# City of Dayton, Washington

# Shoreline Master Plan

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# Chapter 15 Shoreline Master Program

## 15-01 General Provisions

### 15-01.010 Title

This Title shall be known as the City of Dayton's Shoreline Master Program (SMP), hereafter referred to as the Master Program or SMP.

### 15-01.020 Authority

The Master Program is adopted in accordance with the Shoreline Management Act (chapter 90.58 RCW) and the State Shoreline Guidelines (chapter 173-26 WAC).

Where these regulations require that public access be provided, the requirement shall be construed to be limited to the extent of the lawful and constitutional authority of the City to require public access or to require the easement, fee ownership, or interest requested.

### 15-01.030 Purpose

The purpose of this Master Program is to:

- Promote the public health, safety, and general welfare of the community;
- Manage shorelines in a positive, effective, and equitable manner;
- Achieve no net loss of the ecological functions of the City of Dayton's shorelines;
- Assume and carry out the responsibilities established by the Shoreline Management Act (SMA);
- Adopt and foster the policies contained in chapter 90.58 of the Revised Code of Washington (RCW), the State SMA, for shorelines of the State; and
- Provide assurance that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights.

### 15-01.040 Shoreline Elements

RCW 90.58.100(2) states that Master Programs shall, when appropriate, include the following elements:

- Economic Development
- Public Access
- Recreation
- Circulation
- Land Use
- Conservation
- Historic/Cultural Values
- Flood Hazard Reduction

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The following goals and objectives have been considered in the preparation of this Master Program for the City of Dayton. The goals and objectives established for these elements reflect community ideals as presented in local visioning meetings and provide the basis for policies and regulations included in this Master Program.

## ECONOMIC DEVELOPMENT

Goal SMP 1: Balance the amount of land available for shoreline economic development with land available for conservation purposes to ensure opportunities for economic growth while maintaining the current ecological characteristics and functions within the shoreline jurisdiction.

Objective SMP 1.1: Use the current state of ecological conditions, as found in the most recent Shoreline Inventory and Characterization Report, when determining buffer widths.

Objective SMP 1.2: Craft regulations to create a preference for water-dependent and water-oriented development within the shoreline zone.

## PUBLIC ACCESS

Goal SMP 2: Maintain and improve current levels of access to the river while protecting private property.

Objective SMP 2.1: Provide notice when private property is crossed by levee paths.

Action SMP 2.1.1: Inform citizens that the levee paths and stretches of the river cross private property at different points.

Action SMP 2.1.2: Place signage along levee paths where public property stops and private property begins.

Objective SMP 2.2: Limit vehicle traffic along levee paths to only authorized users.

Objective SMP 2.3: Identify opportunities for increased access

## RECREATION

Goal SMP 3: Retain or improve current levels of shoreline access and walkability.

Objective SMP 3.1: Support projects to explore, extend, and improve levee path system and shoreline access.

Action SMP 3.1.1: Explore feasibility of pedestrian bridge near Smith Hollow.

Action SMP 3.1.2: Explore feasibility of trail system near Rock Hill.

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## LAND USE

See Goals SMP-2 and SMP-5.

## CONSERVATION

Goal SMP 4: Identify and protect areas of high value shoreline habitat and support ongoing watershed enhancement projects in Dayton and upstream of the City to ensure that the net shoreline ecological functions are preserved or enhanced throughout the future shoreline planning period.

Objective SMP 4.1: Discourage development or land-altering shoreline uses within areas identified as habitat conservation areas in the Shoreline Inventory and Characterization Report.

Objective SMP 4.2: Minimize pollutants to the river in coordination with the Touchet River Total Maximum Daily Load allocation.

Objective SMP 4.3: Support fish recovery efforts within and upstream of the City by coordinating with federal Fish and Wildlife agencies, Columbia County, and the Salmon Recovery Board on grant applications and encourage such projects in the regulations.

Objective SMP 4.4: Save dying cottonwood trees in Mustard Creek drainage by reopening outlet from Touchet River.

Objective SMP 4.5: Explore feasibility of adding fast-growing trees landward of levee on the west side of the Touchet River that will provide shade to levee path and the River.

## FLOOD HAZARD REDUCTION

Goal SMP 5: Maintain current levels of flood control.

Objective SMP 5.1: Maintain levee integrity to prevent flood damage.

Action SMP 5.1.1: Follow recommended actions on levee maintenance, including dredging increased shoaling areas and controlling vegetation.

Objective SMP 5.2: Explore public/private partnerships for debris removal in Patit Creek beyond managed area.

Objective SMP 5.3: Do not lose U.S. Army Corps of Engineers (USACE) levee certification.

Action SMP 5.3.1: Work with USACE to increase amount of vegetation allowed on, or at base of, levee.

