

- a. Maximum impervious area 40%.
- b. Also see regulations for shoreline stabilization and docks and floats in Chapter 4.
4. Garages and pavements for motorized vehicles (drives and parking areas) shall be set back at least 75 feet from the OHWM, unless the Shoreline Administrator determines that such a configuration is not feasible.
5. Accessory uses and appurtenant structures not addressed in the regulations above shall be subject to the same conditions as primary residences.
6. The creation of new residential lots within shoreline jurisdiction on lakes shall be prohibited unless the applicant demonstrates that all of the provisions of this SMP, including setback and size restrictions, can be met on the proposed lot. Specifically, it must be demonstrated that:
 - a. The residence can be built in conformance with all applicable setbacks and development standards in this SMP.
 - b. Adequate water, sewer, road access, and utilities can be provided.
 - c. The intensity of development is consistent with the City's Comprehensive Plan.
 - d. The development will not cause flood or geological hazard to itself or other properties.

In addition, new residential development on new lots that contain intact native vegetation shall conform to the regulations of c.3. above. (See also vegetation conservation standards in Chapter 3 Section B.11).

7. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems in accordance with the City of Lake Stevens Surface Water Management Plan.

8. See the Chapter 3 Section B.11 for regulations related to clearing, grading, and conservation of vegetation.

Residential Properties within Shoreline Jurisdiction on Rivers and Streams

9. Table 8 below is a summary of regulations for residential properties within shoreline jurisdiction on rivers or streams:

Table 8. Regulations for Residential Properties within Shoreline Jurisdiction on Rivers or Streams

	Regulation:
Standard Minimum Building Setback	
Catherine Creek	160'
Little Pilchuck Creek	160'
Standard Minimum Deck Setback	150'

10. New residential development within shoreline jurisdiction on rivers and streams shall adhere to the following standards:
 - a. Setbacks:
 - i. Buildings on Catherine Creek and Little Pilchuck Creek: All covered or enclosed structures shall be set back a minimum of 160 feet. The Shoreline Administrator may revise this setback in accordance with levee reconstruction design. See Chapter 3 Section B.5.c.7.
 - ii. Patios and decks: Uncovered patios or decks no higher than 2 feet above grade may extend up to within 150 feet of the OHWM.
 - b. Maximum amount of impervious surface: In single-family zones, maximum impervious surface shall not exceed 40 percent of the lot for single-family and duplex residential developments. Other zones do not have a maximum impervious surface requirement.
 - c. Height: See Chapter 14.48 LSMC, Table 14.4I for maximum height limitations within each zone.
11. Also see regulations for Shoreline Stabilization and Docks and Floats in Chapter 4 for those structures.
12. For the purposes of maintaining visual access to the waterfront, the following standards apply to accessory uses, structures, and appurtenances for new and existing residences.
 - a. Fences: All streams shall have a wildlife-passable fence installed at the edge of the required SMP setback. Fencing shall consist of split rail cedar fencing (or other nonpressure treated materials approved by the Shoreline Administrator). The fencing shall also include sensitive area signage at a rate of one (1) sign per lot, or one (1) sign per one hundred (100) feet and along public right-of-way, whichever is greater.

- b. Garages and pavements for motorized vehicles (drives and parking areas) shall be set back at least 200 feet from the OHWM. If the Shoreline Administrator determines that the property is not sufficiently deep (measured perpendicularly from the shoreline) to allow construction of garages or parking areas outside of shoreline jurisdiction then (s)he may allow such elements to be built closer to the water, provided that the garage or parking area is set back from the water as far as physically possible.
13. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems in accordance with the City of Lake Stevens Surface Water Management Plan.
14. The creation of new residential lots within shoreline jurisdiction on rivers and streams shall be prohibited unless the applicant demonstrates that all of the provisions of this SMP, including setback and size restrictions, can be met on the proposed lot. Specifically, it must be demonstrated that:
- a. The residence can be built in conformance with all applicable setbacks and development standards in this SMP.
 - b. Adequate water, sewer, road access, and utilities can be provided.
 - c. The intensity of development is consistent with the City's Comprehensive Plan.
 - d. The development will not cause flood or geological hazard to itself or other properties.
- In addition, new residential development on new lots that contain intact native vegetation shall conform to the regulations of c.3 above. See also Chapter 3 Section B.11.
15. See Chapter 3 Section B.11 for regulations related to clearing, grading, and conservation of vegetation.

9. Transportation

a. Applicability

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, airports, heliports, float plane moorage, and other related facilities.

The various transport facilities that can impact the shoreline cut across all environmental designations and all specific use categories. The policies and regulations identified in this section pertain to any project, within any environment, that is effecting some change in present transportation facilities.

b. Policies

1. Circulation system planning on shorelands should include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the SMP.
2. Trail and bicycle paths should be encouraged along shorelines and should be constructed in a manner compatible with the natural character, resources, and ecology of the shoreline.
3. When existing transportation corridors are abandoned, they should be reused for water-dependent use or public access.

c. Regulations

General

1. Development of all new and expanded transportation facilities in shoreline jurisdiction shall be consistent with the City's Comprehensive Plan and applicable capital improvement plans.
2. All development of new and expanded transportation facilities shall be conditioned with the requirement to mitigate significant adverse impacts consistent with Chapter 3 Section B.4 of this SMP. Development of new or expanded transportation facilities that cause significant ecological impacts shall not be allowed unless the development includes shoreline mitigation/restoration that increases the ecological functions being impacted to the point where:
 - a. Significant short- and long-term risks to the shoreline ecology from the development are eliminated.
 - b. Long-term opportunities to increase the natural ecological functions and processes are not diminished.

If physically feasible, the mitigation/restoration shall be in place and functioning prior to project impacts. The mitigation/restoration shall include a monitoring and adaptive management program that describes monitoring and enhancement measures to ensure the viability of the mitigation over time.

Float Plane Facilities

3. Use of a private, non-commercial dock for private float plane access or moorage on Lake Stevens shall be allowed for one float plane per residential lot.
4. Moorage for float planes shall meet all dock regulations in Chapter 4.C.3.
5. Float plane facilities and operation shall comply with FAA standards, including standards for fueling, oil spill cleanup, firefighting equipment, and vehicle and pedestrian separation.

Location

6. New nonwater-dependent transportation facilities shall be located outside shoreline jurisdiction, if feasible.
7. New transportation facilities shall be located and designed to prevent or to minimize the need for shoreline protective measures such as riprap or other bank stabilization, fill, bulkheads, groins, jetties, or substantial site grading. Transportation facilities allowed to cross over water bodies and wetlands shall utilize elevated, open pile, or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris and provide three feet of freeboard above the 100-year flood level.
8. Roads and railroads shall be located to minimize the need for routing surface waters into and through culverts. Culverts and similar devices shall be designed with regard to the 100-year storm frequencies and allow continuous fish passage. Culverts shall be located so as to avoid relocation of the stream channel.
9. Bridge abutments and necessary approach fills shall be located landward of wetlands or the OHWM for water bodies without wetlands; provided, bridge piers may be permitted in a water body or wetland as a conditional use.

Design/Construction/Maintenance

10. All roads and railroads, if permitted parallel to shoreline areas, shall provide buffer areas of compatible, self-sustaining vegetation. Shoreline scenic drives and viewpoints may provide breaks periodically in the vegetative buffer to allow open views of the water.
11. Development of new and expanded transportation facilities shall include provisions for pedestrian, bicycle, and public transportation where appropriate as determined by the Shoreline Administrator. Circulation planning and projects shall support existing and proposed shoreline uses that are consistent with the SMP.
12. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies if feasible, where adverse impact to the shoreline can be minimized by doing so.
13. Fill for development of transportation facilities is prohibited in water bodies and wetlands; except, such fill may be permitted as a conditional use when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this SMP.
14. Development of new and expanded transportation facilities shall not diminish but may modify public access to the shoreline.
15. Waterway crossings shall be designed to provide minimal disturbance to banks.

16. All transportation facilities shall be designed, constructed, and maintained to contain and control all debris, overburden, runoff, erosion, and sediment generated from the affected areas. Relief culverts and diversion ditches shall not discharge onto erodible soils, fills, or sidecast materials without appropriate BMPs, as determined by the Shoreline Administrator.
17. All shoreline areas disturbed by construction and maintenance of transportation facilities shall be replanted and stabilized with native, drought-tolerant, self-sustaining vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained by the agency or developer constructing or maintaining the road until established. The vegetation restoration/replanting plans shall be as approved by the Shoreline Administrator.

10. Utilities

a. Applicability

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, gas, water, sewage, communications, oil, and the like. The provisions in this section apply to primary uses and activities, such as solid waste handling and disposal, sewage treatment plants, pipelines and outfalls, public high-tension utility lines on public property or easements, power generating or transfer facilities, and gas distribution lines and storage facilities. See Chapter 3 Section B.10, "Utilities (Accessory)," for on-site accessory use utilities.

Solid waste disposal means the discharge, deposit, injection, dumping, spilling, leaking, and/or placing of any solid or hazardous waste on any land area or in the water.

Solid waste includes solid and semisolid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes and sort yard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances and other discarded commodities. Solid waste does not include sewage, dredge material, agricultural wastes, auto wrecking yards with salvage and reuse activities, or wastes not specifically listed above.

b. Policies

1. New utility facilities should be located so as not to require extensive shoreline protection works.
2. Utility facilities and corridors should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground, or alongside or under bridges.

3. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

c. Regulations

1. All utility facilities shall be designed and located to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth. The Shoreline Administrator may require the relocation or redesign of proposed utility development in order to avoid significant ecological impacts.
2. Utility production and processing facilities, such as power plants or parts of those facilities that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available. In such cases, significant ecological impacts shall be avoided.
3. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located to cause minimum harm to the shoreline and shall be located outside of the shoreline area where feasible. Utilities shall be located in existing rights-of-way and utility easements whenever possible.
4. Development of pipelines and cables on shorelines, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance or that cause significant ecological impacts shall not be allowed unless no other feasible option exists. When permitted, those facilities shall include adequate provisions to protect against significant ecological impacts.
5. Restoration of ecological functions shall be a condition of new and expanded nonwater-dependent utility facilities.

The Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration required. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of utility development.

6. On Lake Stevens, utility development shall, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant liability for the owner. On Little Pilchuck and Catherine Creek, connections to existing trails or access sites shall be provided, but new public access shall not be required.
7. New solid waste disposal sites and facilities are prohibited. Existing solid waste disposal and transfer facilities in shoreline jurisdiction shall not be expanded, added to or substantially reconstructed.

8. New electricity, communications and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or if it is demonstrated that above-ground lines would have a lesser impact. Existing aboveground lines shall be moved underground during normal replacement processes.
9. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
10. Utility developments shall be located and designated so as to avoid or minimize the use of any structural or artificial shoreline stabilization or flood protection works.
11. Utility production and processing facilities shall be located outside shoreline jurisdiction unless no other feasible option exists. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views, and shall avoid significant ecological impacts.
12. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other feasible alternative exists. In those limited instances when permitted by conditional use, automatic shut-off valves shall be provided on both sides of the water body.
13. Filling in shoreline jurisdiction for development of utility facility or line purposes is prohibited, except where no other feasible option exists and the proposal would avoid or minimize adverse impacts more completely than other methods. Permitted crossings shall utilize pier or open pile techniques.
14. Power-generating facilities shall require a conditional use permit.
15. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition.
16. Telecommunication towers, such as radio and cell phone towers, are specifically prohibited in shoreline jurisdiction.
17. Utilities that need water crossings shall be placed deep enough to avoid the need for bank stabilization and stream/riverbed filling both during construction and in the future due to flooding and bank erosion that may occur over time. Boring, rather than open trenching, is the preferred method of utility water crossing.
18. Publicly owned and operated aerators are allowed in the aquatic environment for water quality purposes.

CHAPTER 6

Definitions

These definitions are only for use with the Shoreline Master Program and associated documents and for the shoreline-related land use codes in Title 14 of the Lake Stevens Municipal Code.

Accessory use. Any structure or use incidental and subordinate to a primary use or development.

Adjacent lands. Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction).

Administrator. See Shoreline Administrator.

Agriculture land. Land used for commercial production (as shown by record of any income) of horticultural, viticultural, floricultural, dairy, apiary, or animal products, or of vegetables, Christmas trees, berries, grain, hay, straw, turf, seed, or livestock, and that has long-term (six years or longer) commercial significance for agricultural production.

Alteration. Any human-induced action which impacts the existing condition of a critical area. Alterations include but are not limited to grading; filling; dredging; draining; channelizing; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; paving, construction, application of gravel; modifying for surface water management purposes; or any other human activity that impacts the existing vegetation, hydrology, wildlife or wildlife habitat. Alteration does not include walking, passive recreation, fishing or other similar activities.

Anadromous. Fish species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to spawn.

Appurtenance. A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. On a state-wide basis, normal appurtenances include a garage, deck, driveway, utilities, fences and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. (WAC 173-27-040(2)(g))

Aquatic. Pertaining to those areas waterward of the ordinary high water mark.

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

Aquifer recharge area. Geological formations with recharging areas having an effect on aquifers used for potable water where essential source of drinking water is vulnerable to contamination.

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

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

Average grade level. See “base elevation.”

Base elevation. The average elevation of the approved topography of a parcel at the midpoint on each of the four sides of the smallest rectangle that will enclose the proposed structure, excluding eaves and decks.

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

Beach enhancement/restoration. Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.

Berm. A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the ordinary high water mark. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

Best available science. Current scientific information, which is used to designate, regulate, protect, or restore critical areas and which is derived from a valid scientific process as set forth in WAC 365-195-900 through 365-195-925 and Section 14.88.235.

Best management practices (BMPs). The best available conservation practices or systems of practices and management measures that:

- a. Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment; and
- b. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

Bioengineering. The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

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

Boathouse or Boat shelter. An over-water structure specifically designed or used for storage of boats with permanent walls and/or roofs. Boathouses have a roof and three solid walls and may

include a large door on the waterward side to fully enclose the boathouse. Boat shelters have a roof and possibly one or two walls, but are not fully enclosed on three sides.

Bog.

- Shoreline Definition – A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues, and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.
- Critical Areas Definition – A wetland with limited drainage and generally characterized by extensive peat deposits and acidic waters. Vegetation can include, but is not limited to, sedges, sphagnum moss, eriogonums, shrubs, and trees.

Buffer or buffer area. Areas that are contiguous to and protect a critical area and are required for continued maintenance, functioning, and/or structural stability of a critical area.

Buffer management. An activity proposed by a public agency, public utility, or private entity, and approved by the Planning and Community Development Director, within a buffer required by this title, that is proposed to:

- (1) Reduce or eliminate a verified public safety hazard;
- (2) Maintain or enhance wildlife habitat diversity; or
- (3) Maintain or enhance a fishery or other function of stream, wetland, or terrestrial ecosystems.

Building height. The vertical distance measured from the mean elevation of the finished grade around the perimeter of the building to the highest point of the building.

Building Setback. An area in which structures, including but not limited to sheds, homes, buildings, and awnings shall not be permitted within, or allowed to project into. It is measured horizontally upland from and perpendicular to the ordinary high water mark.

Bulkhead. A solid wall erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from waves or current action.

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

Channel. An open conduit for water, either naturally or artificially created; does not include artificially created irrigation, return flow, or stockwatering channels.

Channel Migration Zone (CMZ). 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. For locations of CMZ, refer to the Channel Migration Zone Map, Figure No. 10.2 in the June 9, 2009 Final Shoreline Inventory and Analysis Report.

City. The City of Lake Stevens, Washington.

Classes, wetland. The wetland taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).

Clearing. The destruction or removal of vegetation groundcover, shrubs and trees including root material removal and topsoil removal.

Compensation. Replacement, enhancement, or creation of an undevelopable critical area equivalent in functions, values and size to those being altered by or lost to development.

Compensatory mitigation. Mitigation which compensates for the impact by replacing, enhancing, or providing substitute resources or environments.

Comprehensive Plan. The document, including maps, prepared under the Growth Management Act and adopted by the City Council, that outlines the City's goals and policies related to management of growth, and prepared in accordance with Chapter 36.70A RCW. The term also includes adopted subarea plans prepared in accordance with Chapter 36.70A RCW.

Conditional use. A use, development, or substantial development which is classified as a conditional use; or a use development, or substantial development that is not specifically classified within the SMP and is therefore treated as a conditional use.

Covered moorage. Boat moorage, with or without walls, that has a roof to protect the vessel.

Creation, wetland mitigation. Manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevation that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres.

Critical areas. Areas of the City that are subject to natural hazards or any landform feature that carries, holds, or purifies water and/or supports unique, fragile or valuable natural resources including fish, wildlife, and other organisms and their habitat. Critical areas include the following features: geologically hazardous areas, wetlands, streams, frequently flooded hazard areas, fish and wildlife conservation areas, aquifer recharge areas, and groundwater discharge areas.

Critical Areas Regulations, Non-Shoreline Jurisdiction. Refers to the City of Lake Stevens's Critical Areas Regulations, Chapter 14.88 LSMC (Ordinance 741 effective May 8, 2007 and updated by Ordinance 773 effective April 21, 2008).

Critical habitat. Habitat necessary for the survival of endangered, threatened, sensitive species as listed by the Federal Government or the State of Washington. Habitat for species listed on the candidate list, or monitored species as listed by the Federal Government or the State of Washington, may be considered critical habitat.

Current deflector. An angled stub-dike, groin, or sheet-pile structure which projects into a stream channel to divert flood currents from specific areas, or to control downstream current alignment.

Degraded wetland. A wetland in which the vegetation, soils, and/or hydrology have been adversely altered, resulting in lost or reduced functions and values.

Department of Ecology. The Washington State Department of Ecology.

Developable area. Land outside of critical areas, their setback, and buffers.

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

Development regulations. The controls in Title 14 LSMC placed on development or land uses by the City of Lake Stevens, including, but not limited to, zoning ordinances, Critical Areas Regulations, and all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, together with any amendments thereto.

Dock. A structure which abuts the shoreline and is used as a landing or moorage place for craft. A dock may be built either on a fixed platform or float on the water. See also “development” and “substantial development.”

Dredging. Excavation or displacement of the bottom or shoreline of a water body.

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

Ecosystem-wide processes. The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Edge. Boundary of a wetland as delineated based on the criteria contained in this ~~chapter~~ [Shoreline Master Program](#).

EIS. Environmental Impact Statement.

Emergency.

- [Shoreline Definition](#) – An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property and facilities from the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW

or this SMP, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this SMP. As a general matter, flooding or seasonal events that can be anticipated and may occur but that are not imminent are not an emergency. (RCW 90.58.030(3)(e)(iii)).

- Critical Areas Definition – An action that must be undertaken immediately or within a time frame too short to allow full compliance with this chapter, in order to avoid an immediate threat to public health or safety, to prevent a imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.

Emergent wetland. A wetland with at least 30 percent of its surface covered by erect, rooted, herbaceous vegetation at the uppermost vegetative strata.

Enhancement. Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions.

Enhancement, wetland mitigation. Manipulation of the physical, chemical or biological characteristics of a wetland site, in order to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat improvement. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these activities. Enhancement results in a benefit to some wetland functions and can lead to a decline in other wetland functions but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

Environment designation(s). See “shoreline environment designation(s).”

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

Erosion hazard areas. Lands or areas that, based on a combination of slope inclination and the characteristics of the underlying soils, are susceptible to varying degrees of risk of erosion.

Exemption. Certain specific developments listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the local SMP. Conditional use and variance permits may also still be required even though the activity does not need a substantial development permit. (RCW 90.58.030(3)(e); WAC 173-27-040.) (See also “development” and “substantial development.”)

Exotic species. Plants or animals that are not native to the Puget Sound Lowlands region.

Extraordinary hardship. Prevention of all reasonable economic use of the parcel due to strict application of this chapter and/or programs adopted to implement this Shoreline Master Program.

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

Feasible. An action, such as a development project, mitigation, or preservation requirement, is feasible when it meets all of the following conditions:

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

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

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

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

Fish and wildlife habitats (of local importance). A seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs and wetlands.

Floats. An anchored, buoyed object.

Floodplain. ~~A term that is synonymous with the one hundred year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the SMA.~~ Any land area susceptible to be inundated by water from a flood.

Floodway. ~~The channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. As used in this title, the term refers to that area designated as a floodway on the Flood Insurance Rate Map prepared by the U.S. Federal Emergency Management Agency, a copy of which is on file in the Planning and Community Development Department. Those portions of the area of a river valley lying streamward from the~~

~~outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative groundcover condition. 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.~~

Forested wetland. Wetlands with at least 20 percent of the surface area covered by woody vegetation greater than 30 feet in height.

Forest land. Land used for growing trees, not including Christmas trees, for commercial purposes (as shown by record of any income) that has long-term (six years or more) commercial significance.

Frequently flooded areas. Lands indicated on the most current FEMA map to be within the 100-year floodplain. These areas include, but are not limited to, streams, lakes, coastal areas, and wetlands.

Functions and values. Beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, aesthetic value protection, and recreation. These roles are not listed in order of priority.

Gabions. Structures composed of masses of rocks, rubble or masonry held tightly together usually by wire mesh so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

Geologically hazardous areas. Lands or areas characterized by geologic, hydrologic, and topographic conditions that render them susceptible to varying degrees of potential risk of landslides, erosion, or seismic or volcanic activity; and areas characterized by geologic and hydrologic conditions that make them vulnerable to contamination of groundwater supplies through infiltration of contaminants to aquifers. They may pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development.

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

If the project is in a Channel Migration Zone, then the report must be prepared by a professional with specialized experience in fluvial geomorphology in addition to a professional engineer. (Refer to the Channel Migration Zone Map, Figure No. 10.2 in the June 9, 2009 Final Shoreline Inventory and Analysis Report).

Grade. See “base elevation.”

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

Grassy Swale. A vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

Guidelines. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of shoreline master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending shoreline master programs. The Guidelines may be found under WAC 173-26 Part III.

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

Height. See “building height.”

Hydric soil. Soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Washington State Wetlands Identification and Delineation Manual 1997, or as amended hereafter.

Hydrological. Referring to the science related to the waters of the earth including surface and groundwater movement, evaporation and precipitation. Hydrological functions in shoreline include, water movement, storage, flow variability, channel movement and reconfiguration, recruitment and transport of sediment and large wood, and nutrient and pollutant transport, removal and deposition.

Landslide hazard areas. Areas that, due to a combination of slope inclination and relative soil permeability, are susceptible to varying degrees of risk of landsliding.

Land uses, high intensity. Land uses which are associated with moderate or high levels of human disturbance or substantial impacts including, but not limited to, a zone classification allowing four or more dwelling units per acre, active recreation, and commercial and industrial land uses.

Land uses, low intensity. Land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation and open space.

Letter of exemption. A letter or other official certificate issued by the City to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions

placed on the proposal in order to ensure consistency with the Shoreline Management Act and this SMP.

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

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

Low Impact Development (LID) technique. A stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-development hydrologic functions. Additional information may be found in the City of Lake Stevens Surface Water Management Plan in addition to the 2005 State Department of Ecology Storm Water Management Manual for Western Washington, as amended by Sections 1 through 6 of Appendix 1 of the NPDES Phase II Municipal Stormwater Permit, as now or hereafter amended.

LSMC. Lake Stevens Municipal Code, including any amendments thereto.

Marina. A system of piers, buoys, or floats to provide moorage for four or more boats.

May. ~~Refers to actions that are acceptable~~ Indicates the action is within discretion and authority, provided they conform to the provisions of this SMP and the SMA. (WAC 173-26-191(2))

Mineral resource lands. Lands primarily devoted to the extraction of gravel, sand, other construction materials, or valuable metallic or mineral substances.

Mitigation (or mitigation sequencing). The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal or adverse impacts to critical areas or sensitive resources, including the following, which are listed in the order of sequence priority, with (a) being top 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.

Moorage facility. Any device or structure used to secure a boat, float plane or a vessel, including piers, docks, piles, lift stations or buoys.

Moorage pile. A permanent mooring generally located in open waters in which the vessel is tied up to a vertical column to prevent it from swinging with change of wind.

Multi-family dwelling (or residence). A building containing three or more dwelling units, including but not limited to townhouses, apartments and condominiums.

Must. A mandate; the action is required.

Native growth protection areas (NGPA). Areas where native vegetation is permanently preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat.

Native plants or native vegetation. These are plant species indigenous to the Puget Sound region that could occur or could have occurred naturally on the site, which are or were indigenous to the area in question.

Natural resource lands. Agriculture, forest, and mineral resource lands as defined in this chapter.

Nonconforming development. A shoreline use or structure which was lawfully constructed or established prior to the effective date of this SMP provision, and which no longer conforms to the applicable shoreline provisions.

Nonpoint pollution. Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

Nonwater-oriented uses. Those uses that are not water-dependent, water-related, or water-enjoyment.

Normal maintenance. Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. See also “normal repair.”

Normal protective bulkhead. Those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.

Normal repair. To restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. (WAC 173-27-040) See also “normal maintenance” and “development.”

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

OHWM. See “ordinary high water mark.”

Open space. Areas of varied size which contain distinctive geologic, botanic, zoologic, historic, scenic or other critical area or natural resource land features.

Ordinary high water mark (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology. Any area where the ordinary high water mark cannot be found, the ordinary high water mark shall be the line of mean high water. (RCW 90.58.030(2)(b) and (c))

Periodic. Occurring at regular intervals.