## 15-01.100 Project Review and Permitting

This Section defines requirements for implementation of the Master Program and sets an orderly process for project review and permitting. The development regulations in the Master Program are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, while protecting the public's interest in the shorelines' recreational and aesthetic values and the ecological function of the shoreline and riparian area.

## 15-01.110 Director

The Planning Director, or designee, is the Shoreline Director, hereinafter known as the Director, and is vested with authority to:

- Administer the Master Program;
- Approve, approve with conditions, or deny shoreline permits;
- Grant written exemptions from substantial development permits;
- Determine compliance with chapter 43.21C RCW, the State Environmental Policy Act; and
- Adopt rules that support and enforce the provisions of this chapter.

The Director's duties and responsibilities include:

- Making administrative decisions and interpretations of the policies and regulations of the Master Program and the SMA;
- Developing and proposing amendments to this Master Program to more effectively and equitably achieve its goals and policies;
- Seeking remedies for violations of this Master Program, the provisions of the SMA, or the conditions of substantial development permits, conditional use permits, and variances issued by the City; and
- Forwarding shoreline permits to federal and Washington State Departments, including the Washington State Department of Ecology (Ecology), the Washington State Department of Fish and Wildlife (WDFW), and the USACE for action.

## 15-01.120 Applicability

A. The regulations of this chapter apply to the land area beneath the Touchet River, associated wetlands, and lands that extend 200 feet landward in a perpendicular direction from either shore. This area shall be known as the Shoreline Management Area.

B. Nothing in this Master Program shall constitute authority for requiring the removal of any structures, improvements, fills, or developments placed in managed waters prior to the adoption of the revised shoreline master program and maintained in conformance with this chapter and the SMA.

C. All proposed uses and development, as defined in this chapter, occurring within the Shoreline Management Area shall comply with this Master Program and chapter 90.58 RCW.

D. Uses and development regulated by this Master Program are subject to applicable provisions of the Dayton Municipal Code (DMC), the City of Dayton's Comprehensive Plan, the SMA (chapter 90.58 RCW), the Washington State Growth Management Act (chapter 36.70A RCW), the Washington State Environmental Policy Act (chapter 43.21C RCW and chapter 197-11 WAC) and other local, state, and federal laws. Project proponents shall be responsible for complying with all applicable laws prior to commencing any use, development, or activity.

E. The Master Program policies and regulations shall apply in addition to other City regulations. Where the regulations of the Master Program conflict with other regulations, the regulations that provide more shoreland and shoreline protection shall apply.

F. Nonconforming uses and improvements within the Shoreline Management Area shall be subject to this Master Program and DMC 11-09. Where provisions of this Master Program conflict with other laws, ordinances, or programs, the most restrictive shall apply.

G. Once the Master Program is adopted by Ecology and the City, the provisions of DMC Title 17 Critical Areas Ordinance (CAO) shall apply to any use, alteration, or development outside the Shoreline Management Area and any portion of a buffer or other critical area protection measure for a critical area within shoreline jurisdiction that extends beyond the Shoreline Management Area. The regulations to protect critical aquifer recharge areas and potential slide hazard areas in DMC Title 17 shall continue to apply within the Shoreline Management Area.

H. Uses and developments within the Shoreline Management Area that meet the Reasonable Use Exception provisions of DMC 17-01.094 require a variance in accordance with this chapter.

I. The exemptions and partial exemptions listed in sections DMC 17-05.040 shall not apply within the Shoreline Management Area. Such activities may require a substantial development permit, variance, or conditional use permit unless the Master Program and RCW 90.58.030(3)(e) specifically indicate the activity is exempt from the substantial development permit requirements.

## 15-01.130 Enforcement

The Director is authorized to enforce the provisions of this title and any rules and regulations promulgated hereunder pursuant to the enforcement and penalty provisions of chapter 173-27 WAC.

# 15-02 Definitions

## 15-02.010 Shoreline Master Plan Definitions

The Master Program shall be implemented according to the definitions contained in chapter 15 DMC, chapter 90.58 RCW, and WAC 173-26-020. Where definitions contained in chapter 15 DMC conflict or differ from definitions contained in the SMA, the definitions in chapter 90.58 RCW and WAC 173-26-020 shall prevail.

## 15-02.020 Definitions A through E

**Accretion:** Accretion may be either natural or artificial. Natural accretion is the buildup of land, solely by the action of the forces of nature, on a beach by deposition of water or airborne material. Artificial accretion is a similar buildup of land due to an act of man, such as the accretion formed by a groin, breakwater, or beach fill deposited by mechanical means.

**Act:** Chapter 90.58 RCW, the Shoreline Management Act of 1971, as amended.

**Activity:** An occurrence associated with a use; the use of energy toward a specific action or pursuit. Examples of shoreline activities include, but are not limited to, fishing, swimming, boating, dredging, fish spawning, or wildlife nesting.

**Adjacent Lands:** Lands adjacent to the lands within the Shoreline Management Area. The SMA directs local governments to develop land use controls (i.e., zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules, and the local shoreline master program (Refer to RCW 90.58.340)

**Agricultural Uses:**

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

(b) **"Agricultural products"** includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within 20 years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

(c) **"Agricultural equipment"** and **"agricultural facilities"** includes, but is not limited to,

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

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

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

(iv) Roadside stands and on-farm markets for marketing fruit or vegetables.

(d) **"Agricultural land"** means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

**Anadromous fish:** Fish born in fresh water, which spend most of their lives in the sea and return to fresh water to spawn. Salmon, smelt, shad, striped bass, and sturgeon are common examples.

**Archaeology:** The systematic, scientific study of the human past through material remains.

**Archaeological Object:** An object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains, and technological by-products.

**Archaeological Resource Site:** A geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the waters within the state's jurisdiction, that contains archaeological objects.

**Associated Wetlands:** Those wetlands that are in proximity to and either influence, or are influenced by, tidal waters or a lake or stream subject to the SMA. Refer to WAC 173-22-030(1).

**Aquaculture:** The farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater areas, which may include development such as structures or rafts, as well as use of natural spawning and rearing areas.

**Aquaculture Activity:** Actions directly pertaining to growing, handling, or harvesting of aquaculture produce, including, but not limited to, propagation, stocking, feeding, disease treatment, waste disposal, water use, and development of habitat and structures. Excluded from this definition are related upland commercial or industrial uses such as wholesale and retail sales, sorting, staging, hatcheries, tank farms, and final processing and freezing.

**Backfill:** The placement of earth material or other approved material behind a retaining wall or structure.

**Boat Launch or Ramp:** Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

**Bulkheads:** A vertical or nearly vertical structure placed parallel to the shoreline at or near the ordinary high water mark (OHWM) for the purpose of armoring the shoreline and protecting structures from the effects of erosion caused by wind or waves. Bulkheads generally consist of concrete, timber, steel, rock, or other material resistant to erosion. Bulkheads are used to protect banks by retaining soil at the toe of the slope or by protecting the toe of the bank from erosion and undercutting.

**Conditional Use:** A use that may be permitted in a particular shoreline designation, but because of the type or nature of the use, conditions for its establishment and operation may be necessary to ensure compatibility with adjacent land uses. In addition, a conditional use is any use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program under DMC 15-06.050.

**Department:** The Washington State Department of Ecology.

**Development, Shoreline:** Development within the Shoreline Management Area means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level. Refer to RCW 90.58.030(3)(d).

**Director:** City Planning Director, or designee, for the City of Dayton.

**Dredging:** The removal or displacement of earth, such as gravel, sand, mud, or silt, from lands covered by water. Lands covered by water include stream beds and wetlands. Dredging is normally done for specific purposes or uses such as maintaining navigation channels, constructing bridge footings, or laying submarine pipelines or cable.

**Dredge Spoil:** The material removed by dredging.

**Dredge Spoil Disposal:** The depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands or for disposing of the material in an acceptable manner.

**Ecological Functions** or **Shoreline Ecological Functions:** The work performed or the 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. See WAC 173-26-201(2)(c).

**Enhancement:** Alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.

**Exemption:** Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. Exempt development must otherwise comply with applicable provisions of the act and the local master program.

## 15-02.030 Definitions F through M

**Fair Market Value:** Fair market value of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. Fair market value 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, that meets all of the following conditions:

> (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
>
> (b) The action provides a reasonable likelihood of achieving its intended purpose; and
>
> (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

**Flood Control:** Any undertaking made for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

**Forest Practices:** An activity related to the growing, protecting, harvesting or processing of forest tree species.

**Forest Tree Species:** Groupings of individual trees that possess common characteristics and are capable of producing fertile progeny.

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**Gabions:** Cages, cylinders, or boxes filled with soil or sand that are used in civil engineering, road building, and military applications, primarily for erosion control and building dams and retaining walls.

**Geohydrology:** A science that deals with the character, source, and mode of occurrence of underground water.

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

**Guidelines:** Refers to the administrative rule adopted by Department of Ecology, WAC 173-26, State master program approval/amendment procedures and master program guidelines.

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

**Groundwater Recharge:** A hydrologic process where water moves downward from surface water to groundwater. Recharge occurs both naturally (through the water cycle) and anthropologically (i.e., "artificial groundwater recharge"), where rainwater and or reclaimed water is routed to the subsurface.

**Height:** Height is measured from average grade level to the highest point of a structure. Television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included. Temporary construction equipment is excluded from this calculation.