Person. An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated. (RCW 90.58.030(1)(e))

Personal watercraft (PWC). A motorized recreational water vehicle normally ridden by straddling a seat.

Pesticide management plan. A guidance document for the prevention, evaluation, and mitigation for occurrences of pesticides or pesticide breakdown products in ground and surface waters.

Pier. An over-water structure, generally used to moor vessels or for public access, that is supported by piles and sits above the OHWM. A pier may be all or a portion of a dock.

Pier element. Sections of a pier including the pier walkway, the pier float, the ell, etc.

Practicable alternative. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include an area not owned by the applicant which can reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

Primary Structure. A structure that is central to the fundamental use of the property and is not accessory to the use of another structure on the property. Examples include a single-family home, multi-family housing or commercial building.

Priority habitats. Areas that support diverse, unique, and/or abundant communities of fish and wildlife, as determined by the Washington Department of Fish and Wildlife Map Products 2006.

Priority species. Wildlife species of concern due to their population status and their sensitivity to habitat alteration.

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

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

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

Public water system. A water system that serves two or more connections.

RCW. Revised Code of Washington.

Re-establishment, wetland mitigation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Re-establishment results in a gain in wetland acres.

Regulated wetlands. Wetlands, including their submerged aquatic beds, and those lands defined as wetlands under the 1989 Federal Clean Water Act, 33 USC Section 251, et seq., and rules promulgated pursuant thereto and shall be 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 typically adapted for life in saturated soil conditions. Regulated wetlands generally include swamps, bogs, and similar areas. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands. Regulated wetlands do not include those constructed wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention/retention 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.

Rehabilitation, wetland mitigation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic function of a degraded wetland. Activities could involve breaching a dike or reconnecting wetland to a floodplain or returning tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres

Repair or maintenance activities. An action to restore the character, size, or scope of a project only to the previously authorized condition.

Residential development. Development which is primarily devoted to or designed for use as a dwelling(s).

Restore. To significantly re-establish or upgrade shoreline ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic sediments. To restore does not mean returning the shoreline area to aboriginal or pre-European settlement condition.

Revetment. Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

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

Riparian area. A transitional area between terrestrial and aquatic ecosystems and which is distinguished by gradients in biophysical conditions, ecological processes, and biota.

Riparian habitat. An ecosystem that borders a stream which is occasionally flooded and periodically supports predominantly hydrophytes.

Riparian zone. A transitional area between aquatic ecosystems (lakes, streams, and wetlands) and upland terrestrial habitats.

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

Riverbank. The upland areas immediately adjacent to the floodway, which confine and conduct flowing water during non-flooding events. The riverbank, together with the floodway, represents the river channel capacity at any given point along the river.

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

Scrub-shrub wetland. A wetland with at least 30 percent of its surface area covered with woody vegetation less than 20 feet in height.

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

Seismic hazard areas. Areas that, due to a combination of soil and groundwater conditions, are subject to severe risk of ground shaking, subsidence or liquefaction of soils during earthquakes.

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

Setback. A required open space, specified in this SMP, measured horizontally upland from and perpendicular to the ordinary high water mark. Setbacks are protective buffers which provide a margin of safety through protection of slope stability, attenuation of surface water flows, and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters; or an area which is an integral part of a stream or wetland ecosystem and which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland edge, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded.

Shall. A mandate; the action must be done. (WAC 173-26-191(2))

Shorelands. 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, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology. (RCW 90.58.030(2)(d))

Shoreline Administrator. City of Lake Stevens Planning Director or his/her designee charged with the responsibility of administering the Shoreline Master Program.

Shoreline areas (and shoreline jurisdiction). The same as "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

Shoreline environment designation(s). The categories of shorelines established to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. Shoreline environment designations include: Aquatic, High Intensity, Urban Conservancy, Natural, and Shoreline Residential.

Shoreline functions. See "ecological functions."

Shoreline jurisdiction. The term describing all of the geographic areas covered by the SMA, related rules and this SMP. See definitions of "shorelines", "shorelines of the state", "shorelines of state-wide significance" and "wetlands." See also the "Shoreline Management Act Scope" section in the "Introduction" of this SMP.

Shoreline Management Act (SMA). The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

Shoreline master program, master program, or SMP. This Shoreline Master Program as adopted by the City of Lake Stevens and approved by the Washington Department of Ecology.

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

Shoreline permit. A substantial development, conditional use, revision, or variance permit or any combination thereof.

Shoreline property. An individual property wholly or partially within shoreline jurisdiction.

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

Shoreline sub-unit. An area of the shoreline that is defined by distinct beginning points and end points by parcel number or other legal description. These sub-units are assigned environment designations to recognize different conditions and resources along the shoreline.

Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on areas of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream areas; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes. (RCW 90.58.030(2)(e))

Shorelines of the state. The total of all “shorelines” and “shorelines of state-wide significance” within the state.

Shorelines Hearings Board (SHB). A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government or Department of Ecology approval of shoreline master programs, rules, regulations, guidelines or designations under the SMA.

Shorelines of state-wide significance. A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply.

Should. The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this SMP, against taking the action. (WAC 173-26-191(2))

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

Significant ecological impact. An effect or consequence of an action if any of the following apply:

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

Significant vegetation removal. The removal or alteration of native trees, shrubs, or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive, non-native, or noxious weeds does not constitute significant vegetation removal. Tree

pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Single-family dwelling or residence. A detached dwelling designed for and occupied by one family or duplex for two families including those structures and developments within a contiguous ownership which are a normal appurtenance.

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

Sphagnum. Any of a large genus of mosses that grow only in wet acidic soils and whose remains become compacted with other plant debris to form peat.

Stormwater. That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

Stream. A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. See also "channel." Streams are classified according to a locally appropriate stream classification system based on WAC [222-16-030](#). Streams also include open natural watercourses modified by man. Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Streams are further characterized as S, F, Np, or Ns.

Structure. That which is built or constructed, or an edifice or building of any kind or any piece of work composed of parts joined together in some definite manner, and includes posts for fences and signs, but does not include mounds of earth or debris.

Subdivision. The division or redivision of land, including short subdivision for the purpose of sale, lease or conveyance.

Substantial development. Any development which meets the criteria of RCW 90.58.030(3)(e). See also definition of "development" and "exemption".

Substantially degrade. To cause damage or harm to an area's ecological functions. An action is considered to substantially degrade the environment if:

- a. The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or
- b. The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or
- c. Scientific evidence indicates the action may contribute to damage or harm to ecological functions as part of cumulative impacts.

Sub-unit. For the purposes of this SMP, a sub-unit is defined as an area of the shoreline that is defined by distinct beginning points and end points by parcel number or other legal description.

These sub-units are assigned environment designations to recognize different conditions and resources along the shoreline.

Swamp.

- Shoreline Definition – A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.
- Critical Areas Definition – A wetland whose dominant vegetation is composed of woody plants and trees.

Temporary cabana. A temporary fabric covered shelter that is less than 10' x 10'.

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

Transportation facilities. A structure or development(s), which aids in the movement of people, goods or cargo by land, water, air or rail. They include but are not limited to highways, bridges, causeways, bikeways, trails, railroad facilities, ferry terminals, float plane – airport or heliport terminals, and other related facilities.

Unavoidable and necessary impacts. Impacts that remain after a person proposing to alter critical areas has demonstrated that no practicable alternative exists for the proposed project.

Upland. Generally described as the dry land area above and landward of the ordinary high water mark.

Utility. A public or private agency which provides a service that is utilized or available to the general public (or a locationally specific population thereof). Such services may include, but are not limited to, stormwater detention and management, sewer, water, telecommunications, cable, electricity, and natural gas.

Utilities (Accessory). Accessory utilities are on-site utility features serving a primary use, such as a water, sewer or gas line connecting to a residence. Accessory utilities do not carry significant capacity to serve other users.

Variance. A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this SMP and not a means to vary a use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by the City's Hearing Examiner and the Department of Ecology.

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

Visual access. Access with improvements that provide a view of the shoreline or water, but do not allow physical access to the shoreline.

WAC. Washington Administrative Code.

Water-dependent use. A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include fishing, boat launching, swimming, float planes, and stormwater discharges.

Water-enjoyment use. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water.
- Docks, trails, and other improvements that facilitate public access to shorelines of the state.
- Restaurants with water views and public access improvements.
- Museums with an orientation to shoreline topics.
- Scientific/ecological reserves.
- Resorts with uses open to the public and public access to the shoreline; and
- Any combination of those uses listed above.

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

Water quality. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this SMP, the term "water quantity" refers only to development and uses regulated under SMA and affecting water quantity, such as impervious surfaces and stormwater handling practices. Water quantity, for purposes of this SMP, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

- a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Watershed restoration plan. A plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural

resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter [43.21C](#) RCW, the State Environmental Policy Act. (WAC 173-27-040(o)(ii))

Watershed restoration project. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

- a. A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
- b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
- c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream. (WAC 173-27-040(o)(i))

***Waters of the state:* Wherever the words "waters of the state" shall be used in this chapter, they shall be construed to include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington. (RCW 90.48.020)**

Weir: A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

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

Wetland category. See Appendix B Critical Areas Regulations for Shoreline Jurisdiction.

Wetland delineation. See Appendix B Critical Areas Regulations for Shoreline Jurisdiction.

Wetland mitigation bank. A site where wetlands and buffers are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

Wetlands rating system. See Appendix B Critical Areas Regulations for Shoreline Jurisdiction.

Zoning. The system of land use and development regulations and related provisions of the Lake Stevens City Code, codified under Title 14 LSMC.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

CHAPTER 7

Administrative Provisions

A. Purpose and Applicability

1. The purpose of this chapter is to establish an administrative system designed to assign responsibilities for implementation of this SMP and to outline the process for review of proposals and project applications.
2. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act (SMA) (Chapter 90.58 Revised Code of Washington (RCW)) and to the policies and regulations of this SMP. Where inconsistencies or conflicts with other sections of the Lake Stevens Municipal Code (LSMC) occur, this section shall apply.

When considering development proposals on properties within shoreline jurisdiction, the City shall use a process designed to ensure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights.

B. Shoreline Permits

The procedures and requirements for development within specified areas implementing the Shoreline Management Act is summarized below including shoreline exemptions, shoreline substantial development permits, shoreline conditional use permits and shoreline variances. Supplemental application requirements for a shoreline substantial development permit are included in 7.C1 below. Hearing procedures, effective dates and permit expirations are also summarized below.

The following is a summary of the procedures for shoreline permits:

1. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City.
2. Shoreline exemptions are a Type I Administrative Decisions without Public Notice review process and shall be processed and subject to the applicable regulations. Shoreline substantial development permits are a Type II Administrative Decisions With Public Notice review process and shall be processed and subject to the applicable regulations. Shoreline conditional use permits and variances are classified as Type III Quasi-Judicial, Hearing Examiner Decision review process and shall be subject to the applicable regulations.

All applications, including exemptions, shall comply with WAC [173-27-140](#) Review Criteria for All Development, as amended:

- a. No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.
 - b. No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.
3. Public notice. A notice of application shall be issued for all shoreline permit applications with a Type II or Type III review, excepting that the public comment period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-1 10(2)(e).
 4. Application review. The Administrator shall make decisions on applications for shoreline exemptions and substantial development permits, and recommendations on applications for conditional use and variance permits based upon the policies and procedures of the Shoreline Management Act, and related sections of the Washington Administrative Code, and this SMP.
 5. Hearing Examiner action. The Hearing Examiner shall review applications for a shoreline conditional use and shoreline variance permit and make decisions based upon:
 - a. This SMP;
 - b. The policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code;
 - c. Written and oral comments from interested persons;
 - d. Reports from the Administrator; and
 - e. City regulations for the Hearing Examiner's Office.
 6. Filing with Department of Ecology. All applications for an exemption, permit or permit revision shall be submitted to the Department of Ecology upon final decision by local government, as required by WAC 173-27-130 or as subsequently amended. Final decision by local government shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals have lapsed.

After City approval of a shoreline conditional use or variance permit, the City shall submit the permit to the Department of Ecology for the Department's approval, approval with conditions, or denial, as provided in WAC 173-27-200. The Department shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City.

When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

7. Hold on construction. Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with the Department of Ecology, per WAC 173-27-190 or as subsequently amended. "Date of filing" of the City's final decision on substantial development permits differs from date of filing for a conditional use permit or variance. In the case of a substantial development permit, the date of filing is the date the City transmits its decision on the permit to the Department of Ecology. In the case of a variance or conditional use permit, the "date of filing" means the date the Department of Ecology's final order on the permit is transmitted to the City.
8. Duration of permits. Construction, or the use or activity, shall commence within two (2) years after approval of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.
9. Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity.

C. Substantial Development Permits and Exemptions

1. Exemptions from a Substantial Development Permit

Certain developments are exempt from the requirement to obtain a substantial development permit pursuant to WAC 173-27-040. The process for review of shoreline exemptions is a Type I review Administrative Review Without Public Notice. The process begins with a complete application, followed by decision by the appropriate department. The administrative approval body is the department director. Appeals of the Director's decision on a Type I Shoreline permit are made to the State Shoreline Hearings Board. The department director action is the final City decision on a Type I application.

Such developments still may require a variance or conditional use permit, and all development within the shoreline is subject to the requirements of this SMP, regardless of whether a substantial development permit is required. Developments which are exempt from requirement for a substantial development permit are identified in WAC 173-27-040 or as subsequently amended.

For the purposes of this chapter, the terms "development" and "substantial development" are as defined in RCW 90.58.030 or as subsequently amended.

The following is a short summary of the types of developments which do not require substantial development permits (see WAC 173-27-040 for detailed descriptions):

- a. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW [90.58.030](#) (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;
- b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment;
- c. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land;
- d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
- e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels;
- f. Construction or modification of navigational aids such as channel markers and anchor buoys;
- g. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter [90.58](#) RCW.

Construction authorized under this exemption shall be located landward of the ordinary high water mark;

- h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception in fresh waters the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;
- i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands;
- j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- l. Any project with a certification from the governor pursuant to Chapter [80.50](#) RCW;
- m. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if specific provisions are met;
- n. The process of removing or controlling aquatic noxious weeds, as defined in RCW [17.26.020](#), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter [43.21C](#) RCW;
- o. Watershed restoration projects as defined in WAC 173-27-040(o) and included in Chapter 6 of this SMP. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section; or
- p. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when specific provisions apply.

2. Shoreline Substantial Development Permits

Any person wishing to undertake substantial development within the shoreline shall submit materials as required for a Type II review and specific supplemental materials described below and shall apply to the Administrator for a shoreline permit, as required in this chapter and Chapter 90.58 RCW.

Supplemental Application Requirements for a Shoreline Development Permit

In addition to the application requirements of the specified submittal checklist, any person applying for a shoreline development permit shall submit with their application the following information:

- a. The name, address and phone number of the applicant, applicant's representative and property owner;
- b. The location and legal description of the proposed shoreline substantial development;
- c. Name of the shoreline (water body) associated with proposal;
- d. A general description of the vicinity of the project (at least 400 feet) including adjacent uses, structures and improvements, intensity of development and physical characteristics;
- e. The present and intended use of the property and a description of the proposed shoreline substantial development project including proposed use(s) and activities necessary to accomplish the project.
- f. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information and including photos or text, as required. The following information will be provided on a site plan map:
 - i. Land contours, using five foot contour intervals; if project includes grading, filling or other alteration of contours, then either:
 - (a) Show both existing and proposed contours on a single map, clearly indicating which is which, and include subsections (f)(2) through (13) of this section; or
 - (b) Provide two or more maps, one showing existing contours, including subsection (f)(2) through (6) of this section, and the other showing proposed contours, including subsections (e)(7) through (13) of this section;
 - ii. Dimensions, including height, size and location of existing and proposed structures and improvements, including but not limited to buildings, paved or gravel areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities;
 - iii. Ordinary high water mark;
 - iv. Beach type: sand, mud, gravel, etc.;

- v. Width of setback, side yards;
 - vi. Delineate all critical areas including lakes, streams and wetland areas and their buffers and identify those to be altered or used as part of the development;
 - vii. General indication of character of vegetation found on the site;
 - viii. Proposed temporary and permanent fill areas (state quantity, source and composition of fill);
 - ix. Proposed excavated or dredged areas (state quantity, composition and destination of material);
 - x. A landscaping plan for the project, if applicable;
 - xi. Plans for mitigation on or off the site for impacts associated with project, if applicable;
 - xii. A depiction of impacts to views from existing residential uses and public areas, where applicable; and
 - xiii. For variances, clearly show on plans where development could occur without approval of variance, the physical features and circumstances on the property that provide a basis for request and location of adjacent structures and uses.
- g. Total value of all construction and finishing work for which the permit will be issued, including all permanent equipment to be installed on the premises;
 - h. Approximate dates of construction initiation and completion;
 - i. Short statement explaining why this project needs a shoreline location and how the proposed development is consistent with the policies of the Shoreline Management Act of 1971;
 - j. Listing of any other permits for this project from State, Federal or local government agencies for which the applicant has applied or will apply;
 - k. Any additional material or comments concerning the application which the applicant wishes to submit may be attached to the application on additional sheets; and
 - l. Owners of record within 300 feet of project site in electronic table format.

Substantial development permits require a Type II review Administrative Decision with Public Notice. The process begins with a complete application, followed by decision by the appropriate department. The administrative approval body is the department director. Appeals of the Director's decision on a Type II Shoreline permit are made to the State Shoreline Hearings Board. The department director action is the final City decision on a Type II application.

3. Substantial Development Permit Decision Criteria

Shoreline substantial development permit applications shall be reviewed pursuant to WAC [173-27-150](#) and the following shoreline policies:

- a. A permit shall be granted only when the proposed development is consistent with the Lake Stevens Shoreline Master Program.
- b. A permit shall be granted only when the proposed development is consistent with the policy of RCW [90.58.020](#).
- c. Surface drilling for oil and gas is prohibited in the waters of Lake Stevens on all lands within 1,000 feet landward from the ordinary high water mark.
- d. A permit shall be denied if the proposed development is not consistent with the above enumerated policies.
- e. The granting of any shoreline substantial development permit by the City shall be subject to the conditions imposed by the Shoreline Hearings Board.

The following is from WAC 173-27-150 Review Criteria for Substantial Development Permits.

- f. A substantial development permit shall be granted only when the development proposed is consistent with:
 - i. The policies and procedures of the act;
 - ii. The provisions of this regulation; and
 - iii. The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter [173-26](#) WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.
- g. Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

4. Appeals - Shoreline Hearings Board

Any decision made by the Administrator on a shoreline exemption or substantial development permit or by the Hearing Examiner on a conditional use or variance permit shall be final unless an appeal is made. Persons aggrieved by the grant, denial, rescission or modification of a permit may file a request for review by the Shoreline Hearings Board in accordance with the review process established by RCW 90.58.180 or as subsequently amended, and with the regulations of the Shoreline Hearings Board contained in Chapter 461-08 WAC or as subsequently amended. The request for review must be filed with the Hearings Board within twenty-one (21) days of the date of filing pursuant to RCW 90.58.080.

D. Conditional Use Permits

1. Shoreline Conditional Use Permits

- a. Purpose. The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of this SMP in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and this SMP. Uses which are specifically prohibited by this SMP may not be authorized pursuant to WAC 173-27-160.
- b. Process and Application. Shoreline conditional use permits are a Type III review Quasi-Judicial, Hearing Examiner Decision. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time an informational meeting may be held. If required by the State Environmental Policy Act, a threshold determination will be issued by the SEPA Responsible Official. The threshold determination shall be issued prior to the issuance of staff's or Design Review Board's recommendation on the application. Following issuance of the Design Review Board recommendation, if applicable, a public hearing will be held before the city Hearing Examiner. The decision of the Hearing Examiner on a Type III Shoreline Permit application is appealable to the State Shoreline Hearings Board. The Hearing Examiner action deciding the appeal and approving, approving with modifications, or denying a project is the final City decision on a Type III application.
- c. Uses are classified as conditional uses if they are (1) specifically designated as conditional uses elsewhere in this SMP, or (2) are not specifically classified as a permitted or conditional use in this SMP but the applicant is able to demonstrate consistency with the requirements of WAC 173-27-160 and the requirements for conditional uses in section D.2 below.
- d. 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 to other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of the Shoreline Management Act and shall not produce substantial adverse effects to the shoreline environment.

2. Shoreline Conditional Use Permit Criteria

Shoreline conditional use permits may be granted, provided the applicant can satisfy the criteria for granting conditional use permits as set forth in WAC 173-27-160 or as subsequently amended.

The following is from WAC 173-27-160 Review Criteria for Conditional Use Permits.

The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or assure consistency of the project with the act and the local master program.

- a. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
 - i. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
 - ii. That the proposed use will not interfere with the normal public use of public shorelines;
 - iii. 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;
 - iv. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - v. That the public interest suffers no substantial detrimental effect.
- b. 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.
- c. Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.
- d. Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (a) or (b) of this section.

E. Variances

1. Shoreline Variances

- a. Purpose. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this SMP and where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of this SMP

would impose unnecessary hardships on the applicant or thwart the Shoreline Management Act policies as stated in RCW 90.58.020. In all instances where a variance is granted, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect. Variances from the use regulations of this SMP are prohibited.

- b. Application. Shoreline variances are a Type III review Quasi-Judicial, Hearing Examiner Decision. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time an informational meeting may be held. If required by the State Environmental Policy Act, a threshold determination will be issued by the SEPA Responsible Official. The threshold determination shall be issued prior to the issuance of staff's or Design Review Board's recommendation on the application. Following issuance of the Design Review Board recommendation, if applicable, a public hearing will be held before the city Hearing Examiner. The decision of the Hearing Examiner on a Type III Shoreline Permit application is appealable to the State Shoreline Hearings Board. The Hearing Examiner action deciding the appeal and approving, approving with modifications, or denying a project is the final City decision on a Type III application.

2. Shoreline Variance Criteria

Shoreline variance permits may be authorized, provided the applicant can demonstrate satisfaction of the criteria for granting shoreline variances as set forth in WAC 173-27-170 or as amended.

The following is from WAC 173-27-170 Review Criteria for Variance Permits.

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

- a. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
- b. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - i. 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;

- ii. That the hardship described in (1) 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 applicants own actions;
 - iii. 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;
 - iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - v. That the variance requested is the minimum necessary to afford relief; and
 - vi. That the public interest will suffer no substantial detrimental effect.
- c. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
- i. 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;
 - ii. That the proposal is consistent with the criteria established under subsection (b)(2) through (6) of this section; and
 - iii. That the public rights of navigation and use of the shorelines will not be adversely affected.
- d. 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.
- e. Variances from the use regulations of the master program are prohibited.

F. Revisions to Permits

When an applicant seeks to revise a shoreline substantial development, conditional use, or variance permit, the City shall request from the applicant detailed plans and text describing the proposed changes in the permit. If the Administrator determines that the proposed changes are within the scope and intent of the original permit, the revision may be approved, provided it is consistent with Chapter 173-27 WAC, the Shoreline Management Act (SMA), and this SMP. “Within the scope and intent of the original permit” means the following:

1. No additional over-water construction will be involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less.
2. Lot coverage and height may be increased a maximum of 10 percent from provisions of the original permit, provided that revisions involving new structures not shown on the original site plan shall require a new permit.
3. Landscaping may be added to a project without necessitating an application for a new permit if consistent with the conditions attached to the original permit and with this SMP.
4. The use authorized pursuant to the original permit is not changed.
5. No additional significant adverse environmental impact will be caused by the project revision.
6. The revised permit shall not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a variance granted as the original permit or a part thereof.

If the revision, or the sum of the revision and any previously approved revisions, will violate the criteria specified above, the City shall require the applicant to apply for a new substantial development, conditional use, or variance permit, as appropriate, in the manner provided for herein.

The following is from WAC 173-27-100 Revisions to Permits.

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

When an applicant seeks to revise a permit, local government shall request from the applicant detailed plans and text describing the proposed changes.

7. If local government determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, local government may approve a revision.
8. "Within the scope and intent of the original permit" means all of the following:
 - a. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;
 - b. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

- c. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;
 - d. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;
 - e. The use authorized pursuant to the original permit is not changed; and
 - f. No adverse environmental impact will be caused by the project revision.
9. Revisions to permits may be authorized after original permit authorization has expired under RCW [90.58.143](#). The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter [90.58](#) RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.
 10. If the sum of the revision and any previously approved revisions under former WAC [173-14-064](#) or this section violate the provisions in subsection (2) of this section, local government shall require that the applicant apply for a new permit.
 11. The revision approval, including the revised site plans and text consistent with the provisions of WAC [173-27-180](#) as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with the department. In addition, local government shall notify parties of record of their action.
 12. If the revision to the original permit involves a conditional use or variance, local government shall submit the revision to the department for the department's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. The department shall render and transmit to local government and the applicant its final decision within fifteen days of the date of the department's receipt of the submittal from local government. Local government shall notify parties of record of the department's final decision.
 13. The revised permit is effective immediately upon final decision by local government or, when appropriate under subsection (6) of this section, upon final action by the department.
 14. Appeals shall be in accordance with RCW [90.58.180](#) and shall be filed within twenty-one days from the date of receipt of the local government's action by the department or, when appropriate under subsection (6) of this section, the date the department's final decision is transmitted to local government and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (2) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within

the scope and intent of the original permit, the decision shall have no bearing on the original permit.

G. Nonconforming Uses

Nonconforming development shall be defined and regulated according to the provisions of WAC 173-27-080; excepting that if a nonconforming development is damaged to the extent of one hundred percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged. In order for this replacement to occur, application must be made for permits within ~~six~~twelve months of the date the damage occurred, and all restoration must be completed within two years of permit issuance.

The following is from WAC 173-27-080 Nonconforming Use and Development Standards.

~~When nonconforming use and development standards do not exist in the applicable master program, the following definitions and standards shall apply:~~

1. "Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, but which does not conform to present regulations or standards of the program.
2. Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.
3. Uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC [173-27-040](#) (2)(g) upon approval of a conditional use permit.
4. A use which is listed as a conditional use but which existed prior to adoption of the master program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of the master program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use.

5. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
6. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:
 - a. No reasonable alternative conforming use is practical; and
 - b. The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.

In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

7. A nonconforming structure which is moved any distance must be brought into conformance with the applicable master program and the act.
8. **SEE EXCEPTION IN FIRST PARAGRAPH. Following language is from WAC, but City exception allows for 100 percent rather than 75 percent of replacement cost.** ~~(If a nonconforming development is damaged to an extent not exceeding seventy five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.)~~
9. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of this section.
10. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the act or the applicable master program but which does not conform to the present lot size standards may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.

H. Documentation of Project Review Actions and Changing Conditions in Shoreline Areas

The City will keep on file documentation of all project review actions, including applicant submissions and records of decisions, relating to shoreline management provisions in this SMP. In addition, as stated in the Restoration Plan, the City will track information using the City's permit system or a separate spreadsheet as activities occur (development, conservation, restoration and mitigation). The information that will be tracked includes:

- New shoreline development
- Shoreline variances and the nature of the variance
- Compliance issues
- New impervious surface areas
- Number of pilings
- Removal of fill
- Vegetation retention/loss
- Bulkheads/armoring

The City may require project proponents to monitor as part of project mitigation, which may be incorporated into this process. This information will assist the City in monitoring shoreline conditions to determine whether both project specific and SMP overall goals are being achieved.

I. Amendments to This Shoreline Master Program

If the City or Department of Ecology determines it necessary, the City will review shoreline conditions and update this SMP within seven years of its adoption.

J. Severability

If any provision of this SMP, or its application to any person, legal entity, parcel of land, or circumstance is held invalid, the remainder of this SMP, or its application to other persons, legal entities, parcels of land, or circumstances shall not be affected.

K. Enforcement

1. Violations

- a. It is a violation of this SMP for any person to initiate or maintain or cause to be initiated or maintained the use of any structure, land or property within the

shorelines of the City without first obtaining the permits or authorizations required for the use by this Chapter.

- b. It is a violation of this SMP for any person to use, construct, locate, or demolish any structure, land or property within shorelines of the City in any manner that is not permitted by the terms of any permit or authorization issued pursuant to this SMP, provided that the terms or conditions are explicitly stated on the permit or the approved plans.
- c. It is a violation of this SMP to remove or deface any sign, notice, or order required by or posted in accordance with this SMP.
- d. It is a violation of this SMP to misrepresent any material fact in any application, plans or other information submitted to obtain any shoreline use or development authorization.
- e. It is a violation of this SMP for anyone to fail to comply with any other requirement of this SMP.

2. Duty to Enforce

- a. It shall be the duty of the Administrator to enforce this Chapter. The Administrator may call upon the police, fire, health, or other appropriate City departments to assist in enforcement.
- b. Upon presentation of proper credentials, the Administrator or duly authorized representative of the Administrator may, with the consent of the owner or occupier of a building or premises, or pursuant to lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by this SMP.
- c. This SMP shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.
- d. It is the intent of this SMP to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of this SMP.
- e. No provision of or term used in the SMP is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

3. Investigation and Notice of Violation

- a. The Administrator or his/her representative shall investigate any structure, premises or use which the Administrator reasonably believes does not comply with the standards and requirements of this SMP.
- b. If after investigation the Administrator determines that the SMP's standards or requirements have been violated, the Administrator shall follow the procedures

for enforcement action and penalties shall be as specified in WAC 173-27-240 through 173-27-310, which are hereby adopted by this reference.

APPENDIX A:

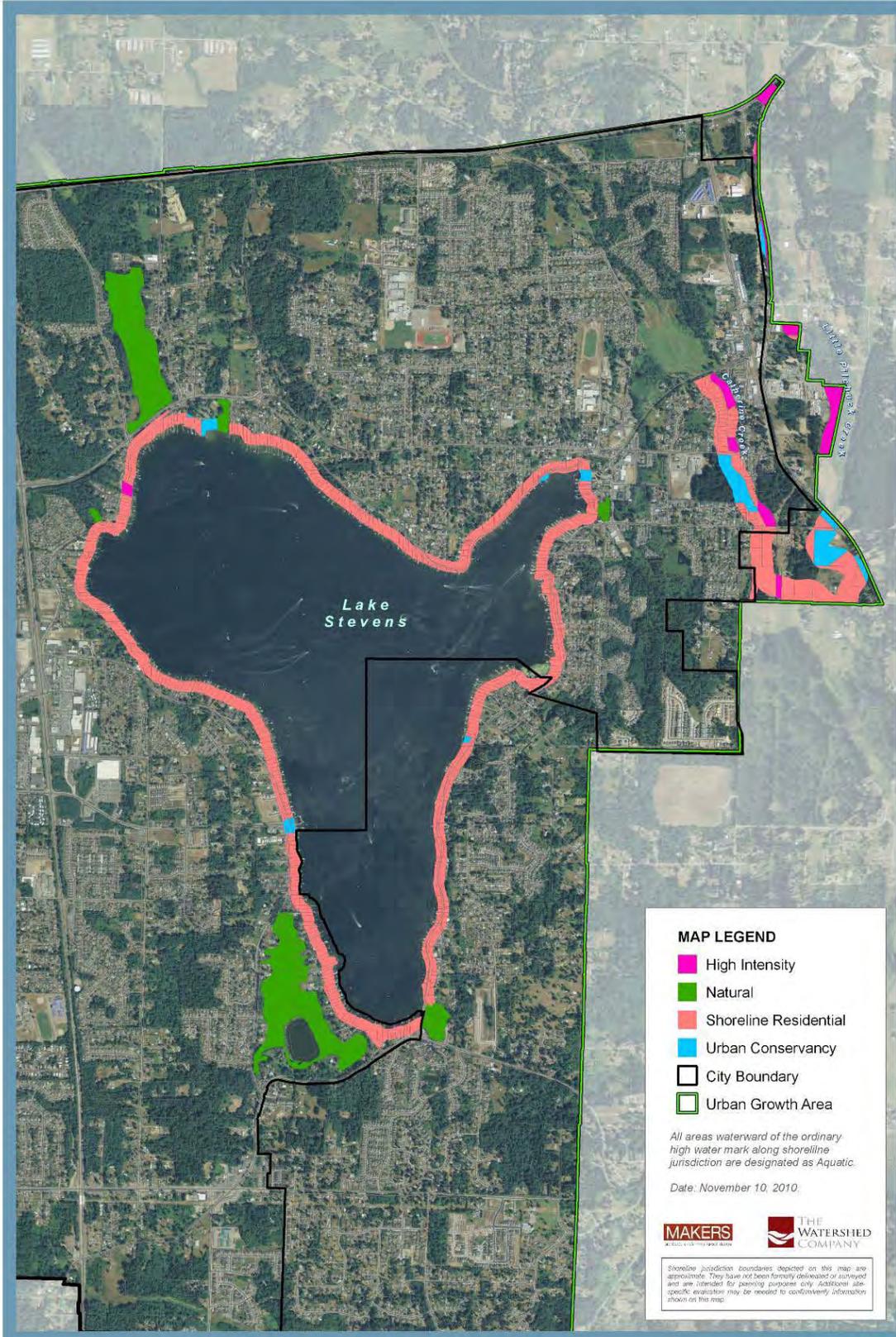
Shoreline Environment Designation Maps



Environment Designations

City of Lake Stevens Shoreline Master Program

DRAFT



APPENDIX B:

Critical Areas Regulations for Shoreline Jurisdiction

The regulations in Appendix B: Critical Areas Regulations for Shoreline Jurisdiction are fully enforceable and considered part of the SMP regulations.

Sections:

Part 1. Purpose and Intent

1.A Purpose and Intent

~~1.B Definitions~~

Part 2. General Provisions

2.A Applicability

2.B Regulated Activities

2.C Allowed Activities

2.D Classification as a Critical Area

2.E Submittal Requirements

2.F Site/Resource-Specific Reports

2.G Mitigation/Enhancement Plan Requirements

2.H Mitigation Monitoring

2.I Bonding (Security Mechanism)

2.J Pesticide Management

2.K Building Setbacks

2.L Fencing and Signage

2.M Dedication of Open Space/Native Growth Protection Area

2.N Permanent Protection for Streams, Wetlands and Buffers

2.O Density Transfers on Sites Less than Five Acres

2.P Innovative Development Design

2.Q Dedication of Land and/or Easements in Lieu of Park Mitigation

2.R Assessment Relief

Part 3. Fish and Wildlife Conservation Areas

3.A Classification

3.B Determination of Boundary

3.C Allowed Activities

3.D Requirements

3.E Mitigation

Part 4. Frequently Flooded Areas

- 4.A Classification
- 4.B Determination of Boundary
- 4.C Allowed Activities
- 4.D Requirements
- 4.E Mitigation

Part 5. Geologically Hazardous Areas

- 5.A Classification
- 5.B Determination of Boundary
- 5.C Allowed Activities
- 5.D Geological Assessment Requirements
- 5.E Setback Buffer Requirements
- 5.F Allowed Alterations
- 5.G Prohibited Alterations
- 5.H Mitigation

Part 6. Wetlands

- 6.A Classification
- 6.B Determination of Boundary
- 6.C Allowed Activities
- 6.D Requirements
- 6.E Mitigation

Part 1. Purpose and Intent

1.A. Purpose and Intent.

The purpose of this appendix is to designate, classify, and protect the critical areas within shoreline jurisdiction of the Lake Stevens community by establishing regulations and standards for development and use of properties which contain or adjoin shoreline jurisdictional critical areas for protection of the public health, safety, and welfare. The purpose and intent of this appendix is also to ensure that there is no net loss of the acreage or functions and values of shoreline jurisdictional critical areas regulated by this appendix. The regulations in this appendix are fully enforceable and considered part of the SMP

(a) A project proponent shall make all reasonable efforts to avoid and minimize impacts to shoreline jurisdictional critical areas and buffers in the following sequential order of preference (WAC 173-26-201(2)(e)):

- (1) Avoiding impacts altogether by not taking a certain action or parts of an action; or
- (2) When avoidance is not possible, minimizing impacts by limiting the degree or magnitude of the action and its implementation, using appropriate technology, or by taking affirmative steps, such as project redesign, relocations, or timing, to avoid or reduce impacts and mitigating for the affected functions and values of the shoreline jurisdictional critical area; and
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (4) Reducing or eliminating impacts over time by preservation and maintenance operations during the life of the action.
- (5) Compensating for unavoidable impacts by replacing, enhancing or providing substitute resources or environments.
- (6) Monitoring the impact and the compensation projects and taking appropriate corrective measures (see WAC 173-26-201(2)(e)(i)(F) for more details).

(b) Protect the public from personal injury, loss of life, or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence.

(c) Protect against publicly financed expenditures due to the misuse of shoreline jurisdictional critical areas which cause:

- (1) Unnecessary maintenance and replacement of public facilities;
- (2) Publicly funded mitigation of avoidable impacts;
- (3) Cost for public emergency rescue and relief operations where the causes are avoidable;
- (4) Degradation of the natural environment.

(d) Protect aquatic resources.

(e) Protect unique, fragile, and valuable elements of the environment, including wildlife and its habitat.

- (f) Alert appraisers, assessors, owners, potential buyers, or lessees to the development limitations of environmentally sensitive areas.
- (g) Provide City officials with sufficient information to adequately protect shoreline jurisdictional critical areas when approving, conditioning, or denying public or private development proposals.
- (h) Give guidance to the development of Comprehensive Plan policies in regard to the natural systems and environment of the Lake Stevens Watershed.
- (i) Provide property owners and developers with succinct information regarding the City's requirements for property development.

1.B Definitions.

For the purposes of this appendix, the ~~following~~ definitions in Chapter 6 of this Shoreline Master Program shall apply:

~~(a) "Agriculture land" means land used for commercial production (as shown by record of any income) of horticultural, viticultural, floricultural, dairy, apiary, or animal products, or of vegetables, Christmas trees, berries, grain, hay, straw, turf, seed, or livestock, and that has long term (six years or longer) commercial significance for agricultural production.~~

~~(b) "Alteration" means any human induced action which impacts the existing condition of a critical area. Alterations include but are not limited to grading; filling; dredging; draining; channelizing; cutting; pruning, limbing or topping; clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; paving; construction, application of gravel; modifying for surface water management purposes; or any other human activity that impacts the existing vegetation, hydrology, wildlife or wildlife habitat. Alteration does not include walking, passive recreation, fishing or other similar activities.~~

~~(c) "Aquifer recharge area" means geological formations with recharging areas having an effect on aquifers used for potable water where essential source of drinking water is vulnerable to contamination.~~

~~(d) "Best management practices (BMPs)" means the best available conservation practices or systems of practices and management measures that:~~

~~(1) Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment; and~~

~~(2) Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.~~

~~(e) —“Best available science” means current scientific information, which is used to designate, regulate, protect, or restore critical areas and which is derived from a valid scientific process as set forth in WAC 365-195-900 through 365-195-925 and Section 14.88.235.~~

~~(f) —“Bog” means a wetland with limited drainage and generally characterized by extensive peat deposits and acidic waters. Vegetation can include, but is not limited to, sedges, sphagnum moss, eriogonums, shrubs, and trees.~~

~~(g) —“Buffer areas, wetlands” means areas that are contiguous to and protect a critical area and are required for the continued maintenance, functioning, and/or structural stability of a critical area.~~

~~(h) —“Buffer management” means an activity proposed by a public agency, public utility, or private entity, and approved by the Planning and Community Development Director, within a buffer required by this title, that is proposed to:~~

~~(1) —Reduce or eliminate a verified public safety hazard;~~

~~(2) —Maintain or enhance wildlife habitat diversity; or~~

~~(3) —Maintain or enhance a fishery or other function of stream, wetland, or terrestrial ecosystems.~~

~~(i) —“Classes, wetland” means the wetland taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).~~

~~(j) —“Compensation” means the replacement, enhancement, or creation of an undevelopable critical area equivalent in functions, values and size to those being altered by or lost to development.~~

~~(k) —“Creation, wetland mitigation” means the manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevation that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres.~~

~~(l) —“Critical areas” means areas of the City that are subject to natural hazards or any landform feature that carries, holds, or purifies water and/or supports unique, fragile or valuable natural resources including fish, wildlife, and other organisms and their habitat. Critical areas include the following features: geologically hazardous areas, wetlands, streams, frequently flooded hazard areas, fish and wildlife conservation areas, aquifer recharge areas, and groundwater discharge areas.~~

~~(m) —“Critical habitat” means habitat necessary for the survival of endangered, threatened, sensitive species as listed by the Federal Government or the State of Washington. Habitat for species listed on the candidate list, or monitored species as listed by the Federal Government or the State of Washington, may be considered critical habitat.~~

~~_(n) —“Degraded wetland” means a wetland in which the vegetation, soils, and/or hydrology have been adversely altered, resulting in lost or reduced functions and values.~~

~~_(o) —“Developable area” means land outside of critical areas, their setback, and buffers.~~

~~_(p) —“Edge” means the boundary of a wetland as delineated based on the criteria contained in this chapter.~~

~~_(q) —“Emergent wetland” means a wetland with at least 30 percent of its surface covered by erect, rooted, herbaceous vegetation at the uppermost vegetative strata.~~

~~_(r) —“Emergency” means an action that must be undertaken immediately or within a time frame too short to allow full compliance with this chapter, in order to avoid an immediate threat to public health or safety, to prevent a imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.~~

~~_(s) —“Enhancement, wetland mitigation” means the manipulation of the physical, chemical or biological characteristics of a wetland site, in order to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat improvement. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these activities. Enhancement results in a benefit to some wetland functions and can lead to a decline in other wetland functions but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.~~

~~_(t) —“Erosion hazard areas” means lands or areas that, based on a combination of slope inclination and the characteristics of the underlying soils, are susceptible to varying degrees of risk of erosion.~~

~~_(u) —“Exotic species” means plants or animals that are not native to the Puget Sound Lowlands region.~~

~~_(v) —“Extraordinary hardship” means prevention of all reasonable economic use of the parcel due to strict application of this chapter and/or programs adopted to implement this chapter.~~

~~_(w) —“Fish and wildlife habitats (of local importance)” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs and wetlands.~~

~~_(x) —Floodplain. See Section 14.08.010, “Floodplain.”~~

~~(y) — Floodway. See Section 14.08.010, “Floodway.”~~

~~(z) — “Forested wetland” means wetlands with at least 20 percent of the surface area covered by woody vegetation greater than 30 feet in height.~~

~~(aa) — “Forest land” means land used for growing trees, not including Christmas trees, for commercial purposes (as shown by record of any income) that has long term (six years or more) commercial significance.~~

~~(bb) — “Frequently flooded areas” means lands indicated on the most current FEMA map to be within the 100-year floodplain. These areas include, but are not limited to, streams, lakes, coastal areas, and wetlands.~~

~~(cc) — “Functions and values” means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, aesthetic value protection, and recreation. These roles are not listed in order of priority.~~

~~(dd) — “Geologically hazardous areas” includes areas susceptible to erosion, sliding, seismic activity, or other geological events. They may pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development.~~

~~(ee) — “Hydric soil” means soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Washington State Wetlands Identification and Delineation Manual 1997, or as amended hereafter.~~

~~(ff) — “Landslide hazard areas” means areas that, due to a combination of slope inclination and relative soil permeability, are susceptible to varying degrees of risk of landsliding.~~

~~(gg) — “Land uses, high intensity” means uses which are associated with moderate or high levels of human disturbance or substantial impacts including, but not limited to, a zone classification allowing four or more dwelling units per acre, active recreation, and commercial and industrial land uses.~~

~~(hh) — “Land uses, low intensity” includes land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation and open space.~~

~~(ii) — “Mineral resource lands” means lands primarily devoted to the extraction of gravel, sand, other construction materials, or valuable metallic or mineral substances.~~

~~(jj) — “Mitigation” means an action or combination of actions which avoids, minimizes, or compensates for adverse impacts to critical areas or sensitive resources. Mitigation is considered in the following order of preference:~~

~~_(1) — Avoiding the impact altogether by not taking a certain action or parts of an action;~~

~~(2) — Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;~~

~~(3) — Rectifying the impacts by repairing, rehabilitating, or restoring the affected environment;~~

~~(4) — Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;~~

~~(5) — Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;~~

~~(6) — Monitoring the impact and the compensation project and taking appropriate corrective measures.~~

~~(kk) — “Native growth protection areas (NGPA)” means areas where native vegetation is permanently preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat.~~

~~(ll) — “Native vegetation” means plant species which are indigenous to the Puget Sound Lowlands region.~~

~~_(mm) — “Natural resource lands” means agriculture, forest, and mineral resource lands as defined in this section.~~

~~(nn) — “Open space” means areas of varied size which contain distinctive geologic, botanic, zoologic, historic, scenic or other critical area or natural resource land features.~~

~~_(oo) — “Ordinary high water mark” means a mark that has been found where the presence and action of waters are common and usual and maintained in an ordinary year long enough to mark a distinct character from that of the abutting upland.~~

~~_(pp) — “Pesticide management plan” means a guidance document for the prevention, evaluation, and mitigation for occurrences of pesticides or pesticide breakdown products in ground and surface waters.~~

~~_(qq) — “Practicable alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include an area not owned by the applicant which can reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.~~

~~(rr) — “Priority habitats” means areas that support diverse, unique, and/or abundant communities of fish and wildlife, as determined by the Washington Department of Fish and Wildlife Map Products 2006.~~

~~_(ss) —“Priority species” means wildlife species of concern due to their population status and their sensitivity to habitat alteration.~~

~~(tt) —“Public water system” means a water system that serves two or more connections.~~

~~_(uu) —“Re-establishment, wetland mitigation” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Re-establishment results in a gain in wetland acres.~~

~~(vv) —“Regulated wetlands” means wetlands, including their submerged aquatic beds, and those lands defined as wetlands under the 1989 Federal Clean Water Act, 33 USC Section 251, et seq., and rules promulgated pursuant thereto and shall be 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 typically adapted for life in saturated soil conditions. Regulated wetlands generally include swamps, bogs, and similar areas. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands. Regulated wetlands do not include those constructed wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass lined swales, canals, detention/retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.~~

~~_(ww) —“Rehabilitation, wetland mitigation” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic function of a degraded wetland. Activities could involve breaching a dike or reconnecting wetland to a floodplain or returning tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres~~

~~_(xx) —“Repair or maintenance activities” means an action to restore the character, size, or scope of a project only to the previously authorized condition.~~

~~_(yy) —“Riparian area” means a transitional area between terrestrial and aquatic ecosystems and which is distinguished by gradients in biophysical conditions, ecological processes, and biota.~~

~~(zz) —“Riparian habitat” means an ecosystem that borders a stream which is occasionally flooded and periodically supports predominantly hydrophytes.~~

~~(aaa) —“Riparian zone” means a transitional area between aquatic ecosystems (lakes, streams, and wetlands) and upland terrestrial habitats.~~

~~(bbb) —“Scrub shrub wetland” means a wetland with at least 30 percent of its surface area covered with woody vegetation less than 20 feet in height.~~

~~_(ccc) —“Seismic hazard areas” means areas that, due to a combination of soil and groundwater conditions, are subject to severe risk of ground shaking, subsidence or liquefaction of soils during earthquakes.~~

~~(ddd) —“Setbacks” means protective buffers which provide a margin of safety through protection of slope stability, attenuation of surface water flows, and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters; or an area which is an integral part of a stream or wetland ecosystem and which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland edge, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded.~~

~~_(eee)“Sphagnum” means any of a large genus of mosses that grow only in wet acidic soils and whose remains become compacted with other plant debris to form peat.~~

~~(fff) —“Streams” means water contained within a channel, either perennial or intermittent, and classified according to a locally appropriate stream classification system based on WAC 222-16-030. Streams also include open natural watercourses modified by man. Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Streams are further characterized as S, F, Np, or Ns.~~

~~_(ggg) —“Swamp” means a wetland whose dominant vegetation is composed of woody plants and trees.~~

~~_(hhh) —“Unavoidable and necessary impacts” means impacts that remain after a person proposing to alter critical areas has demonstrated that no practicable alternative exists for the proposed project.~~

~~(iii) —“Water dependent” means a use for which the use of surface water would be essential in fulfilling the purpose of the proposed project.~~

~~_(jjj) —“Wetlands” means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, bogs, marshes, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands include those artificial wetlands intentionally created to mitigate conversion of wetlands. See the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.~~

~~(kkk) —“Wetland mitigation bank” means a site where wetlands and buffers are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.~~

Part 2. General Provisions

2.A Applicability.

The provisions of this appendix apply to all lands, land uses and development activity in areas of shoreline jurisdiction within the City. No action shall be taken by any person which results in any alteration of any shoreline jurisdictional critical areas except as consistent with the purposes, objectives, and goals of this SMP.

2.B Regulated Activities.

Land use and development activities in shoreline jurisdictional critical areas shall ensure no net loss of critical area and functions. Regulated activities include, but are not limited to, the following activities consistent with WAC 173-26-221(2)(c)(i)(A):

- (a) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
- (b) The dumping, discharging, or filling with any material, including discharges of storm water and domestic, commercial, or industrial wastewater.
- (c) The draining, flooding, or disturbing of the water level, duration of inundation, or water table.
- (d) The driving of pilings.
- (e) The placing of obstructions.
- (f) The construction, reconstruction, demolition, or expansion of any structure.
- (g) The destruction or alteration of vegetation in a critical area through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a critical area; provided, that these activities are not part of a forest practice governed under Chapter [76.09](#) RCW and its rules.
- (h) Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of water sources, including quantity, or the introduction of pollutants.
- (i) Other uses or development that results in a significant ecological impact to the physical, chemical, or biological characteristics of wetlands, lakes or streams.

(j) Activities reducing the functions of buffers.

2.C Allowed Activities.

Unless specifically prohibited elsewhere in this appendix or SMP, the following uses are allowed in any shoreline jurisdictional critical area; provided, that site/resource-specific reports prepared to describe the environmental limitations of and proposed mitigation for the site, and show how no net loss of area and functions, including lost time when the critical area does not perform the function. The report shall be submitted, reviewed, and approved by the City prior to permit issuance or land use approval. In addition, a Hydraulic Project Approval may be required from the Department of Fish and Wildlife before any activity takes place in the critical area:

(a) Education, scientific research, and construction and use of nature trails; provided, that they are proposed only within the outer 25 percent of the wetland buffers, except that trails may be located within the remainder of the critical area buffer when it is demonstrated through the site/resource-specific report that:

- (1) No other alternative for the trail location exists which would provide the same educational and/or scientific research opportunities; and
- (2) The critical area functions and values will not be diminished as a result of the trail; and
- (3) The materials used to construct the trail will not harm the critical area; and
- (4) Land disturbance is minimized to the greatest extent possible; and
- (5) Where possible, the number of trails allowed in critical area buffers shall be limited.

(b) Navigation aids and boundary markers.

(c) Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, impacts shall be minimized and disturbed areas shall be immediately restored.

(d) Normal maintenance, repair, or operation of existing structures, facilities, or improved areas.

(e) Drilling for utilities/utility corridors (e.g., installation or construction of City road right-of-way; or installation, replacement, operation, repair, alteration, or relocation of all water, natural gas, cable communication, telephone, or other utility lines, pipes, mains, equipment or appurtenances, not including substations or other buildings) under a wetland, with entrance/exit portals located completely outside of the wetland buffer is preferred, provided that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water

down through the soil column. Specific studies by a hydrologist are necessary to determine whether the groundwater connection to the wetland or percolation of surface water down through the soil column will be disturbed. If not determined to be feasible due to any reason other than disturbing groundwater connection or surface water through the soil column, a shoreline variance must be requested and a detailed report/mitigation plan submitted, reviewed, and approved by the City prior to permit issuance or land use approval and all other agency approvals have been issued.

(f) Minor expansion of uses or structures existing at the time of adoption of this code, and which are in compliance with all development regulations; provided, that the applicant obtains all required local, State, and Federal permits, which may include, but not limited, to a Department of Fish and Wildlife Hydraulic Permit and a Clean Water Act 404 Permit and the expansion does not create a loss of wetland area and functions nor pose a significant threat to water quality. A site/resource-specific report and mitigation plan shall be prepared to describe the wetland area, function, and water quality and submitted to the City for review and approval prior to permit issuance. For the purposes of this subsection, “minor expansion” refers to an addition to or alteration of a use or structure and shall be limited to a maximum of 1,000 square feet of impervious area.

(g) Stormwater Management Facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. Stormwater management facilities are not allowed in buffers of Category I ~~or II~~ wetlands. They may be allowed within the outer 25 percent of the buffer of Category II, III or IV wetlands only, provided:

- (1) No other location is feasible, and
- (2) The location of such facilities will not degrade the function or values of the wetland.

(h) Emergency Activities. Those activities that are necessary to prevent an immediate threat to public health, safety, or welfare or pose an immediate risk of damage to a primary structure, and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter.

2.D Classification as a Critical Area.

Critical areas include fish and wildlife conservation areas, frequently flooded areas, geologically hazardous areas, and associated wetlands. Criteria for classification as a critical area will be listed under the applicable sections of this appendix.

2.E Submittal Requirements.

To enable the City to determine compliance with this appendix, at the time of application submittal, the applicant shall file a SEPA Environmental Checklist (if use is subject to SEPA), a

critical area checklist, site/resource-specific reports as specified in Section 2.F, all supplemental application requirements for a shoreline permit described in Chapter 7 of this SMP, and any other pertinent information requested by the Department of Planning and Community Development.

2.F Site/Resource-Specific Reports.

Unless waived per Section [2.E](#), all applications for land use or development permits proposed on properties containing or adjacent to shoreline jurisdictional critical areas or their defined setbacks or buffers shall include site/resource-specific reports prepared to describe the environmental limitations of the site. These reports shall conform in format and content to guidelines prepared by the Department of Planning and Community Development, which is hereby authorized to do so. The report shall be prepared by a qualified professional who is a biologist or a geotechnical engineer as applicable with experience preparing reports for the relevant type of critical area. The report and conclusions present in the shoreline jurisdictional critical area report shall be based on best available science.

2.G Mitigation/Enhancement Plan Requirements.

In the event that mitigation and/or enhancement is required, the Department of Planning and Community Development shall require the applicant to provide a mitigation plan for approval and a performance and maintenance bond in a form and amount acceptable to the City in accordance with Section [2.I](#). The plan shall provide information on land acquisition, construction, maintenance and monitoring of the replaced shoreline jurisdictional critical area that creates a no-net-loss area in function of the original area in terms of acreage, function, geographic location and setting. The plan shall also include critical areas and buffer impacts and critical areas and proposed buffer areas. All mitigation plans shall include the following items, which shall be submitted by the applicant or a qualified biologist, civil or geotechnical engineer:

- (a) Data collected and synthesized for the critical area and/or the newly restored site;
- (b) Specific goals and objectives describing site function, target species, selection criteria and measures to avoid and minimize impacts which shall include:
 - (1) Avoiding the impact altogether.
 - (2) Reducing or eliminating the impact over time by preservation and maintenance operations.
 - (3) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

- (4) Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area by meeting appropriate ratio requirements.
 - (5) Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on site, or in-kind and within the same stream reach, subbasin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the same site as the alteration except as specifically provided for in Sections 3.E and 6.E;
- (c) Performance standards which shall include criteria for assessing goals and objectives;
 - (d) Contingency plans which clearly define the course of action or corrective measures needed if performance standards are not met;
 - (e) A legal description and a survey prepared by a licensed surveyor of the proposed development site and location of the critical area(s) on the site;
 - (f) A scaled plot plan that indicates the proposed construction in relation to zoning setback requirements and sequence of construction phases including cross-sectional details, topographic survey data (including percent slope, existing and finished grade elevations noted at two-foot intervals or less), mitigation area, and water table elevation with sufficient detail to explain, illustrate and provide for:
 - (1) Soil and substrate conditions, topographic elevations, scope of grading and excavation proposal, erosion and sediment treatment and source controls needed for critical area construction and maintenance;
 - (2) Planting plans specifying plant species, types, quantities, location, size, spacing, or density. The planting season or timing, watering schedule, and nutrient requirements for planting, and where appropriate, measures to protect plants from destruction; and
 - (3) Contingency or mid-course corrections plan and a minimum five-year monitoring and replacement plan establishing responsibility for removal of exotic and nuisance vegetation and permanent establishment of the critical area and all component parts. The monitoring plan is subject to the provisions of Sections [2.H](#) and [2.I](#);
 - (g) A clearly defined approach to assess progress of the project, including the measurement of the success of a mitigation project by the presence of native species and an increase in the coverage of native plants over the course of the monitoring period;
 - (h) The plan must indicate ownership, size, type, and complete ecological assessment including flora, fauna, hydrology, functions, etc., of the critical area being restored or created; and

(i) The plan must also provide information on the natural suitability of the proposed site for establishing the replaced critical area, including water source and drainage patterns, topographic position, wildlife habitat opportunities, and value of existing area to be converted.

2.H Mitigation Monitoring.

(a) All compensatory mitigation projects shall be monitored for the period necessary to establish that performance standards have been met, but in no event for a period less than five years for emergent communities and ten years for scrub-shrub and forested communities following the acceptance of the installation/construction by the Shoreline Administrator.

(b) Monitoring reports on the current status of the mitigation project shall be submitted to the Planning Department. The reports shall be prepared by a qualified consultant and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation. Reports shall be submitted in accordance with the following schedule:

- (1) At the time of construction;
- (2) Thirty days after planting;
- (3) Early in the growing season of the first year;
- (4) End of the growing season of the first year;
- (5) Twice the second year (at the beginning and end of the growing season); and
- (6) Annually thereafter, to cover a total monitoring period of at least five growing seasons.

(c) The Shoreline Administrator shall have the authority to extend the monitoring and surety period and require additional monitoring reports and maintenance activities beyond the initial five-year monitoring period for any project does not meet the performance standards identified in the mitigation plan, does not provide adequate replacement for the functions and values of the impacted critical area, or otherwise warrants additional monitoring.

2.I Bonding (Security Mechanism).

(a) If the development proposal is subject to compensatory mitigation, the applicant shall enter into an agreement with the City to complete the mitigation plan approved by the City and shall post a mitigation surety to ensure mitigation is fully functional.

(b) The surety shall be in the amount of 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at

risk, whichever is greater. The surety shall be based on a detailed, itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, and all other costs.

(c) The surety shall be in the form of an assignment of funds, bond, security device, or other means acceptable to the City Finance Director in consultation with the City Attorney.

(d) The performance surety authorized by this section shall remain in effect until the City determines, in writing, that the standards bonded for have been met. Once the mitigation installation has been accepted by the Shoreline Administrator, the bond may be reduced to 20 percent of the original mitigation cost estimate and shall become a maintenance surety. Said maintenance surety shall generally be held by the City for a period of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods under Section [2.H\(c\)](#).

(e) Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant to complete required mitigation, maintenance, monitoring, or restoration.

(f) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

(g) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default. Upon notice of any default, the City may demand immediate payment of any financial guarantees or require other action authorized by the City code or any other law.

(h) Any funds paid or recovered pursuant to this section shall be used to complete the required mitigation or other authorized action.

(i) The Shoreline Administrator may authorize a one-time temporary delay, up to 120 days, in completing mitigation activities when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation. The request for the temporary delay shall include a written justification documenting the environmental constraints that preclude implementation of the mitigation plan and shall include a financial guarantee. The justification shall be verified by the City before approval of any delay.

(j) The provisions of LSMC [14.16A.180](#) (Security Mechanisms) shall also apply if necessary to ensure adequate protection of the public interest.

2.J Pesticide Management.

Pesticide use is not allowed in critical areas, including critical area buffers, unless it is determined by the Shoreline Administrator that there is no alternative to controlling invasive species. If pest control is being proposed as mitigation measures to control invasive species, a pesticide management plan must be submitted to the Planning and Community Development Department. The pesticide management plan must be part of the critical areas report required in Section [2.F](#) for any development proposal, and shall include why there is no other alternative to pesticide use, mitigation of pesticide use, planned application schedules, types of pesticides proposed for use, and a means to prevent or reduce pesticide movement to groundwater and surface water. The report shall be prepared by a qualified specialist.

2.K Building Setbacks.

Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

- (a) Uncovered decks;
- (b) Building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and
- (c) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to water quality regulations as adopted.

2.L Fencing and Signage.

Wetland fencing and signage adjacent to a regulated wetland or stream corridor shall be required.

- (a) Fencing shall be smooth wire or an alternative approved by the Shoreline Administrator.
 - (1) Fencing must be a permanent structure installed in a manner that allows continuous wildlife habitat corridors along critical fish and wildlife areas with a minimum gap of one and one-half feet at the bottom of the fence, and maximum height of three and one-half feet at the top;
 - (2) The fence shall be designed and constructed to clearly demarcate the buffer from the developed portion of the site and to limit access of landscaping equipment, vehicles, or other human disturbances; and
 - (3) No pressure treated posts and rails will be used for signage or fencing.
- (b) Signs designating the presence of a critical area shall be posted along the buffer boundary. The signs shall be posted at a minimum rate of one every 100 lineal feet. Standard details for signage shall be kept on file at the Planning and Community Development Department.

2.M Dedication of Open Space/Native Growth Protection Area.

- (a) In order to protect critical areas, open space easements or tracts, referred to as a native growth protection area, where proposed as mitigation, shall be dedicated to the City.
- (b) Anyone may offer to dedicate a critical area easement or tract and its buffer to the City even if not proposed as mitigation. The Shoreline Administrator shall make a determination regarding the City's acceptance of such a dedication, based on consistency with the goals and policies of the adopted Comprehensive Plan.
- (c) Such easements or tracts shall cover the critical area as delineated by its defined boundaries and buffers.

2.N Permanent Protection for Streams, Wetlands and Buffers.

All streams, wetlands and mitigation sites under this SMP and their required buffers shall be permanently protected by designating them as native growth protection areas (NGPAs) in accordance with Section [2.M](#). NGPAs are to be left permanently undisturbed in a substantially or environmentally enhanced natural state. No clearing, grading, filling, building construction or placement, or road construction is allowed except the following:

- (a) On a case by case basis when supported by a critical areas assessment study, crossings for underground utility lines which utilize the shortest alignment possible and for which no alignment that would avoid such a crossing is feasible;
- (b) Removal of hazardous trees by the property owner, when based on a recommendation by a qualified arborist and an assessment of hazardous tree risk study and when approved by the City.

Existing legally (on-going) established structures, and non-native or ornamental landscaping, including, but not necessarily limited to, gardens, yards, pastures, and orchards, are not required to be designated as NGPAs.

2.O Density Transfers on Sites Less than Five Acres.

On-site density transfers on sites less than five acres may be permitted when shoreline jurisdictional critical areas are located on the property subject to the following provisions:

- (a) Only the area contained in critical area buffers of the following wetlands is eligible to be used in the density transfer calculation:
 - (1) Category II and III wetlands with a habitat score of less than 20; and
 - (2) Category IV wetlands.

- (b) The development must be proposed to connect to sewer service and sewer service must be available.
- (c) The base density shall be consistent with the densities set forth in Chapter [14.36](#) of the Lake Stevens Municipal Code for the zoning districts. The site density shall be calculated using the area of the subject property divided by the minimum lot size of the applicable zone.
- (d) The overall density of the proposed site may be transferred from the undevelopable portion to the developable part of the site.
- (e) The development shall meet applicable policies, setbacks and other standards of the City except:
 - (1) Lot widths of Chapter [14.48](#) Table V of the Lake Stevens Municipal Code may be modified to not less than 40 feet in the SR and UR zones and not less than 30 feet in the HUR zone;
 - (2) Lot sizes may be modified to not less than 4,000 square feet in the SR and UR zones and not less than 3,000 square feet in the HUR zone;
 - (3) Setbacks of the zone as specified in Chapter [14.48](#) Table V of the Lake Stevens Municipal Code may not be modified when using the density transfer provision;
 - (4) The proposed development must be compatible with the character of the area and adjacent uses; and
 - (5) The area to which density is transferred must not be constrained by other critical areas.

2.P Innovative Development Design.

A project permit applicant may request approval of an innovative design, which addresses wetland, fish and wildlife habitat conservation area or buffer treatment in a manner that deviates from the standards set forth in Sections [3.A](#) through [3.E](#), Fish and Wildlife Conservation Areas, and Sections [6.A](#) through [6.E](#), Wetlands under a shoreline variance process.

- (a) An innovative development design will be considered in conjunction with the primary land use project approval or building permit approval. An applicant may include the innovative development design proposal in the project pre-application review packet for review. The Shoreline Administrator shall give preliminary findings on the pre-application and shall only issue a final decision for the design with the project or building permit approval, whichever occurs first.

(b) The applicant shall demonstrate in a site/resource-specific report required pursuant to Section [2.F](#) how the innovative development design complies with the following requirements:

- (1) The innovative development design will achieve protection equivalent to or better than the treatment of the functions and values of the critical areas that would be obtained by applying the standard prescriptive measures contained in this appendix and SMP;
- (2) Applicants for innovative development design are encouraged to consider measures prescribed in guidance documents, such as watershed conservation plans or other similar conservation plans, and low impact stormwater management strategies which address wetlands, fish and wildlife habitat conservation areas or buffer protection consistent with this appendix and SMP;
- (3) The innovative development design will not be materially detrimental to the public health, safety or welfare or injurious to other properties or improvements located outside of the subject property; and
- (4) Applicants for innovative development design are encouraged to consider measures prescribed in the Puget Sound Action Team 2005 Technical Guidance Manual for Low Impact Development.

2.Q Dedication of Land and/or Easements in Lieu of Park Mitigation.

The dedication of critical areas and their buffers as open space may not be used for satisfying park mitigation requirements. Park land must be dedicated or fees in lieu of dedication must be paid as set forth in this title. However, if an applicant provides recreation amenities (e.g., trails, bench for wildlife viewing, etc.) in buffers as allowed under this appendix, the cost of those amenities may be subtracted from the total park mitigation calculated for a given project with prior approval of the Shoreline Administrator.

2.R Assessment Relief.

The Snohomish County Assessor's office considers critical area regulations in determining the fair market value of land. Any owner of an undeveloped critical area who has dedicated an easement or entered into a perpetual conservation restriction with the City of Lake Stevens or a nonprofit organization to permanently control some or all regulated activities in that portion of land assessed consistent with these restrictions shall be considered for exemption from special assessments to defray the cost of municipal improvements such as sanitary sewers, storm sewers, and water mains.

Part 3. Fish and Wildlife Conservation Areas

3.A Classification.

Fish and wildlife conservation areas include:

(a) Lands containing priority habitats and species, including plant and/or animal species listed on Federal or State threatened or endangered species lists.

(b) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, waste-water treatment facilities, farm ponds, temporary construction ponds (of less than three years duration), and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.

(c) ~~Waters of the State, as defined in WAC Title 222, Forest Practices Rules and Regulations.~~ Waters of the State shall be classified using the system in WAC [222-16-030](#). In classifying waters of the State as fish and wildlife habitats the following shall be used:

(1) Species are present which are endangered, threatened or sensitive;

(2) Existing surrounding land uses are incompatible with salmonid and other game fish habitat;

(3) Presence and size of riparian ecosystem;

(4) Existing water rights.

(d) Lakes, ponds, and streams planted with game fish (defined at RCW [77.08.020](#)), including those planted under the auspices of Federal, State, local, or tribal programs, or which support priority fish species as identified by the Department of Fish and Wildlife.

(e) State natural area preserves and natural resource conservation areas.

(f) Streams shall be classified according to the stream type system as provided in WAC [222-16-030](#), Stream Classification System, as amended.

(1) Type S Stream. Those streams, within their ordinary high water mark, as inventoried as shorelines of the State under Chapter [90.58](#) RCW and the rules promulgated pursuant thereto.

(2) Type F Stream. Those stream segments within the ordinary high water mark that are not Type S streams, and which are demonstrated or provisionally presumed to be used by fish. Stream segments which have a width of two feet or greater at the ordinary high water mark and have a gradient of 16 percent or less for basins less than or equal to 50 acres in size, or have a gradient of 20 percent or less for basins greater than 50 acres in size, are provisionally presumed to be used by fish. A provisional presumption of fish use may be

refuted at the discretion of the Shoreline Administrator where any of the following conditions are met:

- (i) It is demonstrated to the satisfaction of the City that the stream segment in question is upstream of a complete, permanent, natural fish passage barrier, above which no stream section exhibits perennial flow;
 - (ii) It is demonstrated to the satisfaction of the City that the stream segment in question has confirmed, long-term, naturally occurring water quality parameters incapable of supporting fish;
 - (iii) Sufficient information about a geomorphic region is available to support a departure from the characteristics described above for the presumption of fish use, as determined in consultation with the Washington Department of Fish and Wildlife, the Department of Ecology, affected tribes, or others;
 - (iv) The Washington Department of Fish and Wildlife has issued a hydraulic project approval, pursuant to RCW [77.55.100](#), which includes a determination that the stream segment in question is not used by fish;
 - (v) No fish are discovered in the stream segment in question during a stream survey conducted according to the protocol provided in the Washington Forest Practices Board Manual, Section 13, Guidelines for Determining Fish Use for the Purpose of Typing waters under WAC [222-16-031](#); provided, that no unnatural fish passage barriers have been present downstream of said stream segment over a period of at least two years.
- (3) Type Np Stream. Those stream segments within the ordinary high water mark that are perennial and are not Type S or Type F streams. However, for the purpose of classification, Type Np streams include intermittent dry portions of the channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see Washington Forest Practices Board Manual, Section 23), then said point shall be determined by a qualified professional selected or approved by the City.
- (4) Type Ns Stream. Those stream segments within the ordinary high water mark that are not Type S, Type F, or Type Np streams. These include seasonal streams in which surface flow is not present for at least some portion of a year of normal rainfall that are not located downstream from any Type Np stream segment.

3.B Determination of Boundary.

(a) The boundaries of fish and wildlife conservation areas shall be determined by the Shoreline Administrator, who may rely on a Departmental approved biological resources survey prepared by a qualified wildlife biologist per the Department's Biological Resources Survey Guidelines. Such a report would be supplied by the applicant of a permit.

(b) The boundary of the creek, stream, river, lake, or other surface water shall be determined by the Shoreline Administrator, relying on a delineation by a licensed surveyor or other comparable expert. Such boundary shall be contiguous with the 100-year floodplain designations as adopted by the City, or where such a designation has not been adopted by the City, the 100-year floodplain designation of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program where it has been delineated (shown on Flood Insurance Rate Maps (FIRM)). Where this information does not exist, the boundary determination shall be made by a licensed surveyor and based upon the same criteria used by FEMA. This determination shall be confirmed by the City Engineer.

3.C Allowed Activities.

Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within fish and wildlife conservation areas when the requirements of Section [3.D](#) have been met and mitigation adequate to alleviate any other impacts has been proposed:

- (a) Those activities listed in this SMP.
- (b) Activities consistent with the species located there and all applicable State and Federal regulations regarding the species, as determined by the Shoreline Administrator, who may consult with other resource agencies as to their recommendations.
- (c) Bridges and other crossings over streams for public and private rights-of-way.

3.D Requirements.

- (a) Except as provided in this subsection, a 50-foot buffer shall be required for all regulated activities adjacent to fish and wildlife conservation areas. All buffers shall be measured from the fish and wildlife conservation area boundary as surveyed in the field. The width of the buffer may be increased depending on the habitat value and the proposed land use.
- (b) Buffer widths may be increased based on recommendations by the Department of Fish and Wildlife based on their Management Recommendations for Priority Habitats and Species.
- (c) To retain the natural functions of streams and stream corridors, the following streamside buffers shall be maintained:

- (1) For ravines with banks greater than 10 feet in depth, maintain the existing or native vegetation within the ravine and a strip 25 feet from the top of the bank;
- (2) Where there is no ravine or the bank is less than 10 feet in depth, maintain existing or native vegetation on both sides of the stream as measured from the ordinary high water mark (OHWM), in accordance with Table 3-1, which sets forth the required buffer widths based on classification of stream types:

Table 3-1: Stream Buffer Width

Stream Type	Buffer
S	150 feet
F	100 feet
Np	50 feet
Ns	50 feet

- (d) Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of the bank if the ordinary high water mark cannot be identified, or from the outer edge of the channel migration zone when present.
- (e) The Shoreline Administrator may modify the buffer widths in the above table in accordance with the following:
 - (1) 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 as determined by an arborist.
 - (2) Buffer widths may be reduced in exchange for restoration and enhancement of degraded areas in accordance with an approved plan.
 - (3) If the stream enters an underground culvert or pipe, and is unlikely to ever be restored aboveground, the Shoreline Administrator may waive the buffer along the underground 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.

(4) Buffer widths may be modified if the subject property is separated from the stream channel by pre-existing, intervening, and lawfully created structures, public roads, or other substantial pre-existing intervening improvements. The intervening structures, public roads, or other substantial improvements must separate the subject upland property from the stream channel by height or width, preventing or impairing the delivery of buffer functions to the steam channel. In such cases, the reduced buffer width shall reflect the buffer functions that can be delivered to the stream channel.

(g) To protect the natural functions and aesthetic qualities of a stream and stream buffer, a detailed temporary erosion control plan which identifies the specific mitigating measures to be implemented during construction to protect the water from erosion, siltation, landslides and hazardous construction materials shall be required. The City shall review the plan with the appropriate State, Federal and tribal agencies and any adjacent jurisdiction.

3.E Mitigation.

In order to avoid significant environmental impacts, the applicant for a land use or development permit may consider performing the following actions, listed in order of preference. What is considered adequate mitigation will depend on the nature and magnitude of the potential impact as determined in accordance with Section [2.G](#).

(a) Dedicate an exclusive open space easement for the protection of wildlife and/or habitat, creeks, streams, rivers, lakes, or other surface water over the creeks, streams, rivers, lakes, or other surface water and a buffer consistent with the standards listed in Section [3.D](#). Where such mitigation leads to, or would in the opinion of the Shoreline Administrator lead to a court finding of a taking, the below listed mitigation may be considered.

(b) Where on-site protection is not possible, dedicate an exclusive easement for the protection of an equivalent (in type and value) waterway over the waterway and a 50-foot buffer on an off-site waterway at a 2:1 ratio. The location of any off-site waterway shall be located as near to the site as possible, in accordance with the following preferred order:

- (1) Contiguous to the impacted waterway;
- (2) Within the same drainage basin;
- (3) Elsewhere within the City;
- (4) Within the Lake Stevens UGA;
- (5) Within the region.

Part 4. Frequently Flooded Areas

4.A Classification.

Classification for flood zones shall be consistent with the 100-year floodway and floodplain designations as adopted by the City, or where such a designation has not been adopted by the City, by the 100-year flood zone designation of the Federal Emergency Management Agency and the National Flood Insurance Program. Any such designations adopted by the City shall consider the following criteria if and when designating and classifying these areas:

- (a) Flooding impact to human health, safety, and welfare and to public facilities and services; and
- (b) Documentation including Federal, State and local laws, regulations and programs, local maps and federally subsidized flood insurance programs; and
- (c) The future floodplain defined as a channel of the stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow at build-out without any measurable increase in flood heights.

4.B Determination of Boundary.

The boundary of a flood zone shall be contiguous with the 100-year floodway and floodplain designations as adopted by the City, or where such a designation has not been adopted by the City, the 100-year floodplain designation of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program where it has been delineated (shown on Flood Insurance Rate Maps (FIRM)). Where this information does not exist, the boundary determination shall be made by a licensed engineer and based upon the same criteria used by FEMA. This determination shall be confirmed by the City Engineer.

4.C Allowed Activities.

Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within floodways or floodplains when the requirements of Section [4.D](#) have been met and mitigation adequate to alleviate any other impacts has been proposed:

- (a) Floodways.
 - (1) Those activities allowed per this SMP.
 - (2) Outdoor nonmotorized recreational activities (including fishing, birdwatching, hiking, boating, horseback riding, swimming, canoeing, bicycling) and aquatic recreation facilities (docks, piers, boat mooring buoys, marinas and associated uses, swimming areas, parks).

(b) Floodplains.

- (1) All those activities allowed in floodways.
- (2) Recreational fields.

4.D Requirements.

All land uses and development proposals shall comply with the SMP and development regulations adopted by the City of Lake Stevens for general and specific flood hazard protection. Development shall not reduce the effective base flood storage volume. Reduction of the flood water storage volume effectiveness due to grading, construction, or other regulated activities shall be compensated for by creating on- or off-site detention and/or retention ponds. Effective storage capacity must be maintained. Base flood data and flood hazard notes shall be on the face of any recorded plat or site plan including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain and zero-rise floodway.

4.E Mitigation.

If potential flooding impacts cannot be avoided by design or by providing on- or off-site detention and/or retention ponds, other forms of mitigation may be considered in order to avoid significant environmental impacts. Applicants must provide mitigation plans exploring and analyzing any proposed mitigation measures.

Part 5. Geologically Hazardous Areas

5.A Classification.

(a) Geologically hazardous areas include areas susceptible to erosion, sliding, earthquakes, liquefaction, or other geological events. Geologically hazardous areas shall be classified based upon the history or existence of landslides, unstable soils, steep slopes, high erosion potential or seismic hazards. In determining the significance of a geologically hazardous area the following criteria shall be used:

- (1) Potential economic, health, and safety impact related to construction in the area;
- (2) Soil type, slope, vegetative cover, and climate of the area;
- (3) Available documentation of history of soil movement, the presence of mass wastage, debris flow, rapid stream incision, stream bank erosion or undercutting by wave action, or the presence of an alluvial fan which may be subject to inundation, debris flows, or deposition of stream-transported sediments.

(b) The different types of geologically hazardous areas are defined as follows:

(1) Erosion hazard areas are as defined by the USDA Soil Conservation Service, United States Geologic Survey, or by the Department of Ecology Coastal Zone Atlas. The following classes are high erosion hazard areas.

- (i) Class 3, class U (unstable) includes severe erosion hazards and rapid surface runoff areas;
- (ii) Class 4, class UOS (unstable old slides) includes areas having severe limitations due to slope; and
- (iii) Class 5, class URS (unstable recent slides).

(2) Landslide hazard areas shall include areas subject to severe risk of landslide based on a combination of geologic, topographic and hydrologic factors. Some of these areas may be identified in the Department of Ecology Coastal Zone Atlas, or through site-specific criteria. Landslide hazard areas include the following:

- (i) Areas characterized by slopes greater than 15 percent; and impermeable soils (typically silt and clay) frequently interbedded with permeable granular soils (predominantly sand and gravel) or impermeable soils overlain with permeable soils; and springs or groundwater seepage;
- (ii) Any area which has exhibited movement during the Holocene epoch (from 10,000 years ago to present) or which is underlain by mass wastage debris of that epoch;
- (iii) Any area potentially unstable due to rapid stream incision, stream bank erosion or undercutting by wave action;
- (iv) Any area located on an alluvial fan presently subject to or potentially subject to inundation by debris flows or deposition of stream-transported sediments;
- (v) Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of consolidated rock;
- (vi) Any area with slope defined by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development; and
- (vii) Any shoreline designated or mapped as class U, UOS, or URS by the Department of Ecology Coastal Zone Atlas.

(3) Slopes.

(i) Moderate slopes shall include any slope greater than or equal to 15 percent and less than 40 percent.

(ii) Steep slopes shall include any slope greater than or equal to 40 percent.

(4) Seismic hazard areas shall include areas subject to severe risk of earthquake damage as a result of seismic induced settlement, shaking, slope failure or soil liquefaction. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

5.B Determination of Boundary.

Determination of a boundary of a geologically hazardous area shall be made by the Shoreline Administrator, relying on a geotechnical or similar technical report and other information where available and pertinent. Such reports or information shall be provided by an applicant for an activity or permit at the request of the City.

5.C Allowed Activities.

Except where regulated by other sections of this or any other title or law, the following uses shall be allowed within geologically hazardous areas when the requirements of Section [5.D](#) have been met and mitigation adequate to alleviate any other impacts has been proposed:

(a) Those activities allowed per this SMP.

(b) Any other use allowed per the environment designation; provided, that it meets the requirements of Section [5.D](#) and will not have a detrimental impact on the health, safety, and welfare of the public, or will not negatively impact neighboring properties.

(c) No new development or creation of new lots is allowed that would cause foreseeable risk from geological conditions to people or improvements during the life of the development (WAC 173-26-221(2)(c)(ii)(B)).

(d) No new development is allowed that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. (WAC 173-26-221(2)(c)(ii)(C)).

5.D Geological Assessment Requirements.

Development proposals on or within 200 feet of any areas which are designated as geologically hazardous, or which the City has reason to believe are geologically hazardous based on site-specific field investigation, shall be required to submit a geological assessment.

- (a) The geological assessment shall be submitted with the minimum required content as set forth in subsection (d) of this section and in the format established by the Shoreline Administrator, and shall be consistent with the following:
- (1) A geotechnical letter is required when the geologist finds that no active geological hazard area exists on or within 200 feet of the site.
 - (2) A geotechnical report is required when the geologist finds that an active geological hazard area exists on or within 200 feet of the proposed project area.
- (b) The Department shall review the geological assessment and either accept or reject the assessment and require revisions or additional information. When the geological assessment has been accepted, the Department shall issue a decision on the land use permit application.
- (c) A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and site conditions affecting the site are unchanged. However, if any surface and subsurface conditions associated with the site change during the five-year period or if there is new information about a geological hazard, the applicant may be required to submit an amendment to the geological assessment.
- (d) A geological assessment shall include the following minimum information and analysis:
- (1) A field investigation that may include the use of historical air photo analysis, review of public records and documentation, and interviews with adjacent property owners or others knowledgeable about the area, etc.
 - (2) An evaluation of any areas on the site or within 200 feet of the site that are geologically hazardous as set forth in Section [5.A](#).
 - (3) An analysis of the potential impacts of the proposed development activity on any potential geological hazard that could result from the proposed development either on site or off site. For landslide hazard areas, the analysis shall consider the run-out hazard of landslide debris to the proposed development that starts upslope whether the slope is part of the subject property or starts off site.
 - (4) Identification of any mitigation measures required to eliminate potentially significant geological hazards both on the proposed development site and any potentially impacted off-site properties. When hazard mitigation is required, the mitigation plan shall specifically address how the proposed activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long term basis. The mitigation plan shall include recommendations regarding any long term maintenance activities that may be required to mitigate potential hazards.

(5) The geological assessment shall document the field investigations, published data and references, data and conclusions from past geological assessments, or geotechnical investigations of the site, site-specific measurements, tests, investigations, or studies, as well as the methods of data analysis and calculations that support the results, conclusions, and recommendations.

(6) The geological assessment shall contain a summary of any other information the geologist identifies as relevant to the assessment and mitigation of geological hazards.

(e) Geological assessments shall be prepared under the responsible charge of a geologist, and shall be signed, sealed, and dated by the geologist.

5.E Setback Buffer Requirements.

(a) The setback buffer width shall be based upon information contained in a geological assessment, and shall be measured on a horizontal plane from a vertical line established at the edge of the geologically hazardous area limits (both from the top and toe of slope). In the event that a specific setback buffer is not included in the recommendation of the geological assessment, the setback buffer shall be based upon the standards contained in Chapter 18 of the International Building Code (IBC), or as the IBC is updated and amended.

(1) If the geological assessment recommends setback buffers that are less than the standard buffers that would result from application of Chapter 18 of the IBC, the specific rationale and basis for the reduced buffers shall be clearly articulated in the geological assessment.

(2) The City may require increased setback buffer widths under any of the following circumstances:

(i) The land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts.

(ii) The area has a severe risk of slope failure or downslope stormwater drainage impacts.

(iii) The increased buffer is necessary to protect public health, safety and welfare based upon findings and recommendations of geological assessment.

(b) Unless otherwise permitted as part of an approved alteration, the setback buffers required by this subsection shall be maintained in native vegetation to provide additional soil stability and erosion control. If the buffer area has been cleared, it shall be replanted with native vegetation in conjunction with any proposed development activity.

(c) The City may impose seasonal restrictions on clearing and grading within 200 feet of any geologically hazardous areas.

5.F Allowed Alterations.

Unless associated with another critical area, the alterations of an area may be allowed if identified as a geologically hazardous area or the setback buffers specified in the IBC if an approved geotechnical report demonstrates the following and the request is made through a shoreline variance process:

- (a) The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, or erosion or sedimentation to off-site properties or bodies of water;
- (b) The proposal addresses the existing geological constraints of the site, including an assessment of soils and hydrology;
- (c) The proposed method of construction will reduce erosion potential, landslide and seismic hazard potential, and will improve or not adversely affect the stability of slopes;
- (d) The proposal uses construction techniques which minimize disruption of existing topography and natural vegetation;
- (e) The proposal is consistent with the purposes and provisions of this appendix and mitigates any permitted impacts to critical areas in the vicinity of the proposal;
- (f) The proposal mitigates all impacts identified in the geotechnical letter or geotechnical report;
- (g) All utilities and access roads or driveways to and within the site are located so as to require the minimum amount of modification to slopes, vegetation or geologically hazardous areas; and
- (h) The improvements are certified as safe as designed and under anticipated conditions by a geologist.

5.G Prohibited Alterations.

Modification of geologically hazardous areas shall be prohibited under the following circumstances:

- (a) Where geologically hazardous slopes are located in a stream, wetland, and/or a fish and wildlife habitat conservation area or their required buffers, alterations of the slopes are not permitted, except as allowed in Section [2.C](#). The required buffer for such slopes shall be determined through the site-specific geological assessment, but in no case shall be less than 25 feet from the top of slopes of 25 percent and greater.

(b) Any proposed alteration that would result in the creation of, or which would increase or exacerbate existing geological hazards, or which would result in substantial unmitigated geological hazards either on or off site shall be prohibited.

5.H Mitigation.

(a) In addition to the other requirements of this SMP, as part of any approval of development on or adjacent to geologically hazardous areas or within the setback buffers required by this section:

(1) The City shall require:

(i) Geologically hazardous areas not approved for alteration and their buffers shall be placed in a native growth protection area as set forth in Section [2.M](#).

(ii) Any geologically hazardous area or required setback buffer that is allowed to be altered subject to the provisions of this appendix shall be subject to a covenant of notification and indemnification/hold harmless agreement in a form acceptable to the City Attorney. Such document shall identify any limitation placed on the approved alterations.

(2) The City may require:

(i) The presence of a geologist on the site to supervise during clearing, grading, filling, and construction activities which may affect geologically hazardous areas, and provide the City with certification that the construction is in compliance with the geologist's recommendations and has met approval of the geologist, and other relevant information concerning the geologically hazardous conditions of the site.

(ii) Vegetation and other soil stabilizing structures or materials be retained or provided.

(iii) Long term maintenance of slopes and on-site drainage systems.

(b) If potential geologic impacts cannot be avoided by adhering to the above requirements and the other requirements of this appendix, other forms of mitigation may be considered. Applicants must provide mitigation plans exploring and analyzing any proposed mitigation measures. What is considered adequate mitigation will depend on the nature and magnitude of the potential impact. For example, some potential risk due to construction in geologically hazardous areas may be reduced through structural engineering design.

Part 6. Wetlands

6.A Classification.

Wetlands shall be classified as Category I, II, III, or IV using the Washington State Department of Ecology's Wetland Rating System for Western Washington, Publication No. 04-06-025, or as amended hereafter. Wetland delineations shall be determined in accordance with WAC 173-22-035.

(a) Sources used to identify designated wetlands include, but are not limited to:

- (1) United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory.
- (2) Areas identified as hydric soils, soils with significant soil inclusions and wet spots with the United States Department of Agriculture/Soil Conservation Service Soil Survey for Snohomish County.
- (3) Washington State Department of Natural Resources, Geographic Information System, Hydrography and Soils Survey Layers.
- (4) City of Lake Stevens Critical Areas Inventory Maps.

(b) Category I Criteria.

- (1) Wetlands that represent a unique or rare wetland type; or
- (2) Are more sensitive to disturbance than most wetlands; or
- (3) Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
- (4) Provide a high level of functions.
- (5) Category I wetlands include:
 - (i) Natural heritage wetlands as identified by the Natural Heritage Program of the Natural Resources.
 - (ii) Bogs.
 - (iii) Mature and old-growth forested wetlands over one acre in area.
 - (iv) Wetlands that score 70 or more points out of 100 using the Western Washington Rating System.

(c) Category II Criteria.

(1) Category II wetlands are difficult though not impossible to replace and provide high levels of some functions.

(2) Category II wetlands criteria. Wetlands that score between 51 and 69 points out of 100 on the Western Washington Rating System.

(d) Category III Criteria. Wetlands with a moderate level of functions and with rating system scores between 30 and 50 points out of 100.

(e) Category IV Criteria. Wetlands with a low level of functions and with rating system scores less than 30 points out of 100.

6.B Determination of Boundary.

(a) The Shoreline Administrator, relying on a field investigation supplied by an applicant and applying the wetland definition provided in this SMP, shall determine the location of the wetland boundary. Qualified professional and technical scientists shall perform wetland delineations as part of a wetland identification report in accordance with WAC 173-22-035. Criteria to be included in a required wetland identification report may be found in Section [2.G](#), Mitigation/Enhancement Plan Requirements. The applicant is required to show the location of the wetland boundary on a scaled drawing as a part of the permit application.

(b) When the applicant has provided a delineation of the wetland boundary, the Shoreline Administrator shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Shoreline Administrator shall, at the applicant's expense, obtain expert services to render a final delineation.

(c) The Shoreline Administrator, when requested by the applicant, may waive the delineation of boundary requirement for the applicant and, in lieu of delineation by the applicant, perform the delineation. The Shoreline Administrator shall consult with qualified professional scientists and technical experts or other experts as needed to perform the delineation. The applicant will be charged for the costs incurred. Where the Shoreline Administrator performs a wetland delineation at the request of the applicant, such delineation shall be considered a final determination.

6.C Allowed Activities.

Except where regulated by other sections of this appendix, SMP or any other title or law, and provided they are conducted using best management practices, the following uses and activities shall be allowed and regulated within wetlands and their buffers when the requirements of Sections [6.D](#) and [6.E](#) have been met and mitigation adequate to alleviate any other impacts has been proposed:

- (a) Those uses listed in Section [2.C](#).
- (b) In Category IV wetlands only, access to developable portions of legal lots using the shoreline variance process, where:
 - (1) There is no other reasonable method of accessing the property;
 - (2) Altering the terrain would not cause drainage impacts to neighboring properties; and
 - (3) Not more than 2,500 square feet of wetland is impacted.

6.D Requirements.

(a) **Buffers.** Wetland buffers shall be required for all regulated activities adjacent to regulated wetlands as provided in Table 6-1, unless modified per subsection (b) or (c) of this section. Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer zone shall be determined according to wetland category and the proposed land use.

- (1) These buffers require the implementation of the measures in Table 6.2, where applicable, to minimize the impacts of the adjacent uses.
- (2) If an applicant chooses not to apply the mitigation measures in Table 6.2, then a 33 percent increase in the width of all buffers is required.

Table 6-1Wetland Buffer Requirements

Category	Sub-Category	HS 30-36	HS 21-29	HS <21
I	Based on Total Score	225	165	105
	Bogs	225	190	190
	Forested	225	165	105
II		225	165	105

III		60	165	105
IV		40	40	40

Table 6-2: Required Measures to Minimize Impacts to Wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10 foot heavily vegetated wetland buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Impact Development techniques, where applicable
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and humans	<ul style="list-style-type: none"> • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> • Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

(b) **Increased Wetland Buffer Widths.** The Shoreline Administrator shall require increased standard buffer zone widths on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on local conditions. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the regulated wetland. Such determination shall be attached as a permit condition and shall demonstrate that:

- (1) A larger buffer is necessary to maintain viable populations of existing species; or
- (2) The wetland is used by species proposed or listed by the Federal Government or the State as endangered, threatened, sensitive, critical or outstanding potential habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees. An applicant must consult with the State Department of Fish and Wildlife to confirm any special recommendations for candidate or monitor species as listed for approval by the Shoreline Administrator; or
- (3) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or the adjacent land has minimal vegetative cover or slopes greater than 15 percent; or
- (4) The larger buffer is required to meet no net loss of habitat function.

(c) **Wetland Buffer Width Averaging.** Wetland buffer widths may be modified by averaging with the shoreline variance process. In no instance shall the buffer width be reduced by more than 25 percent of the standard buffer. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following:

- (1) The averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection, erosion protection, and other functions and values of the wetland and buffer;
- (2) The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging; and
- (3) The averaging ensures no net loss of habitat function.

(d) **Buffer Conditions.** Except as otherwise specified, wetland buffers shall be retained in their natural condition. Where buffer disturbance has occurred outside of the development footprint during construction, revegetation with native wetland vegetation shall be required.

(e) Permitted Uses in a Wetland Buffer. Regulated activities shall not be allowed in a buffer zone except for the following:

(1) Activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These may include low intensity, passive recreational activities such as pervious trails, nonpermanent wildlife watching blinds, short-term scientific or educational activities, and sports fishing or hunting;

(2) Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent of the buffer of Category II, III or IV wetlands only, provided that:

(i) No other location is feasible,

(ii) The location of such facilities will not degrade the function or values or the wetland and

(iii) Stormwater management facilities are not allowed in buffers of Category I ~~or II~~ wetlands.

(3) The subject property is separated from the wetland by pre-existing, intervening, and lawfully created structures, public roads, or other substantial improvements. The pre-existing improvements must be found to separate the subject upland property from the wetland by height or width that prevents or impairs the delivery of buffer functions to the wetland. In such cases, the reduced buffer width shall reflect the buffer functions that can be delivered to the wetland.

6.E Mitigation.

The mitigation sequence set forth in WAC 173-26-201(2)(e) should be applied after impact avoidance and minimization measures have been taken. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting).

(a) Location and Timing of Mitigation.

(1) Restoration, creation, or enhancement actions should be undertaken on or adjacent to the site. If this is shown in the critical areas report not to be feasible, restoration, creation, or enhancement may occur within the same watershed, but preferably as close to the existing wetland as possible. In-kind replacement of the impacted wetland is preferred for creation, restoration, or enhancement actions. The City may accept or recommend restoration, creation, or enhancement which is off site, if the applicant can demonstrate that on-site or in-kind restoration, creation, or enhancement is unfeasible due to constraints such as parcel size or wetland type, or that a wetland of a different type or location is justified based on regional needs or functions. A watershed plan must be submitted if off-site mitigation is proposed;

(2) Whether occurring on site or off site, the mitigation project shall occur near an adequate water supply with a hydrologic connection to the wetland to ensure a successful wetlands development or restoration;

(3) Any approved mitigation proposal shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule has also been approved by the Shoreline Administrator;

(4) Wetland acreage replacement ratios shall be as specified in Table 6-3;

(5) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands.

(i) This provision may be used when:

a. The bank is certified under Chapter [173-700 WAC](#);

b. The Shoreline Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

(ii) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

(iii) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

(6) Fees are paid to an approved in-lieu fee program to compensate for the impacts.

(b) Mitigation Performance Standards.

(1) All reasonable measures shall be taken to avoid and reduce impacts. When such avoidance and reduction is not reasonable, adverse impacts to wetland functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in Section [1.A\(a\)](#). Proposals which include less preferred or compensatory mitigation shall demonstrate that:

(i) All reasonable measures will be taken to reduce impacts and losses to the original wetland;

(ii) No overall net loss will occur in wetland functions, values and acreage; and

(iii) The restored, created or enhanced wetland will be as persistent and sustainable as the wetland it replaces.

(c) Wetland Replacement Ratios.

(1) Where wetland alterations are permitted by this appendix and SMP, the applicant shall restore or create equivalent areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to size, function, category, location, timing factors, and projected success of restoration or creation.

(2) Where wetland creation is proposed, all required buffers for the creation site shall be located on the proposed creation site. Properties adjacent to or abutting wetland creation projects shall not be responsible for providing any additional buffer requirements.

(3) Mitigation ratios for the replacement of impacted wetlands shall be as listed in Table 6-3. The Shoreline Administrator may vary these standards if the applicant can demonstrate in the wetlands report and the Shoreline Administrator agrees that the variation will provide adequate compensation for lost wetland area, functions and values, or if other circumstances as determined by the Shoreline Administrator justify the variation. The shoreline variance process shall be used to review any changes in recommended replacement ratios

(4) The qualified scientific professional in the wetlands report may, where feasible, recommend that restored or created wetlands shall be a higher wetland category than the altered wetland.

(d) The Shoreline Administrator may increase the ratios under the following circumstances:

(1) Uncertainty exists as to the probable success of the proposed restoration or creation;
or

(2) A significant period of time will elapse between impact and replication of wetland functions.

(e) All wetland restoration, creation and/or enhancement projects required pursuant to this appendix shall follow a mitigation plan prepared in conformance to the requirements of Section [2.G](#), Mitigation/Enhancement Plan Requirements.

(f) Mitigation ratios for the replacement of impacted wetlands shall be as listed in Table 6-3.

6-3: Wetland Mitigation Ratios

Affected Wetland	Mitigation Type and Ratio				
	Re-establishment or Wetland Creation	Rehabilitation	Re-establishment or Creation (R/C) and Enhancement (E)	Enhancement Only	Preservation
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1	10:1
Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1	15:1
Category II	3:1	6:1	1:1 R/C and 4:1 E	12:1	20:1
Category I – Forested	6:1	12:1	1:1 R/C and 10:1 E	24:1	24:1
Category I – Score Based	4:1	8:1	1:1 R/C and 10:1 E	16:1	20:1
Category I – Bog, Natural Heritage Site	Not considered possible	6:1	N/A	N/A	10:1

23.60.122 Nonconforming uses((-))

A. 1. Any nonconforming use may be continued subject to the provisions of this ((s))Section 23.60.122.

2. Any nonconforming use ((which))that has been discontinued for more than ((twelve(-))12((+)) consecutive months ((in the CN, CP, CR, CM, CW, UR, UH and US Environments or more than twenty four (24) consecutive months in the UM, UG or UI Environments))shall not be reestablished or recommenced. A use ((shall be))is considered discontinued ((when))if:

- a. A permit to change the use of the structure or property ((was))has been issued and acted upon;
- b. The structure or property or portion of a structure((-)) or ((the))property is vacant or not being used for the use allowed by the most recent permit ((;-or
- e. The structure or property is vacant, or the portion of the structure or property formerly occupied by the noneonforming use is vacant)).

The use of the structure ((shall be))is considered discontinued even if materials from the former use remain or are stored on the property. A multifamily structure with one (((+))or more vacant dwelling units ((shall)) is not considered unused unless the total structure is unoccupied.

~~((3. Any sign in the Shoreline District which does not conform to the provisions of this chapter shall be discontinued within seven (7) years from the effective date of the ordinance codified in this chapter, unless designated a landmark pursuant to Chapter 25.12, the Landmark Preservation Ordinance.))~~

B. 1. A conforming structure or development containing a nonconforming use or uses may be maintained, repaired, ((renovated)) or structurally altered but shall not be, expanded or extended beyond its existing external dimensions, except as provided in subsections 23.60.122.C and E((below)), or as otherwise required by law, ((as)) if necessary to improve access for the elderly or disabled, or to provide regulated public access.

2. A conforming structure or development containing a nonconforming use or uses may not be substantially improved or rebuilt, except as provided in subsections 23.60.122.C and E.

C. A conforming structure or development containing a nonconforming use ((which))that is destroyed by fire, act of nature, or other causes beyond the control of the owner, excluding normal deterioration of structures constructed in or over the water ((or other act of nature, including normal deterioration of structures in or over the water)), may be ((resumed provided that any structure occupied by the noneonforming use may be)) substantially improved or rebuilt if:

1. a. The structure occupied by the nonconforming use is improved or rebuilt to the same or smaller configuration, existing immediately prior to the time the structure was destroyed;((provided that action toward replacement must be commenced within twelve (12) months after demolition or destruction in the CN, CP, CR, CM, CW, UR, UH and US Environments or within twenty four (24) months after demolition or destruction in the UM, UG or UI Environments.))

b. The structure occupied by the nonconforming use is reconfigured and results in reduced impacts on ecological functions as compared to the configuration immediately prior to the time the structure was destroyed;

c. A substantially improved or rebuilt structure housing a nonconforming eating and drinking establishment use in the ((Urban Stable)) UC Environment may consolidate other existing nonconforming uses on the property, ((provided that)) if no cumulative expansion or intensification of the nonconforming use and no increase in over-water coverage occurs and the Director finds that the reconfiguration will allow removal of structures housing other nonconforming uses, resulting in improved ecological functions, view corridors or regulated public access((-)); or

d. The structure is nonconforming moorage that is reconfigured consistent with subsection 23.60.122.E; and

2. Action toward replacement is commenced within 12 months after destruction.

D. 1. The change of one ~~((1))~~ nonconforming use to another use not ~~((permitted))~~ allowed in the shoreline environment may be authorized as a shoreline conditional use by the Director with the concurrence of the ~~((Department of))~~ Ecology if the area occupied by the nonconforming use does not expand and the Director determines that:

- a. ~~((1))~~The new use is no more detrimental to ecological functions or to ~~((the))~~ property in the ~~((shoreline environment and))~~vicinity than the existing use;~~((and))~~
- b. ~~((1))~~The existing development is unsuited for a use ~~((permitted))~~ allowed in the environment~~((;))~~~~((and if the criteria for conditional uses in WAC 173-27-160 are satisfied. The new use shall retain its nonconforming use status for the purposes of subsections A through C of this section above.))~~
- c. In addition, for structures located over water no alternative exists for locating the use on the dry land portion of the lot, outside the setback to the maximum extent feasible; and
- d. In addition, for structures located within the required shoreline setback no alternative exists for locating the use outside of the setback.

2. If the Director determines that a nonconforming use in a structure over water and/or within the required setback may be changed, the Director shall require the applicant to provide twenty four habitat units per square foot of over water coverage, plus two habitat units for additional floor area above the over water portion, and 10 habitat units per square foot of developmental coverage located with the shoreline setback.

3. The new use shall retain its nonconforming use status for the purposes of subsections A through D of this Section 23.60.122.

E. Reconfiguration of a ~~((non-existing))~~ nonconforming moorage.

1. Reconfiguration of a nonconforming moorage may be authorized as a shoreline conditional use by the Director with the concurrence of ~~((the Department of))~~ Ecology, except as provided in subsection 23.60.122.E.2, if the Director determines that:

- a. The goals of this chapter, including ~~((enhancing upland and street views,))~~ limiting location of structures over water, ~~((and providing public access,))~~would be better served~~((.-Such reconfiguration may be authorized only if view corridors and public access are improved. The square footage of the covered moorage and the height of the covered moorage shall not be increased. Covered moorage with open walls shall be preferred.))~~;
- b. View corridors and public access are improved;
- c. Total over water coverage is not increased;
- d. If the moorage includes covered moorage:

- 1) The height of the covered moorage is not increased; and
- 2) Open walls are required, if not in conflict with the Seattle Fire Code.

2. Reconfiguration of an existing nonconforming moorage may be authorized without obtaining a shoreline conditional use permit if the conditions in subsection 23.60.122.E.1 are met and total area of over water coverage, including any existing covered moorage if the moorage has covered moorage, is reduced by 20 percent. When calculating the reduction in over water coverage grated decking and translucent roofing material shall not be included.

Section 23.60.124 of the Seattle Municipal Code, enacted by Ordinance 113466, is amended as follows:

23.60.124 Nonconforming structures~~((;))~~

~~((A. A nonconforming structure may be maintained, renovated, repaired or structurally altered but shall be prohibited from expanding or extending in any manner which increases the extent of nonconformity, or creates additional nonconformity, except as otherwise required by law, as necessary to improve access for the elderly and disabled or to provide regulated public access. When the development is nonconforming as to lot coverage, existing lot coverage may not be transferred from the dry land portion of the site to the water.))~~

A. Nonconforming structures are also regulated by the general development standards for the type of use in Part III, in addition to the standards of this section.

~~((B. A nonconforming structure or development which is destroyed by fire or other act of nature, including normal deterioration of structures constructed in or over the water, may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed; provided that action toward replacement must be commenced within twelve (12) months after demolition or destruction of a structure in the CN, CP, CR, CM, CW, UR, UH and US Environments or within twenty four (24) months after demolition or destruction of a structure in the UM, UG, or UI Environments. A rebuilt nonconforming structure housing a nonconforming eating and drinking establishment use in an Urban Stable environment may consolidate other existing nonconforming structures on the property, provided that no increase in height or cumulative expansion of the area of nonconforming structures and no increase in overwater coverage occurs, and provided that the Director finds that the reconfiguration will allow removal of other nonconforming structures, resulting in improved view corridors or regulated public access.))~~

B. On dry land and outside the shoreline setback and shoreline residential setback a nonconforming structure or development may be maintained, repaired, structurally altered, substantially improved or replaced but is prohibited from expanding or extending in any manner that increases the extent of nonconformity or creates additional nonconformity, except as otherwise required by law if necessary to improve access for the elderly or disabled or to provide regulated public access.

~~((C. The Director may require compliance with the standards of Section 23.60.152, General development, for part or all of a lot as a condition for new development of part of a lot if it is found that continued nonconformity will cause adverse impacts to air quality, water quality, sediment quality, aquatic life, or human health.))~~

C. Over water and/or within the required shoreline setback and/or residential shoreline setback. A nonconforming structure or development that is over water, within the required shoreline setback, or within the residential shoreline setback may be maintained, repaired and structurally altered but is prohibited from being substantially improved, replaced or expanded in any manner that increases the extent of nonconformity or creates additional nonconformity, except as provided in subsections 23.60.124.D.2 and 3 and 23.60.122.E, and as otherwise required by law if necessary to improve access for the elderly or disabled or to provide regulated public access.

~~((D. The Director may require compliance with Section 23.60.160, Standards for regulated public access, as a condition of a substantial development permit for expansion or alteration of a development nonconforming as to public access requirements.))~~

D. 1. Maintenance and repair. Structures may be maintained and repaired if the total footprint or bulk of the building is not increased.

2. Rebuilding or substantial improvement of a structure is allowed if it mitigates impacts to ecological function pursuant to Section 23.60.158 and complies with the following standards:

- a. If the dry land portion of the lot from OHW to the landward lot line is at least 65 feet, the replacement structure shall be landward of the shoreline setback;
- b. If the dry land portion of the lot from OHW to the landward lot line is less than 65 feet but at least 30 feet, the replacement structure shall be no further waterward from the landward lot line than 30 feet and shall be located outside of the shoreline setback to the extent reasonable; and
- c. If the dry land portion of the lot from OHW to the landward lot line is less than 30 feet, the replacement structure can be rebuilt within the shoreline setback to the existing footprint of the structure or overwater to the extent reasonable and no larger than the existing footprint of the structure.

3. Reconfiguration. Portions of existing principal structures on dry land and within the shoreline setbacks may be reconfigured as part of repair or replacement if the Director determines that:

- a. the reconfiguration results in equal or greater protection of ecological functions;

- b. views from neighboring waterfront residences are not affected;
 - c. required view corridors and street views are not further blocked; and
 - d. public access, if required, is improved.
- E. If the development is nonconforming as to lot coverage, existing lot coverage may not be transferred from the dry-land portion of the site to the water or from outside the shoreline setback to within the shoreline setback.
- F. Reconfiguration of a moorage that is a conforming use but a nonconforming structure may be authorized under the standards set out in subsection 23.60.122.E but does not require a shoreline conditional use permit.
- G. The Director may require compliance with Section 23.60.164, Standards for regulated public access, as a condition of a Shoreline Substantial Development Permit for alteration of a development nonconforming as to public access requirements.
- H. 1. The Director shall require compliance with the standards of Section 23.60.152, General development, for part or all of a lot as a condition for nonconforming development that is substantially improved, replaced or rebuilt under this section if the Director finds that continued nonconformity will cause adverse impacts to air quality, water quality, sediment quality, ecological functions, or human health. If an impact cannot be mitigated, the application shall be denied, except as provided in subsection 23.60.124.H.2.
2. If the development is replacement of nonconforming development over water that is destroyed by an act of nature, other than replacement that is deemed “normal repair,” the Director shall require mitigation to meet no net loss of ecological functions unless the applicant demonstrates that the full extent of mitigation will preclude reconstruction based on economic hardship.
- I. A nonconforming structure or development that is destroyed by fire, act of nature, or other causes beyond the control of the owner, excluding normal deterioration of structures constructed in or over the water, may be rebuilt if:
- 1. a. The structure occupied by the nonconforming use is rebuilt to the same or smaller configuration, existing immediately prior to the time the structure was destroyed; or
 - b. The structure occupied by the nonconforming use is reconfigured and results in reduced impacts on ecological functions as compared to the configuration immediately prior to the time the structure was destroyed; or
 - c. A rebuilt structure housing a nonconforming eating and drinking establishment use in the UC Environment may consolidate other existing nonconforming structures on the lot if:
 - 1) no increase in height or cumulative expansion of the area of nonconforming structures and no increase in over water coverage occurs; and
 - 2) the Director finds that the reconfiguration will allow removal of other nonconforming structures that results in improved ecological functions, view corridors or regulated public access; or
 - d. The structure is nonconforming moorage that is reconfigured consistent with subsection 23.60.122.E; and
2. Action toward replacement is commenced within 12 months after demolition or destruction.

23.60.187 Standards for Piers and Floats and Overwater Structures

B. Residential Development. Piers and floats accessory to residential development shall meet the following standards:

- 1. Piers are limited to overwater projections, walkways and open-bottom boat or jet-ski lifts. Covered moorage and overwater work sheds are prohibited.
- 2. Projections mean finger, ell, or spur piers, angled extensions, floating pier extensions, platforms, and platform-style or closed-bottom-style boat and jet ski lifts.
- 3. Piers and floats shall be designed and used for access to watercraft.

4. Shared piers for residential development are preferred and shall meet the following standards:
 - a. The owners of the pier shall be owners of waterfront lots located no more than 800 ft apart. More than two property owners may share a pier.
 - b. Shared piers may be located adjacent to or on both sides of a common lot line of the sharing property owners.
 - c. An application to build a shared pier shall be submitted jointly by the eligible property owners and shall include easements or covenants identifying the location of the shared pier and assuring joint use of the entire facility.
 - d. The minimum combined lot width for lots sharing a pier is 60 feet.
5. The minimum lot width for a lot with an unshared single-family or multifamily pier is 45 feet.
6. No single-family lot, and no multifamily lot containing four or fewer units, shall have more than one pier or float, whether shared or unshared. Multifamily lots containing more than four units may have more than one pier, provided overwater coverage is the minimum necessary.
7. Size and Number of Piers
 - a. Piers
 - 1) Unshared single-family piers are allowed one linear walkway with one overwater projection and up to two open-bottom boat or jet ski lifts.
 - 2) Shared single-family piers are allowed one linear walkway with one overwater projection per dwelling unit and two open-bottom boat or jet ski lifts per dwelling unit.
 - 3) Multifamily piers of four or fewer units are allowed one linear walkway with one over water projection per dwelling unit and one open-bottom boat or jet ski lifts per dwelling unit.
 - 4) Multifamily residences of five or more units are allowed multiple piers or forked walkways, provided they are designed to minimize total over water coverage, with one over water projection per two dwelling units and one open-bottom boat or jet ski lift per two dwelling units.
 - b. Walkways. Walkways are required to be located generally parallel to side lot lines and perpendicular to the shoreline. If the shoreline or the lot lines are irregular or the side lot lines are not perpendicular to the shoreline, the Director shall decide the orientation of the walkway to minimize conflicts. No walkway is allowed to exceed 4 feet in width for piers that are not shared, or 6 feet in width for shared piers or piers serving multifamily lots. In Lake Washington, Lake Union, and the Ship Canal, walkways are required to be fixed within 30 feet of the OHW mark. In Puget Sound, the Duwamish River, and Green Lake, walkways may be fixed or floating.
 - c. Projections. Projections may be located overwater on the sides or waterward end of walkways. Each overwater projection is limited to 100 square feet and shall comply with the length and setback standards of this Section 23.60.187.
 - d. Over water projections, boat lifts, and areas used for boat moorage shall be located no closer than 30 feet from the OHW mark unless located in an area where the water depth is at least 8 feet deep at mean lower low water or ordinary low water.
 - e. Length of Piers. Piers shall meet the following standards:
 - 1) No pier shall extend waterward further from the OHW mark than the greatest of the following:
 - a) A line subtended by the ends of adjacent existing piers, if within 200 yards of the proposed pier; or
 - b) A line subtended by the ends of an adjacent existing pier on one side within 200 yards of the proposed new pier, and the first pier beyond an adjacent existing pier on the opposite side and within 100 yards of the proposed new pier; or
 - c) To a point where the depth of the water at the end of the pier reaches 8 feet below OHW in freshwater or below mean lower low water in tidal waters.
 - 2) No pier shall extend waterward more than 100 feet from OHW mark, except where the water depth is less than 6 feet below OHW 100 feet from shore, the maximum pier length shall be to a point where the water depth at the end of the pier is 6 feet below OHW.

3) No pier shall extend beyond the Outer Harbor or Pierhead Line, except in Lake Union where piers are not allowed to extend beyond the Construction Limit Line as shown upon the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

8. Improvement of Existing Piers. Existing residential piers that do not meet the standards of subsection 23.60.187.C.7 shall comply with the provisions of 23.60.124; however, if such piers are replaced or undergo substantial improvement, they shall meet either the standards of 23.60.187.C.5 for the entire pier or reduce the total area of the pier by 20% and increase conformity under 23.60.187.C.5 for any non-conforming portion of the pier.

9. The bottom of all structures over water except floats or floating piers shall be at least 1.5 feet above ordinary height water. No pier shall exceed 5 feet in height above OHW, except that arched walkways may reach a height of 7 feet above OHW within 30 feet waterward of the OHW mark.

10. Swimming floats are allowed in lieu of moorage piers if anchored off-shore and limited to 100 square feet per dwelling unit for single-family, two-family, and three-family residential units and to 50 square feet per dwelling unit for four or more family residential units; such swimming floats are not required to meet the standards of subsections 23.60.187.C.3 and 7.

11. No pier shall be located within 15 feet of a side lot line unless the pier is shared with the owner of the adjacent waterfront lot. An existing pier not meeting this provision may be extended to the maximum length permitted in subsection 23.60.187.C.7.e.

12. Piers and floats shall be fully grated with the maximum light permeability feasible.

C. Non-residential development. Piers and floats accessory to non-residential development shall meet the following standards:

1. Piers and floats are allowed:

a. If the applicant demonstrates they are necessary to accommodate boat moorage, boat repair, or loading and offloading of goods or materials to and from vessel uses, except as provided in subsection 23.60.187.C. Piers and floats solely for the purpose of public access or art are prohibited unless a pier is necessary to accommodate a view that would otherwise be substantially blocked by adjacent overwater buildings; or

b. If part of a parks and open space shoreline use and limited to the minimum necessary for the intended use.

2. Covered moorage is prohibited. Over water work sheds are allowed if they are:

a. located in the UI and UM environments outside of Lake Union and Portage Bay;

b. accessory to a legitimate vessel repair use ; and

c. maintain the maximum light permeability feasible.

3. Wood treated with pentachlorophenol, creosote, chromate copper arsenate (CCA), arsenic, or comparably toxic compounds is prohibited for decking or piling.

4. Piers shall not extend beyond the Outer Harbor or Pierhead Line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown upon the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

D. Slip-side vessel maintenance.

1. Slip-side maintenance of vessels is limited to the following activities: interior vessel repair and cleaning, replacement of running gear and other cleaning and repair activities excluding hull scraping, which is prohibited.

2. Exterior scraping, sanding or cutting is limited to an area that can be contained by the number of people working on the vessel calculated at one person per 10 linear feet of one side of the vessel during any period when material may escape into the air or water. Any sanding, cutting of any material, resurfacing operation or application of paint or varnish occurring over-water shall employ tarpaulins securely affixed above the water line to prevent material from entering the water. Prior to

removing the tarpaulins, the accumulated contents shall be removed by vacuuming or an equivalent method that prevents material from entering the water. The Director may establish appropriate best management practices to implement the requirements of this sub-section 23.60.187.D by Director's Rule.

E. In applying mitigation sequencing pursuant to Section 23.60.158, adverse impacts to ecological functions to be addressed include, but are not limited to, shading of habitat and vegetation, adverse impacts to migration corridors, creation of habitat for non-native or abundant predator species.

Shoreline Mitigation Policy Paper

Executive Summary

The Department of Ecology's SMP guidelines as stated in Chapter 173-26 WAC requires mitigation to insure that no net loss of ecological function is achieved during shoreline development.

Seattle's current Shoreline Master Program regulations require mitigation: However, the code is very general regarding what the impacts are that need to be mitigated; and what the appropriate mitigation standards for these impacts should be.

Proposed changes to the existing Shoreline Master Program include:

- Adding new goals and policies, or revisions to existing goals and policies, to better meet the legislative intent and guidelines of the SMA.
- Updating the General Development Standards to include more specific information regarding potential impacts and required mitigation standards to assure no net loss of ecological functions.
- Using the Shoreline Mitigation Plan (SAMP) as a tool to help measure potential impacts from a development and to employ appropriate mitigation measures to achieve no net loss.

The SAMP provides for two approaches to mitigation of shoreline impacts: on-site mitigation and, for water dependent uses only, off-site mitigation. On-site mitigation is mitigation that occurs at the site of a project impact. Off-site mitigation is mitigation that occurs at a site other than the site of project impact (p. 8, SAMP).

Proposed Changes to the SMP

Intent

Seattle's current Shoreline Master Program Regulations require mitigation of impacts caused to shoreline habitat from urban development. However, there is no clear method used to determine the impacts from a proposed development and as a result no clear mitigation requirements. This ambiguity lends itself to permit delays and the potential to under mitigate the impacts from shoreline develop. Additionally, since the last update of Seattle's SMP the knowledge regarding the types of impacts that urban develop causes to Puget Sound and other water bodies has greatly increased. Low Impact Development (LID) methods have proven to be a good way to mitigate impacts of increased impervious surface. A reduction in overwater coverage is also seen as a way to protect the shoreline environment and the associated ecological processes. We know that shallow water habitat

is important to certain salmon species and therefore the impacts from dredging and shoreline armoring is better understood.

Therefore the proposed changes to Seattle's current SMP regulations are intended to provide clarity to the types and quantity of mitigation that will be required for impacts to the shoreline habitat and ecological function.

The Shoreline Alternative Mitigation Plan (SAMP) is one way that DPD can add clarity to the mitigation requirements of the SMP. SAMP is a program that was developed using a model that can be used to measure impacts from a proposed project and then determine the appropriate mitigation for the proposed impacts. DPD proposes to use SAMP as a model that will be used for the rest of the city to measure impacts from projects and determine the appropriate information. Information about SAMP can be found at: http://www.seattle.gov/DPD/Planning/Shoreline_Alternative_Mitigation_Plan/Overview/

As described below, proposed changes to the existing SMP will include new goals, policies and development standards. In addition, DPD is proposing to use the impact and mitigation methods described in the Shoreline Alternative Mitigation Plan (SAMP) to measure impacts and determine the appropriate mitigation standards.

Changes to Comprehensive Plan Goals

Highlighted sections are the changes/additions to the current shoreline goals.

- LUG48 Provide standards to achieve no net loss of ecological function when development occurs in the shoreline environment through the development of methods to measure impacts and mitigation so that all shoreline impacts are mitigated. (SAMP is intended to achieve this goal.)
- LUG49 Preserve, protect and restore areas such as those necessary for the support of wild and aquatic life or those identified as having geological or biological significance.
- LUG50 Preserve and protect environmental systems, including wild and aquatic life when planning for future shoreline uses.
- LUG51 Support continuing scientific study of Seattle shoreline ecosystems. Scientific study should focus on contribution to the knowledge regarding the appropriate mitigation methods that should be used to offset the impacts from development.

Changes to Comprehensive Plan Policies

- LU246 Protect the natural environment through use and development standards governing shoreline activities including best management practices and mitigation requirements. The methods developed for the Shoreline Alternative Mitigation Plan (SAMP) or a similar method should guide mitigation requirements

- LU247 Areas identified as special wildlife or fisheries habitat should be developed only if no reasonable alternative locations exist and then only if the project is designed to minimize and mitigate habitat damage.
- LU253 Support the study of the shoreline systems that will provide a continuously updated baseline against which to judge the impact of any action.

Changes to Land Use Code

General Development Standards

Note: DPD is proposing to add the following standards to the current general development standards of the SMP found in SMC 23.60.152: These additional general development standards are intended to add specific information regarding impacts and mitigation to the more common impacts caused by shoreline development.

- A. Any increases in surface runoff from development shall be kept to a minimum, and surface water run off shall be controlled, treated and released so that receiving water quality and any shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers. Allowable means to achieve this include bioswales, catch basin filters, and other methods prescribed in Title 22, Subtitle VIII, the Stormwater, Grading and Drainage Control Code.
- B. Pavement shall be kept to a minimum and permeable surfacing, where practicable, shall be used to keep surface water accumulation and runoff to a minimum. Recommended methods are found in Title 22, Subtitle VIII, Stormwater, Grading and Drainage Control Code. Permeable surfaces include, but are not limited to, porous asphalt, concrete, brick, or pavers; or plastic confinement systems with grass or gravel filler.
- C. Best management practices shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water. Direct runoff of these materials is prohibited. Best management practices shall be employed for prompt and effective clean-up of any spills that do occur. A spill prevention and response plan may be required by the Director.
- D. Any cleaning or resurfacing operation including the application of paint, preservative treatment and other chemical compounds occurring over water that may result in the entry of debris (such as paint chips) or toxins (such as paint) into the water shall employ tarpaulins securely affixed above the water line to prevent material from entering the water. Prior to removing the tarpaulins, the accumulated contents shall be removed by vacuuming or an equivalent method that prevents material from entering the water.
- E. Wooden components that will be in contact with standing water or floodwaters shall not contain polycyclic aromatic hydrocarbons (PAH), creosote,

- pentachlorophenol, or similar toxic substances. Durable, non-toxic components are the preferred material for in-water and over-water structures. Where treated wood is considered necessary, it shall be applied and used in accordance with the American Wood Preserver Association (AWPA) standards for aquatic use.
- F. For projects involving concrete, a concrete truck chute cleanout area shall be established to contain wet concrete. No concrete or clean out shall be allowed to enter the water body. This does not prohibit piers or other concrete structures authorized by a valid permit.
 - G. All inlets and catch basins shall be protected from fresh concrete, paving, paint stripping and other high-risk pollution generating activities during construction.
 - H. Construction staging areas shall be as far from the ordinary high water mark as practicable.
 - I. If at any time project-related activities cause a fish kill to occur, the permittee shall stop all work relating to the fish kill and immediately notify the Department of Planning and Development, Washington Department of Fish and Wildlife, and the Washington Department of Ecology.
 - J. In- and over-water structures shall be designed and located to keep impacts from shading of any bank and shallow water habitat to a minimum.

Shoreline Alternative Mitigation Plan (SAMP)

Note: DPD is currently considering adding the SAMP by reference to the SMP to better measure impacts and determine the appropriate mitigation for the affected shoreline properties identified in the SAMP.

New development projects within the SAMP boundaries remain subject to the review procedures of the SMP (see goals, policies and standards above) and the City's SEPA policies. However, within the boundaries of the SAMP, the City will base its project review and evaluation of project impacts and appropriate mitigation based on the SAMP Habitat Equivalency Table (see p. 8, SAMP).

Information about SAMP can be found at:

http://www.seattle.gov/DPD/Planning/Shoreline_Alternative_Mitigation_Plan/Overview/

Background Information

Note: As discussed above, staff review of the current regulations of the SMP determined that the existing regulations do not provide enough specificity to meet the intent and direction of the new SMA guidelines to achieve no net loss. The existing regulations and the new state guidelines are included here as a reference for your review and consideration of the proposed changes.

Existing Regulations

SMC 23.60.030 Criteria for substantial development permits

B. Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

SMC 23.60.064 Procedures for obtaining substantial development permits, shoreline variance permits, shoreline conditional use permits and special use authorizations.

E. In addition to other requirements provided in this chapter, the Director may attach to the permit or authorization any conditions necessary to carry out the spirit and purpose of and assure compliance with this chapter and RCW 90.58.020. Such conditions may include changes in the location, design, and operating characteristics of the development or use. Performance bonds not to exceed a term of five years may be required to ensure compliance with the conditions.

SMC 23.60.152 General development.

H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.

I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.

J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.

State Guidelines

WAC 173-26-186 Governing Principles of the Guidelines

(8) Through numerous references to and emphasis on the maintenance, protection, restoration, and preservation of "fragile" shoreline "natural resources," "public health," "the land and its vegetation and wildlife," "the waters and their aquatic life," "ecology," and "environment," the Act makes protection of the shoreline environment an essential statewide policy goal consistent with the other policy goals of the Act. It is recognized that shoreline ecological functions may be impaired not only by shoreline development subject to the substantial development permit requirement of the Act but also by past actions, unregulated activities, and development that is exempt from the Act's permit requirements. The principle regarding protecting shoreline ecological systems is accomplished by these guidelines in several ways, and in the context of related principles. These include:

(a) Local government is guided in its review and amendment of local master programs so that it uses a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by affected shorelines.

(b) Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions.

(i) Local master programs shall include regulations and mitigation standards ensuring that each permitted development will not cause a net loss of ecological functions of the shoreline; local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(ii) Local master programs shall include regulations ensuring that exempt development in the aggregate will not cause a net loss of ecological functions of the shoreline.

WAC 173-26-191 Master program contents

173-26-191 2(a)(ii) (D) Design and implement regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

WAC 173-26-201 Comprehensive process to prepare or amend shoreline master programs

173-26-201 (2) (c) Protection of ecological functions of the shorelines

This chapter implements the Act's policy on protection of shoreline natural resources through protection and restoration of ecological functions necessary to sustain these natural resources. The concept of ecological functions recognizes that any ecological system is composed of a wide variety of interacting physical, chemical and biological components, that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exists at any time. Ecological functions are the work performed or role played individually or collectively within ecosystems by these components.

As established in WAC 173-26-186(8) these guidelines are designed to assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural

resources and to plan for restoration of ecological functions where they have been impaired. Managing shorelines for protection of their natural resources depends on sustaining the functions provided by:

- Ecosystem-wide processes such as those associated with the flow and movement of water, sediment and organic materials; the presence and movement of fish and wildlife and the maintenance of water quality.
- Individual components and localized processes such as those associated with shoreline vegetation, soils, water movement through the soil and across the land surface and the composition and configuration of the beds and banks of water bodies.

The loss or degradation of the functions associated with ecosystem-wide processes, individual components and localized processes can significantly impact shoreline natural resources and may also adversely impact human health and safety. Shoreline master programs shall address ecological functions associated with applicable ecosystem-wide processes, individual components and localized processes identified in the ecological systems analysis described in WAC 173-26-201(3)(d)(i).

Nearly all shoreline areas, even substantially developed or degraded areas, retain important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecosystems are interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the policies for protecting and restoring ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Master programs shall contain policies and regulations that assure at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources. To achieve this standard while accommodating appropriate and necessary shoreline uses and development, master programs should establish and apply:

- Environment designations with appropriate use and development standards, and
- Provisions to address the impacts of specific common shoreline uses, development activities and modification actions, and
- Provisions for the protection of critical areas within the shoreline, and
- Provisions for mitigation measures and methods to address unanticipated impacts.

When based on the inventory and analysis requirements and completed consistent with the specific provisions of these guidelines, the master program should ensure that development will be protective of ecological functions necessary to sustain existing shoreline natural resources and meet the standard. The concept of “net” as used herein, recognizes that any development has potential or actual, short term or long term impacts and that through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.

173-26-201 (2) (e) Environmental impact mitigation

(i) To assure no net loss of shoreline ecological functions, master programs shall include provisions that require proposed individual uses and developments to analyze environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the master program and other applicable regulations. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of such environmental impacts shall be conducted consistent with the rules implementing SEPA, which also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Master programs shall indicate that, where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority, with (a) of this subsection being top 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; and
- (F) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(ii) In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

Consistent with the WAC 173-26-186 (5) and (8), master programs shall also provide direction with regard to mitigation for the impact of the development so that:

- A) Application of the mitigation sequence achieves no net loss of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological

functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act.

(B) 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 address 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. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

173-26-201 (2) (f) Environmental impact mitigation

For development projects that may have un-anticipatable or uncommon impacts that cannot be reasonably identified at the time of master program development, the master program policies and regulations should use the permitting or conditional use permitting processes to ensure that all impacts are addressed and that there is no net loss of ecological function of the shoreline after mitigation.



LAKE LEVEL 101 – LAKE STEVENS, WA

The lake level is currently controlled both naturally and artificially on the north end of the lake exiting the cove into the outflow channel which flows through downtown, along Hartford Rd, and into Catherine Creek.

There is a natural “sandbar” of sorts 30 yards or so prior to the weir structure in the outflow channel that naturally builds up sediment and debris which helps to hold the lake level to a natural minimum depth.

The weir structure itself is a manmade “dam” made up of a series of stop logs stacked up to artificially hold water back in the lake. The bottom stop log has a notch in it to allow for fish passage and logs are installed or removed as necessary to help maintain the lake level and regulate it during higher flows.

The lake level varies throughout the year, but the intent of the weir is to hold as much water back as possible in the spring and summer in order to maintain an ordinary high water mark of 211.5 feet above sea level. If the water level gets higher than 211.75 feet above sea level with the stop logs installed, then some of the logs are removed as necessary to avoid high water levels that erode the shoreline and could affect docks, bulkheads, and riparian shoreline.

The lake level is controlled artificially using the weir structure per the City’s Hydraulics Approval Permit with the Department of Fish and Wildlife for one reason...to hold an adequate amount of water back in the lake in spring and summer, so that

water flows sufficiently through the outflow channel into Catherine Creek in the fall during the dry months for the fish to migrate up into the lake and to spawn in the channel. The permit only allows the stop logs to be installed and maintained between March 15th and October 15th of each year. Any fluctuations in lake level outside of this timeframe are 100% naturally occurring.

The lake level is not maintained in any way for recreational purposes. It is not maintained so that people can have a certain minimum water level to utilize their boat lifts, provide a minimum depth for their shoreline swimming areas, or any other activity related to recreational shoreline use.

Due to circumstances beyond the City’s control (heavy rains in the spring, groundwater table saturation, dry spells in the summer, etc.), the lake level often fluctuates higher than the targeted ordinary high water mark of the lake with no stop logs in place at all and also often drops well below the targeted low water mark (210.5 feet above sea level) with all of the stop logs in place.

It is important for lakefront residents to understand why the lake level is regulated, which is NOT for recreational purposes or for the benefit of residents along the shoreline, but for sufficient water flows through the outflow channel during salmon spawning. It should be noted that fluctuations in lake level are often beyond the control of the City through artificial means. The City has no authority to control the outflow of the lake other than that authorized by the Washington Department of Fish and Game, Hydraulics Approval Permit.



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: 11 July 2011

Subject: Adoption of 2012- 2017 Six Year Transportation Improvement Plan

Contact Mick Monken **Budget Impact:** NA
Person/Department: Public Works

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Hold the Public Hearing and comment on the projects proposed to be included in the 2012-2017 Six Year Transportation Improvement Plan (STIP). If no changes, adopt Resolution number 2011-8.

SUMMARY/BACKGROUND: Each year the City is required under State statute RCW 35.77 to prepare a six year Transportation Improvement Plan (STIP). The intent of the STIP is to provide information to the State for regional and statewide planning that includes project type and location identification, potential impacted utilities, funding needs, and inter-agency coordination. The STIP is typically a subset of an agency's long range plan and projects are selected based on the agency's determined priority.

The projects identified in the STIP have been selected by staff based on a preliminary 20 year Capital Facility Plan (CFP). The CFP is a compilation of the City's past Comprehensive Plan 20 year Capital Improvement Plan (CIP) and information provided by Snohomish County and through traffic data collected from Puget Sound Regional Council (PSRC) for the recently annexed area.

The STIP is important to the City when seeking grant funding for future transportation projects. This gives advance notice to the funding agencies of potential grant dollar demands. However, not listing a project does not prohibit seeking funding for a non-listed project. In this case, the STIP would require an amendment be adopted by Resolution. One of the key points of an agency's STIP is that it is suppose to be realistic. This means that the projects listed are suppose to be able to be constructed within the 6 year period if funding can be secured.

There are 28 projects on the 2012-2017 STIP. This consists of 5 intersection, one corridor, one study area, and 16 non-motorized/pedestrian type road improvements. This includes the two WSDOT SR 92 (99th and 113th roundabouts) intersection improvement projects.

APPLICABLE CITY POLICIES: NA

BUDGET IMPACT: NA (Funding on the STIP comes from a variety of sources and are only preliminary estimates. Local funds include impact fees, developer mitigations and improvements, and REET)

ATTACHMENTS:

- ▶ Exhibit A: Proposed 2011-2016 Six Year Transportation Improvement Plan (STIP)
- ▶ Exhibit B: Resolution 2011-8

ATTACHMENT A



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
14		SR 92 at 113th Ave NE Roundabout SR 92 MP 1.40 to MP 1.60 Restrict 113th Ave NE to right turn only using soft channelization and construct a EB merge lane on SR 92	WA-00570					21	P T W	0.200	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
S	ALL	2012		0	WSDOT	1,400,000	0	1,400,000
Totals				0		1,400,000	0	1,400,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	200,000	1,200,000	0	0	0
Totals	200,000	1,200,000	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
16		Grade Road South-end Improvement Grade Road 20th Street NE to 21st Street NE Minor realignment with curb, gutter, and sidewalk.	RP-1					24	GPSTW	0.200	EA	Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2016		0	OTHER	160,000	300,000	460,000
Totals				0		160,000	300,000	460,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	0	0	0	0	460,000
Totals	0	0	0	0	460,000



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
16		Lundeen Prkwy Corridor Ped Safety Improvement Lundeen Parkway Vernon Road to 99th Avenue NE Construct sidewalks with bike lanes, storm, and crossing improvements	PS-2					28	GPSTW	0.600	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2016		0	TIB	600,000	300,000	900,000
Totals				0		600,000	300,000	900,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	0	0	0	0	900,000
Totals	0	0	0	0	900,000



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		91st Avenue SE Pedestrian Safety Improvements 91 Avenue SE Market Place to 20th Street SE Construction of a sidewalk in two school zones along the eastside of the street	PS-1					28	P S T W	1.400	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2014		0	OTHER	1,000,000	400,000	1,400,000
Totals				0		1,000,000	400,000	1,400,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	0	0	200,000	1,200,000	0
Totals	0	0	200,000	1,200,000	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		Hartford Rd Road & Drainage Improvements Hartford Rd MP 0.40 to MP 0.40 Upgrade parallel culvert system to a large box culvert at the Catherine Creek crossing.	M-9					21	GPSTW		CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	700,000	700,000
Totals				0		0	700,000	700,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	700,000	0	0	0	0
Totals	700,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		North Lakeshore Drive Non-Motorized improvement N. Lakeshore Dr Main Street to 112th Ave NE ROW, Sidewalk, Bike Lane	M-31					21	GPSTW	0.750	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	1,290,000	1,290,000
Totals				0		0	1,290,000	1,290,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	1,290,000	0	0	0	0
Totals	1,290,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		20th St NE Widening with Pedestrian Improvements 20th St NE Main Street to 111th Dr NE Widen, Sidewalks on north side	M-29/30					21	GPSTW	0.620	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	1,668,000	1,668,000
Totals				0		0	1,668,000	1,668,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	1,668,000	0	0	0	0
Totals	1,668,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		30th Street NE non-motorized improvements 30th St NE 113th Ave NE to Cedar Rd NE Northside, Widen, Reconstruction, ROW, Drainage, Sidewalks	M-28					21	GPSTW	0.200	CE	Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	540,000	540,000
Totals				0		0	540,000	540,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	540,000	0	0	0	0
Totals	540,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		Mitchell Rd/ Manning Rd Road & Ped Improvement Mitchell Rd 200-ft W of 116th Dr NE to 600-ft W of 116th Dr NE ROW, Widen, Sidewalks, Drainage, Pavement	M-25					21	GPSTW	0.050	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	360,000	360,000
Totals				0		0	360,000	360,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	360,000	0	0	0	0
Totals	360,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		117th Ave NE Road & Ped Improvement 117th Ave NE 20th St Ne to 150-ft S of 28th St NE ROW, Widen, Sidewalks, Drainage	M-24					21	GPSTW	0.500	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	1,932,000	1,932,000
Totals				0		0	1,932,000	1,932,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	1,932,000	0	0	0	0
Totals	1,932,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

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Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		116th Ave NE Road & Ped Improvement 116th Ave NE 20th St NE to 26th St NE ROW, Widen, Sidewalks, Drainage	M-23	07/11/11			2011-8	21	G P S T W	0.400	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	1,900,000	1,900,000
Totals				0		0	1,900,000	1,900,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	1,900,000	0	0	0	0
Totals	1,900,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

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MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		26th Street NE Road & Ped Improvement 26th St NE 115th Ave NE to 117th Ave NE South Side, ROW, Sidewalks, Drainage	M-22					21	GPSTW	0.100	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	280,000	280,000
Totals				0		0	280,000	280,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	280,000	0	0	0	0
Totals	280,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

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Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		Mitchell DR/ 118th Ave NE Road & Ped Improvement 118th Ave NE N. Lakeshore DR to 20th St NE ROW, Widen, Drainage, Reconstruction, Sidewalk, Curb/Gutter	M-19					21	GPSTW	0.360	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2012		0		0	1,400,000	1,400,000
Totals				0		0	1,400,000	1,400,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	1,400,000	0	0	0	0
Totals	1,400,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		131st Ave NE Road & Ped Improvement 131st Ave NE 20th St NE to Hartford Rd Widen, Overlay, Sidewalks, Curb/Gutter	M-18					03	GPSTW	0.340	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	1,489,000	1,489,000
Totals				0		0	1,489,000	1,489,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	1,489,000	0	0	0	0
Totals	1,489,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		22nd Street NE Road & Ped Improvement 22nd St NE 117th Ave NE to 123rd Ave NE Widening, Curb & Sidewalk	M-17					21	GPSTW	0.350	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	768,000	768,000
Totals				0		0	768,000	768,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	768,000	0	0	0	0
Totals	768,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
19		28th Street NE Road & Ped Improvement 28th St NE Old Hartford Rd to N. Machias Rd ROW, Widen & Sidewalk	M-16					21	GPSTW	0.110	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	470,000	470,000
Totals				0		0	470,000	470,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	470,000	0	0	0	0
Totals	470,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		32nd Street NE/ Walker Hill Rd Road & Ped Imp 32nd St NE 118th Street NE to Grade Rd Widen, Sidewalks, Curb/Gutter, Drainage, Slope Reduction	M-14					21	GPSTW	0.240	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	545,000	545,000
Totals				0		0	545,000	545,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	545,000	0	0	0	0
Totals	545,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

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Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		East Lakeshore Drive Non Motorized Improvements E. Lakeshore Dr Main Street to 7th St NE ROW, Sidewalk, Bike Lane	M-13					21	GPSTW	0.750		Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	1,450,000	1,450,000
Totals				0		0	1,450,000	1,450,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	1,450,000	0	0	0	0
Totals	1,450,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
09		Old Hartford Road Old Hartford Rd 36th St NE to Hartford Rd ROW, Widen, Reconstruction, Curb/Gutter, Sidewalk & Drainage	M-12					21		0.710	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	2,323,000	2,323,000
Totals				0		0	2,323,000	2,323,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	2,323,000	0	0	0	0
Totals	2,323,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		36th Street NE Road & Ped Improvements 36th St NE Grade Rd to Old Hartford Rd ROW, Widen, Drainage, Sidewalk	M-11					21	GPSTW	0.580	CE	Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	2,340,000	2,340,000
Totals				0		0	2,340,000	2,340,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	2,340,000	0	0	0	0
Totals	2,340,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		16th St NE Road Improvement 16th St NE Main Street to 134th Ave NE (East City Limits) North Side, ROW, Widen/ Straighten, Drainage, Sidewalk	M-10					21	GPSTW	0.720	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013		0		0	1,737,000	1,737,000
Totals				0		0	1,737,000	1,737,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	1,737,000	0	0	0	0
Totals	1,737,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
02		20th St SE- Phase II 20th St SE Hwy 2 to 91st Ave SE Work with Snohomish County to match improvements along 20th St SE- Phase I. The limits of improvements from the Hwy 2 Trussel to 91st Ave SE will include: roadway widening, new sidewalks, improved access.	LC-4					03	GPSTW	1.310	EIS	Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2013	TIGER II	12,000,000	TIB	2,000,000	5,000,000	19,000,000
Totals				12,000,000		2,000,000	5,000,000	19,000,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	0	0	3,000,000	12,000,000	4,000,000
Totals	0	0	3,000,000	12,000,000	4,000,000



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
14		SR 92 at Grade Road Roundabout SR 92 MP 1.60 to MP 1.80 Construction of a single lane roundabout.	IC-5					21	G T W	0.200	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2015	STP(U)	1,000,000	OTHER	600,000	400,000	2,000,000
Totals				1,000,000		600,000	400,000	2,000,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	0	0	0	400,000	1,600,000
Totals	0	0	0	400,000	1,600,000



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
14		SR 92 at 99th Avenue NE Roundabout SR 92 MP 0.40 to MP 0.65 Construct a single lane roundabout within existing ROW	IC-2	07/11/11				21	G P T W	0.250	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
S	ALL	2012	FMSIB	0	WSDOT	1,600,000	0	1,600,000
Totals				0		1,600,000	0	1,600,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	200,000	1,400,000	0	0	0
Totals	200,000	1,400,000	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
14		SR 92 at 127th Ave NE Roundabout SR 92 MP 2.3 to MP 2.55 Construct a single lane roundabout.	IC-13					21	G P T W	0.250	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2014		0		0	1,750,000	1,750,000
Totals				0		0	1,750,000	1,750,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	0	0	1,750,000	0	0
Totals	0	0	1,750,000	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

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Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
14		SR 92 at Lake Drive - rechannelization SR 92 Lake Drive to Lake Drive Restrict Lake Dr to NB right turn only using soft channelization adn construct an EB merge lane and a WB center turn lane on SR 92	IC-1	07/11/11	07/25/11			21	G P T W	0.200	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	PE	2012		0	WSDOT	30,000	0	30,000
P	CN	2013		0	WSDOT	170,000	0	170,000
Totals				0		200,000	0	200,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
PE	0	30,000	0	0	0
CN	0	0	170,000	0	0
Totals	0	30,000	170,000	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

County: Snohomish

MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
14		SR 9/SR 204 Corridor Circulation Design Study SR 9 SR 204 to SR 204 Corridor circulation study of a commercial area adjacent to SR 9 and SR 204. This project is a sub-project to the SR 9 Route Development Plan.	CI-1					03	GPSTW	1.000	CE	Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
S	PE	2012		0	OTHER	500,000	0	500,000
Totals				0		500,000	0	500,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
PE	500,000	0	0	0	0
Totals	500,000	0	0	0	0



Six Year Transportation Improvement Program From 2012 to 2017

Agency: Lake Stevens

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MPO/RTPO: PSRC

Y Inside

N Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17		S. Davies Road at S. Lake Stevens Rd Intersection S. Davies Road S. Lake Stevens Rd to S. Davies Road Intersection improvements of a traffic signal or roundabout	C-10					03	GPSTW	0.250	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	ALL	2017		0	TIB	500,000	300,000	800,000
Totals				0		500,000	300,000	800,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
ALL	0	0	0	0	800,000
Totals	0	0	0	0	800,000

	Federal Funds	State Funds	Local Funds	Total Funds
Grand Totals for Lake Stevens	13,000,000	8,560,000	29,642,000	51,202,000

ATTACHMENT B

CITY OF LAKE STEVENS
Lake Steven Washington

RESOLUTION NO. 2011-8

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON, ADOPTING A SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN FOR THE YEARS 2012-2017 AND DIRECTING THE SAME TO BE FILED WITH THE STATE SECRETARY OF TRANSPORTATION AND THE TRANSPORTATION IMPROVEMENT BOARD.

WHEREAS, pursuant to the requirements of Chapters 35.77 and 47.26 RCW, the City Council of the City of Lake Stevens has previously adopted a comprehensive street plan, including an arterial street construction plan, and has thereafter periodically modified said as part of the City's Comprehensive Plan resolution, and

WHEREAS, the City Council has reviewed the work accomplished under the Plan, determined current and future City street and arterial needs and based upon these findings, has prepared a Six-Year Transportation Improvement Plan for the ensuing six (6) calendar years, and

WHEREAS, a public hearing has been held on the Six-Year Transportation Improvement Plan as required by RCW 35.77.0 10, and

WHEREAS, the TIP has been updated for 2012-2017 in accordance with the State requirements,

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DOES RESOLVE AS FOLLOWS:

Section 1. Plan Adopted. The Six-Year Transportation Improvement Plan for the City of Lake Stevens, as revised and extended for the ensuing six (6) calendar years (2012-2017), a copy of which is attached hereto as Exhibit A and incorporated herein by this reference as if fully set forth, which Plan sets forth the project location, type of improvement and the estimated cost thereof, is hereby adopted and approved.

Section 2. Filing of Plan. Pursuant to Chapter 35.77 RCW, within 30 days of the adoption of this resolution the City Clerk is hereby authorized and directed to file a copy of this resolution, together with the Exhibit A attach-d hereto, with the Secretary of Transportation and a copy with the Transportation Improvement Board for the State of Washington.

ADOPTED this _____ day of July 2011

Vern Little, Mayor

ATTEST:

Norma Scott
City Clerk

**CITY OF LAKE STEVENS
REGULAR CITY COUNCIL MEETING MINUTES**

Monday, June 27, 2011
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor Vern Little

COUNCILMEMBERS PRESENT: Mark Somers, Kim Daughtry, Marcus Tageant, Kathy Holder, and Suzanne Quigley

COUNCILMEMBERS ABSENT: Neal Dooley and John Spencer

STAFF MEMBERS PRESENT: Planning Director Becky Ableman, City Administrator Jan Berg, City Attorney Cheryl Beyer, Public Works Director/City Engineer Mick Monken, Finance Director/Treasurer Barb Lowe, Principal Planner Karen Watkins, Human Resource Director Steve Edin, Police Chief Randy Celori, and City Clerk/Admin. Asst. Norma Scott

OTHERS: Ron Thomas

Excused absences. Councilmember Somers moved to excuse Councilmembers Spencer and Dooley; seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

Guest Business. None

Consent Agenda. Councilmember Daughtry moved to approve the Consent Agenda (Payroll Direct Deposits 904375-904434 for \$126,018.82, Payroll Checks 31965-31970 for \$6,685.30, Claims 31971-32027 for \$95,523.69, Electronic Funds Transfers 342-344 for \$4,765.72, Void Checks 31969, 31976 for deduction of \$13,387.13, Tax Deposit 3.15.11 for \$46,304.43 for total vouchers approved of \$265,910.83), seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

Consideration of continued Public Hearing on second and final reading of Ordinance No. 855, land use code amendments/corrections related to the Shoreline Management Act.

City Clerk Scott read the public hearing procedure, which will be followed for both hearings. Principal Planner Watkins reported there is one additional change to the ordinance: Table 14.48-I., in the density and dimensional standards table there is a column that reads "lake and mean high water mark" and should read "ordinary high water mark." This correction should be included in the approval of this ordinance.

Councilmember Quigley suggested rewording for clarity Section 14.16.360, Expiration of Approval as follows: Approval of the Type III applications, except for preliminary plats, shoreline conditional use permits and shoreline variance permits shall expire one year from the date approval was final. Preliminary plats shall terminate five years after approval and shoreline conditional use permits and shoreline variance permits shall expire two years after final approval. Principal Planner Watkins agreed.

Public Comments. None

MOTION: Councilmember Somers moved to close the public portion, seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

MOTION: Councilmember Holder moved to close the public hearing, seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

MOTION: Councilmember Somers moved to accept second and final reading of Ordinance No. 855, land use code amendments/corrections related to the Shoreline Management Act with the amendments tonight for the high water mark, seconded by Councilmember Holder; motion carried unanimously. (5-0-0-2)

Consideration of Resolution No. 2011-7 for Nourse development agreement extension.

Principal Planner Watkins reported this extension request for a Development Agreement Amendment and Conditional Use Permit was received from the current owners on April 18, 2011. In 2007 the Council approved a development with the Nourse Company. The zoning was multi-family residential, proposing 288 development units of single family type on 70 acres. Notice of application was issued May 19, 2011 and no comments were received. On June 6, 2011 an addendum to the SEPA Mitigated Determination of Nonsignificance was issued and two comment letters were received and one phone call from a DOE biologist and another comment letter today that was provided to Council. Originally asked for a five year development agreement and the current code allows for up to ten years. Because of the downturn in the economy they were not able to finish it in time. New owners of the property are Gray1 Washington, LLC and Colby RE, LLC (Cascade Bank). At the request of the City they demolished several empty houses, cleaned up the property and paid all outstanding invoices before requesting this additional five year extension, which would extend the agreement to April 25, 2017. Staff did determine as a requirement of this amendment to have them provide an estimated project schedule so that we could be sure they could get it completed in that time and yearly updates on the project schedule. There is no additional allowance beyond the ten years. The agreement runs with the land. Ms. Watkins reviewed the decision criteria. There are no new proposals or changes to the agreement.

Councilmember Daughtry asked what happens if they don't finish in time. Ms. Watkins responded they must have all their permits at that time and be constructing. There are four phases.

Councilmember Quigley asked what the comments from Paul Anderson were. Ms. Watkins responded the owners have been communicating with Mr. Anderson and they will be required to get hydraulic permit approval for a wetland crossing in Phase 3 & 4, which DOE will review at that time.

Councilmember Holder asked if the City still allows LDMR development. Principal Planner Watkins responded it is not an LDMR. Duplexes and townhomes are allowed. The streets are to City standards and a number of parks.

Public Comment. None

Proponent. Ron Thomas, representing Colby RE, LLC and Gray1 Washington, LLC made the following comments: land use is restricted to townhomes, duplexes, and decided on detached homes; 50 foot right-of-way will meet sidewalk, street, and landscape strip per code, designed around open space and critical areas. Phases I & II went through detailed engineering design, Phase III & IV have not been submitted to engineering. Stormwater is designed with a 92,000 square foot vault for Phase I & II, park is on top of the vault, 1670 trees will be removed and replacing with 3,800 trees a 3 to 1 ratio. At the request of Fish & Wildlife, 36" culvert in Oak Road required to be replaced with 72" culvert for a fish passage standard culvert, although considered a non-fish bearing stream. Department of Transportation is requiring a 600' long deceleration lane on SR92 and turn lanes required on Callow and SR92. These are condominium units but look and feel like a subdivision. Parking in the park is with limited access to immediate neighborhood, but the public is allowed to use, and will have some street parking at the entrance.

Councilmember Quigley asked about the road improvements to Callow and Oak. Mr. Thomas gave a detailed explanation of the existing street and the sidewalk, street and landscape widths after reconstruction. Construction will not start before the JARPA permit is issued.

Councilmember Holder asked about the park and paths. A lengthy discussion followed. Mr. Thomas believes the owners of the project would agree to having the homeowners association be responsible for maintenance of the paths and not dedicating the park to the City and make it an open space park area strictly for the homeowners association.

MOTION: Councilmember Tageant moved to close the public comment portion, seconded by Councilmember Somers; motion carried unanimously. (5-0-0-2)

Councilmember Somers asked if the agreement is not extended what is the effect. Planning Director Ableman stated the current expiration date is April 2012 and as long as they are active in the permitting stage without a lapse of time over 180 days, the permit would remain active.

Discussion followed on the reason for the extension: economic conditions, the property changed hands and Cascade Bank is working to sell their portion.

Councilmember Quigley asked whether the space between units did the Fire District have any problems. Ron Thomas responded the separation is same as a regular dwelling - 5' feet each side, 20' front and 10' back setbacks.

Councilmember Quigley asked if this were a new development what would be the code changes from the time of the original application. Planning Director Ableman responded the critical areas regulations in effect now and stormwater manual requirements.

Councilmember Quigley stated she would like to see the specific differences in the code from four years ago to now to determine if this extension is appropriate. Planning Director Ableman responded it meets the residential building standards and road standards, which were the same four years ago. The critical areas regulations have changed.

Ron Thomas stated regarding the economic viability of the project, this is an expensive project to develop at over \$2,500,000 in offsite improvements and vault. If redeveloped could build

duplexes and townhouses with a higher number of units and traffic. With the single family houses there will be probably less than 288 units because of siting of the houses.

MOTION: Councilmember Somers moved to close the public hearing, seconded by Councilmember Daughtry; motion carried unanimously. (5-0-0-2)

MOTION: Councilmember Daughtry moved to approve Resolution No. 2011-7, the City of Lake Stevens, Washington, approving Amendment No. 1 to Development Agreement between the City and L116-1 Nourse, LLC Snohomish County for a 5-year extension, seconded by Councilmember Tageant; motion carried with Councilmembers Quigley and Somers voting no. (3-2-0-2)

Approve minutes of June 13, 2011 regular meeting. Councilmember Somers moved to approve minutes of June 13, seconded by Councilmember Daughtry; motion carried with Councilmember Tageant abstaining. (4-0-1-2)

Approve Professional Services Agreements for on-call planning services with: The Watershed Company and Perteet. Planning Director Ableman reported they received 15 requests for the different services and Public Works helped rank them. Hourly rate charges were distributed.

MOTION: Councilmember Tageant moved to allow the Mayor to sign two Professional Services Agreements with Perteet and The Watershed Company, seconded by Councilmember Somers; motion carried unanimously. (5-0-0-2)

Approve purchase of permit tracking system with Bitco Software. Planning Director Ableman noted the City Attorney reviewed the contract.

Councilmember Quigley asked about the budget impact, which shows \$5,000 a year. Planning Director Ableman responded the \$5,000 is for each year as long as we continue with them.

Councilmember Daughtry asked who does data migration. Planning Director Ableman responded they will do data migration

MOTION: Councilmember Holder moved to approve signing contract with Permitrax Permit Tracking Systems Bitco Software LLC, seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

Approve Interlocal Agreement with Snohomish Conservation District for support services. Public Works Director/Engineer Monken reported there is no cost to the City in this agreement. The agreement allows the District and City to use their staff costs to help the City meet its 25% match for the DOE grant (\$117,431) on a low impact demonstration project at the City shop. The District used its resources, at no cost to the City, to prepare and assist the City in submitting the grant.

MOTION: Councilmember Somers moved to authorize the Mayor to execute the ILA with Snohomish Conservation District, seconded by Councilmember Quigley; motion carried unanimously. (5-0-0-2)

Approve Supplemental Agreement No. 1 to the Professional Services Agreement with AquaTechnex LLC to perform implementation of Eurasian Watermilfoil control Program and post services. Public Works Director/Engineer Monken reported the project is scheduled

for the week of the 11th of July within the budget Council allotted for treatment that was approved last year. Follow-up services will also be provided.

Councilmember Quigley asked who is responsible for the education part. Public Works Director/Engineer Monken responded staff with handouts and signs. Councilmember Quigley requested the information have less technical jargon and use color and pictures to make the information friendlier.

Councilmember Holder asked if the public parks will be posted. Public Works Director/Engineer Monken responded yes within the next week.

MOTION: Councilmember Quigley moved to authorize amendment to the current contract with AquaTechnex, LLC to perform the implementation of Application Strategy Plan and post services for the amount of \$167,824.83, seconded by Councilmember Somers; motion carried unanimously. (5-0-0-2)

Authorize purchase of a replacement for the City's existing floating dock. Public Works Director/Engineer Monken reported the City currently has temporary approval for the existing dock with Fish & Wildlife; dock cannot be rebuilt, and needs to be pulled out by the end of December. Search shows the replacement cost from \$28-\$38/square foot. The \$28/square foot proposal is the preferred dock because it is a self-enclosed unit, not sinkable, and slip free surface. The Lake Stevens Rowing Club offered a contribution of \$6,000 toward the dock. Do have verbal approval but not final written approval from Fish & Wildlife. The budget from the general fund is for \$24,200. With \$6,000 from the Rowing Club, the City's portion would be \$18,200. The other rowing club only has only a few members but would provide labor.

MOTION: Councilmember Holder moved to authorize the replacement of the existing floating dock with AccuDock System not to exceed \$24,200, seconded by Councilmember Tageant; motion carried unanimously. (5-0-0-2)

Approve service of alcohol in Aquafest VIP tent. Planning Director Ableman stated Aquafest asked for alcohol service from 5-11 not 5-10 as written in the staff report. The Liquor Board approved from 6-10 p.m.

MOTION: Councilmember Daughtry moved to approve the VIP booth for alcohol from 6-10 for Aquafest, seconded by Councilmember Holder; motion carried with Councilmember Quigley abstaining. (4-0-1-2)

Economic Development documents: fiscal impact document and action plan. Planning Director Ableman reported the fiscal impact analysis included looking at revenue and expenses, what City revenues resources are or could be, looked at where development areas are, identifies redevelopment potential based on retail leakage – people shopping outside the City.

Planning Director Becky Ableman commented the Economic Development Action Plan is a working document and reviewed the plan.

Lake Stevens City Council Regular Meeting Minutes

June 27, 2011

Sewer District annexation. City Administrator Berg noted the Sewer District boundaries do not encompass current City limits. Looking at the annexation petition method rather than ballot method. Councilmember Quigley suggested a resolution of support.

Council Person's Business: Councilmembers reported on the following: Holder – Sewer Utility Subcommittee – 84% of the project is complete and still within budget; Somers – Arts Commission opening concert is the Navy Band next Thursday at 7:00 p.m.; and Daughtry – attended PSRC Transportation and Community Transit board meetings.

Mayor's Business: Mayor Little reported on the following: Sewer Utility Subcommittee, DOT approved construction of roundabouts at 99th and 113th - 2013 for construction of both.

Staff Reports: Staff reported on the following: Planning Director Ableman – updating regulations on FEMA and code amendments, Community Programs Planner Swift is going on military leave and Cindy Moore will be filling in from Marysville; Public Works Director/Engineer Monken – at Lundeen roundabout working on placement of art work; and Human Resource Director Edin – attended AWC annual conference.

Adjourn. Councilmember Somers moved to adjourn at 9:24 p.m., seconded by Councilmember Holder; motion carried unanimously. (5-0-0-2)

Vern Little, Mayor

Norma J. Scott, City Clerk/Admin. Asst.

**Office of the Mayor
Vern Little**



Memorandum

Date: July 11, 2011

To: Lake Stevens Council Members

From: 
Mayor Vern Little

RE: Re-appointment of Halley Hupp as a Civil Service Commissioner

Mr. Halley Hupp's six-year term as a Lake Stevens Civil Service Commissioner expired July 1, 2011. Mr. Hupp was the only candidate to apply for his open position. Because of Mr. Hupp's committed service to the Civil Service Commission, and his willingness to continue serving in this capacity, it is my recommendation that the Lake Stevens City Council confirm my re-appointment of Mr. Hupp as a Civil Service Commissioner for another term. Mr. Hupp's volunteer application is available at City Hall, if any Council Member should wish to review it.

Thank you for your consideration.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: July 11, 2011

Subject: Amendment #1 to Interlocal Agreement for Lobbying Services – State Route 9 Coalition

Contact Person/Department: City Administrator Jan Berg **Budget Impact:** 2011 \$2,625

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:

Approve Amendment #1 to Interlocal Agreement with the cities of Marysville, Arlington, Snohomish and Lake Stevens for Lobbying Services with Strategies 360 for the SR9 Coalition.

SUMMARY/BACKGROUND:

In October, 2010 the City entered into an interlocal agreement to hire a lobbyist to assist in advocating for the importance of the projects in the SR9 Route Development Plan, seek potential funding options and represent the SR9 Coalition at various transportation partnership meetings. The original agreement went through May of 2011. The four cities recognize the importance and value of having this representation and recommend that the contract be amended extended through March 2012.

The hours and budget until October, 2011 will be at the lower cost of \$1,750 (\$437.50 per city) and then potentially increased in November, 2011 if the Steering Committee agrees to increase the level of effort needed during the short 2012 Legislative session. The agreement includes a not to exceed amount of \$45,000 of which \$15,750 has been expended.

APPLICABLE CITY POLICIES:

City Council is the authorizing body to approve agreements over \$5,000.

BUDGET IMPACT:

For 2011 cost is \$2,625

ATTACHMENTS:

- ▶ Exhibit A1: Proposed Scope of Work



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**FIRST AMENDMENT TO INTERLOCAL AGREEMENT
FOR LOBBYING SERVICES
ADDING “EXHIBIT A1 JULY 2011 – MARCH 2012
PROPOSED SCOPE OF WORK – SR 9 COALITION”**

THIS FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR LOBBYING SERVICES (“Amendment”) is made and is entered into by and between the City of Arlington, a Washington municipal corporation (“Arlington”), the City of Marysville, a Washington municipal corporation (“Marysville”), the City of Lake Stevens, a Washington municipal corporation (“Lake Stevens”), and the City of Snohomish, a Washington municipal corporation (“Snohomish”) (collectively referred to hereinafter as the “Cities”) as follows:

WHEREAS, pursuant to RCW 39.34, the Cities entered into the INTERLOCAL AGREEMENT FOR LOBBYING SERVICES (“Agreement”) dated 10/12/2010; and,

WHEREAS, the Cities have agreed to add to existing “Exhibit A” of the Agreement, the additional “Exhibit A1 July 2011 – March 2012 Proposed Scope of Work – SR 9 Coalition” necessitating the amendment of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, Cities mutually agree as follows:

1. “Exhibit A1 July 2011 – March 2012 Proposed Scope of Work – SR 9 Coalition” is adopted and added to the Agreement which shall be effective July 1, 2011 and shall be as attached hereto and incorporated by this reference.
2. Subject to the mutual written consent of the City Administrators, City Managers or Chief Administrative Officers of all parties hereto, the scope may be periodically revised to reflect current needs without further action of the respective City Councils so long as the revised scope does not result in exceedance of the originally authorized

\$45,000 contract fee.

3. This First Amendment may be executed in counterparts, each which shall be considered same as an original.

4. Except as provided herein, all other terms and conditions of the INTERLOCAL AGREEMENT FOR LOBBYING SERVICES thereto remain in place and shall be unchanged by this agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this ____ day of _____, 2011.

CITY OF ARLINGTON

Margaret Larson, Mayor

ATTEST/AUTHENTICATED:

Kristin Banfield, City Clerk

APPROVED AS TO FORM

Steven Peiffle, City Attorney

CITY OF MARYSVILLE

Jon Nehring, Mayor

ATTEST/AUTHENTICATED:

CITY OF LAKE STEVENS

Vern Little, Mayor

ATTEST/AUTHENTICATED:

Norma Scott, City Clerk

APPROVED AS TO FORM

Grant K. Weed, City Attorney
Per Waiver

CITY OF SNOHOMISH

Larry Bauman, City Manager

ATTEST/AUTHENTICATED:

April O'Brien, Deputy City Clerk

Torchie Corey, City Clerk

APPROVED AS TO FORM

APPROVED AS TO FORM

Grant K. Weed, City Attorney
Per waiver

Grant K. Weed, City Attorney
Per Waiver

Exhibit A1
July 2011 – March 2012
Proposed Scope of Work – SR 9 Coalition

July thru December 2011

1. Meet with staff at WSDOT, PSRC and SCCIT to get a direct gauge of the situation and begin the persuasive work that will lead to including funding for SR 9 in the proposed 2012 transportation package.
2. Attend SCCIT meetings and advocate, where appropriate, for funding for SR 9.
3. Participate, to the extent possible, in Transportation Partnership meetings and activities.
4. Meet with key members of the Legislature, including Sen. Haugen, Rep. Clibborn, Rep. Liias, Rep. Armstrong, and Rep. Billig to both advocate for SR 9 funding and to stay abreast of discussions regarding a potential funding package for transportation, which we expect to be a key subject during the 2012 Legislative session.
5. Meet with legislators from districts that include SR 9.
6. Advise SR 9 Coalition of timing for federal appropriations requests, review draft of funding proposals.
7. Provide monthly written summary.

January thru March 2012

1. Monitor and report on legislative hearings, particularly those involving transportation projects and budgets. Advise of opportunities for testifying on bills.
2. Prep SR 9 representatives for testifying at legislative hearings.
3. Meet occasionally with key legislative representatives and legislators along SR 9 to remind them of the need for funding.
4. Prep SR 9 Coalition members for meetings in Washington DC with Congressional Members and staff regarding funding for SR 9.
5. Provide monthly written summary.

This effort represents approximately 10 hours of work per month, perhaps more during the Legislative session. We propose doing this work at the same level/price (\$1,750 per month) for July through December. In November of 2011, we should discuss what level of effort the group wants to pay for during the 2012 Legislative session.

In terms of Strategies 360 personnel, Al Aldrich will do most of the work with legislators and will be the registered lobbyist. Al will be the lead on meeting with the agencies and organizations identified in the scope of work (WSDOT, PSRC, etc.) Al and Mary Swenson both will be involved in most of the meetings with the Cities in the SR 9 Coalition, either in person or by phone. Mary will also participate in some informational meetings with legislators and meetings with other organizations (WSDOT, PSRC, etc.). Other personnel at Strategies 360 will be involved on occasion; for example, other staff who work in Olympia will be consulted for strategic ideas and information, our creative director will be involved in designing and producing any written materials, and our staff who work frequently with coalitions and campaigns will be utilized for assistance with work in that area.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: July 11, 2011

Subject: Cashier's Change Fund

Contact Person/Department: Barb Lowe/ Finance Director **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Approve Ordinance No. 8 57 amending the cashier's change funds at the Police Station.

SUMMARY/BACKGROUND: Currently there are four separate change funds at City Hall of \$100.00 each and four separate change funds of \$75.00 each at the Police Station. This ordinance increases three of the four funds at the Police Station to \$100.00 and one to \$200.00. The increase is to provide the change needed to accommodate the larger bills commonly received with passport payments. No changes are being recommended for the City Hall change funds.

APPLICABLE CITY POLICIES: City Council approves the creation of change funds and their amounts.

BUDGET IMPACT: N/A

ATTACHMENTS:

- ▶ Exhibit A: Ordinance No. 857
- ▶ Exhibit B:
- ▶ Exhibit C:

CITY OF LAKE STEVENS
LAKE STEVENS, WASHINGTON

ORDINANCE NO. 857

AN ORDINANCE AMENDING ORDINANCE NOS. 610, 587, 414, 751, 755, AND 807 CODIFIED AS LAKE STEVENS MUNICIPAL CODE SECTION 3.44.010, ENTITLED “CASHIER’S CHANGE FUND CREATED” TO ACCOMMODATE CUSTOMER PAYMENTS AT CITY HALL AND THE POLICE STATION.

WHEREAS, there is a need to provide separate cash funds for each individual who receipts payments at City Hall and at the Police Station with adequate funds to accommodate customer payments, and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DO ORDAIN AS FOLLOWS:

Section 1. Ordinance Nos. 610, 587, 414, 751, 755, and 807 codified as Lake Stevens Municipal Code Section 3.44.010, entitled “Cashier’s Change Fund Created”, is hereby amended to read as follows:

3.44.010 Cashier’s Change Fund Created. The City of Lake Stevens shall retain four separate cash funds at City Hall of \$100.00 each and four separate cash funds at the Police Station; three at \$100.00 each and one at \$200.00, ~~of \$75.00 each at the Police Station,~~ known as the Cashier’s Change Funds, to accommodate customer payments.

Section 2. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in force five (5) days after the date of publication.

PASSED by the City Council of the City of Lake Stevens this 11th day of July, 2011.

Vern Little, Mayor

ATTEST/AUTHENTICATION:

Norma J. Scott, City Clerk

APPROVED AS TO FORM:

Grant Weed, City Attorney

First and Final Reading:
Published:
Effective:



LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: July 11, 2011

Subject: Ordinance #858 Establishing a Moratorium Relating to Medical Marijuana

Contact Person/Department: City Administrator Jan Berg **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:

Approve Ordinance #858 Adopting a moratorium on the establishment of medical marijuana dispensaries, collective gardens and the licensing and permitting thereof and set the public hearing for August 22, 2011.

SUMMARY/BACKGROUND:

Recent legislation signed by Governor Gregoire (ESSB 5073, with partial veto) could lead to requests for the City to authorize dispensaries or collective gardens for medical marijuana which the City currently does not have regulations for these types of uses. State law (RCW 36.70A.390) allows local governments to enact moratorium or interim controls for land use matters. A moratorium is appropriate when a city wishes to preserve the status quo while it studies and considers the potential for new regulations.

Staff is recommending a moratorium to give the City the opportunity to evaluate potential community impacts and determine whether regulations relating to these uses are necessary and appropriate.

APPLICABLE CITY POLICIES:

City Council is the authorizing body to approve six month moratorium

BUDGET IMPACT:

None

ATTACHMENTS:

- ▶ Exhibit A: Ordinance #858



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**CITY OF LAKE STEVENS
Lake Stevens, Washington**

ORDINANCE NO. 858

AN INTERIM ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES, COLLECTIVE GARDENS, AND THE LICENSING AND PERMITTING THEREOF; DEFINING “MEDICAL MARIJUANA DISPENSARY;” PROVIDING FOR A PUBLIC HEARING; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION

WHEREAS, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana; and

WHEREAS, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be “construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes;” and

WHEREAS, the Washington State Department of Health opines that it is “not legal to buy or sell” medical marijuana and further opines that “the law [Chapter 69.51.A RCW] does not allow dispensaries,” leaving enforcement to local officials; and

WHEREAS, the City Council finds that the sale of marijuana, no matter how designated by dispensaries, is prohibited by federal and state law; and

WHEREAS, ESSB 5073 – Chapter 181, Laws of 2011 (“the bill”) was adopted with a partial veto of the Governor, and becomes effective July 22, 2011; and

WHEREAS, Section 404 of the bill effectively eliminates medical marijuana dispensaries as a legally viable model of operation under state law; and

WHEREAS, Section 403 of the bill provides that qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to compliance with specific statutory conditions; and

WHEREAS, the City acknowledges the right of qualified health care professionals to prescribe the medical use of marijuana as well as the right of patients to designate a “designated provider” who can “provide” rather than sell marijuana to “only one patient at any one time;” and

WHEREAS, the City Council finds that the secondary impacts associated with marijuana dispensaries and collective gardens include, but are not limited to, the invasion of the business, burglary, and robbery associated with the cash and drugs maintained on the site; and

WHEREAS, pursuant to Section 1102 of the bill and under their general zoning and police powers cities are authorized to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes on the production, processing, or dispensing of cannabis or cannabis products; and

WHEREAS, a public hearing will be held on August 22, 2011 before the Lake Stevens City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Lake Stevens prohibiting licensing, permitting, establishment, maintenance, or continuation of any use consisting of or including the sale, provision, and/or dispensing of medical marijuana to more than one person, the establishment of a medical marijuana dispensary, or creation of or participation in a “collective garden” as referenced and defined in Section 403 of ESSB 5073 – Chapter 181, Laws of 2011.

Section 2. “Medical marijuana dispensary” is hereby defined as any person, business, corporation, partnership, joint venture, organization, association, and/or other entity which: 1) sells, provides, and/or otherwise dispenses marijuana to more than one “qualifying patient” in any thirty (30) day period, or to any person who does not meet the definition of “qualifying patient” under the terms of Chapter 69.51A RCW; and/or 2) maintains and/or possesses more than one sixty-day supply of marijuana for one qualifying patient at any time. The receipt of cash or other legal tender in exchange for, contemporaneously with or immediately following the delivery of marijuana to a qualifying patient shall be presumed to be a sale. Any person, business, corporation, partnership, joint venture, organization, association, and/or entity which sells, provides, and/or otherwise dispenses marijuana to more than one qualifying patient in any sixty (60) day period should be presumed to be a “medical marijuana dispensary.”

Section 3. Until such time as the Lake Stevens Municipal Code may be amended to authorize such land uses, medical marijuana dispensaries and collective gardens are hereby designated as prohibited uses in the City of Lake Stevens, in accordance with the provisions of RCW 35A.82.020 and the Land Use Development Code, codified as Title 14 LSMC. No business license, permit, zoning, or development approval shall be issued to a medical marijuana dispensary or collective garden.

Section 4. The City Council hereby directs that a work plan be developed by City staff to identify a process for review of medical marijuana dispensaries and collective gardens for potential regulation and inclusion in the Lake Stevens Municipal Code. Said work plan will be presented to the City Council for review before the sunset of this ordinance.

Section 5. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, a copy of this interim ordinance shall be transmitted to the Washington State Department of Commerce.

Section 6. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title, PROVIDED, HOWEVER, that unless extended by the act of the Lake Stevens City Council, this ordinance shall automatically expire six (6) months following its adoption.

ADOPTED by the City Council and **APPROVED** by the Mayor this 11th day of July, 2011.

CITY OF LAKE STEVENS

By: _____
Vern Little, Mayor

ATTEST/AUTHENTICATED:

By: _____
Norma Scott, City Clerk/Admin. Asst.

APPROVED AS TO FORM:

By: _____
Grant K. Weed, City Attorney

Date of Publication:

Effective Date:



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: 11 July 2011

Subject: Request for Code Change or Variance Regarding Undergrounding Power Service

Contact Mick Monken **Budget Impact:** NA
Person/Department: Public Works

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Discussion Only

SUMMARY/BACKGROUND: John Personius had made a request to the City for a waiver to allow an existing temporary overhead utility service to remain as a permanent service to his new constructed facility. The Lake Stevens Municipal Code (LSMC) 14.60.450 (a) requires that the all utilities shall be placed underground with a few exceptions (ie: an exception could include not being feasible to go underground such as through a wetland or where all existing surrounding properties are overhead and will be undergrounded with a future roadway improvement). Staff had determined that the exceptions do not apply and to grant this request would require a change to the LSMC. Mr. Personius is requesting an exception at the Council level.

Mr. Personius had opened a new espresso stand by relocating his building from a previous site in the Frontier Village complex in 2009. At the time of opening, a temporary (time limited up to 18 months) overhead power service was provided by PUD. This time had been extended by PUD but they are seeking a fix date when a permanent solution will be decided. An administrative time extension to complete the work was granted twice to allow extra time for the applicant to complete the required improvement. Physically, the conversion from the temporary overhead to underground is feasible and uncomplicated. Also, all new structures in the area have underground services. Mr. Personius had expressed that the concern was that the cost to do this conversion is too expensive.

Under the current code, Staff did not find any of the exceptions to apply to Mr. Personius's site nor was it determined that staff had the ability to vary from the code through an interpretation. Furthermore, staff has been consistently enforcing this code in similar type businesses in the past few years which had made the same request and had since complied. For these reasons, Staff's opinion is that a code revision would be required to allow this site to remain with overhead power. If such a code revision is made, it needs to be applicable to all future developments.

APPLICABLE CITY POLICIES: Comp Plan Policy 7.3.6 – The City will require underground utilities in all new developments. LSMC 16.60.450 Underground Utilities.

BUDGET IMPACT: NA. If a code amendment is decided, estimate cost for legal, staffing, and administration is \$5,000-\$8,000.

ATTACHMENTS:

- ▶ Exhibit A: LSMC 14.60.450

EXHIBIT A

14.60.450 Underground Utilities.

- (a) Except as noted in subsections (c) through (e) of this section, all existing, extended, and new electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, cable television, and other communication lines in or adjacent to any land use or building permit approved after the effective date of this chapter shall be placed underground in accordance with the specifications and policies of the respective utility service providers and located in accordance with the currently adopted version of the Engineering Design and Development Standards for the City of Lake Stevens. In the event the distribution line originates from a point opposite any public roadway from the new construction the service lines shall be placed beneath said roadway by means of boring or surface excavation across said roadway.
- (b) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of the ordinance codified in this chapter, then all electric, power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility companies.
- (c) Building permits for additions, alterations, or repairs within any 12-month period and equal to less than 50 percent of the total value of the existing building or structure shall not be subject to the requirements of this section.
- (d) If the Public Works Director determines that an underground system cannot reasonably be installed according to accepted engineering practices, the requirements of this section may be waived upon receipt of a written notice from the appropriate utility service provider. Such a waiver shall be noted in the permit or shall be construed as not being granted. If undergrounding is determined not to be feasible, the applicant must either sign a concomitant agreement or a no protest agreement of the formation of an LID for future undergrounding. Determination of which form of promissory shall be used shall be at the discretion of the Public Works Director.
- (e) Nothing in this section nor any other section in relation to underground utilities shall apply to power lines carrying a voltage of 15 kV or more, nor shall it be constructed to prohibit the placement of said mounted transformers, terminal pedestal, or other electrical and communications devices above ground, as determined by the appropriate utility service provider involved. (Ord. 796, Sec. 23, 2009; Ord. 590, 1998; Ord. 468, 1995)