**Historic Preservation Professional:** Those individuals who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

(a) At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

(b) Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

**Historic Site:** Those sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places, or any locally developed historic registry formally adopted by the Dayton City Council.

**Hydric Soil:** Soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper soil horizon(s).

**Institutional Development:** Development of structures and landscaped areas dedicated to community service activities: including educational and group home facilities.

**Land Disturbing Activities:** Any activity resulting in a movement of earth, or a change in the existing soil cover, both vegetative and non-vegetative, or the existing topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, excavation, or addition of new or the replacement of impervious surface. Compaction, excluding hot asphalt mix, which is associated with stabilization of structures and road construction, shall also be considered a land disturbing activity.

**Landfilling:** The placement of soil, rock, existing sediment, or other approved material (excluding solid waste) to create new land, tideland, or bottom land area along the shoreline below the OHWM, or on wetland or upland areas in order to raise the elevation.

**Levee:** A structure, normally of earth or stone, built generally parallel to a river to protect land from flooding. A levee is a complete unit, designed and intended for flood control. A levee (excluding a ring levee) is always tied to high ground at both ends.

**Linear Corridor:** A parcel of land, linear in nature, without fixed limits or boundaries that is used as the location for one or more transportation or utility rights-of-way.

**Low-Impact Development:** A term used in Canada and the United States to describe a land planning and engineering design approach to managing stormwater runoff. Low-Impact Development emphasizes conservation and use of on-site natural features to protect water quality. This approach implements engineered small-scale hydrologic controls to replicate the pre-development hydrologic regime of watersheds through infiltrating, filtering, storing, evaporating, and detaining runoff close to its source.

**May:** An acceptable action provided it conforms to the provisions of the Master Program.

## 15-02.040 Definitions N through Z

**Native Conservation Area (NCA):** Area landward of the OHWM where native vegetation shall be conserved to maintain net shoreline ecological functions or planted and maintained to restore

said functions, where necessary. The distance landward may differ depending on the Shoreline Environmental Designation in effect.

**Native Vegetation:** Vegetation comprised of plant species, other than noxious weeds, that are indigenous to riparian regions of the Inland Northwest and which reasonably could have been expected to naturally occur on the site.

**NCA Vegetation Plan:** Drawing indicating the location and approximate sizes of existing and proposed vegetation. Plan will accompany site development plans when said development impacts native vegetation on-site and/or planting of new vegetation is proposed.

**Nonconforming Use and Development:** A shoreline use or development that was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, but that does not conform to present regulations or standards of the program.

**Nonwater-oriented Uses:** Those uses that are not water-dependent, water-related, or water-enjoyment.

**Normal Maintenance, Structures:** Normal maintenance includes interior and exterior repairs and incidental alterations. Normal maintenance and repair may include, but is not limited to, painting, roof repair and replacement, plumbing, wiring and electrical systems, mechanical equipment replacement and weatherization. Incidental alterations may include construction of nonbearing walls or partitions. In regard to bulkheads, and particularly the exemption described in DMC 15-03.030, repairs also include increasing the overall height of an existing wall for the purpose of preventing wave over topping and undermining of the existing structure, provided that the added height does not extend waterward of the existing footing and a qualified professional has issued a determination that a deflector is necessary and of the minimal size to be effective.

**Normal Maintenance, Non-Structures:** Normal maintenance consists of repairs and modifications necessary to keep an item in good working order. It does not include modifications that increase or decrease the original use of the item.

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

**Permit:** A permit is a document or certificate giving permission to do something or a license or warrant authorized under chapter 90.58 RCW.

**Professional Archaeologist:** A person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

**Public Access:** Public access is the ability of the general public to reach, see, 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. Refer to WAC 173-26-221(4).

**Public Facilities:** Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Resource Agency:** A federal, state, or interstate agency with responsibilities in the areas of flood control, navigation, irrigation, recreation, fish or wildlife, water resource management, or cultural or other relevant resources of the state in which a project is or will be located.

**Restoration:** The reestablishment or upgrading of impaired ecological processes or functions. This may be accomplished through measures, including, but not limited to, revegetation, removal of intrusive structures, toxic materials, or invasive or non-native plants. Restoration does not imply a requirement for returning the area to pre-European settlement conditions.

**Revetment:** A sloped wall constructed of riprap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes away from the water and has a rough or jagged face. These features differentiate it from a bulkhead, which is a vertical structure. The principal features of a revetment are:

(a) Heavy armor layer,

(b) Filter layer, and

(c) Toe protection.

The flood control levees on the Touchet River are a type of revetment.

**Riparian:** The characteristic of relating to or living or located on the bank of a natural watercourse (as a river) or sometimes of a lake or a tidewater.

**Riparian Habitat Area:** The area adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contains elements of both aquatic and terrestrial ecosystems which mutually influence each other.

**Sediment:** The fine-grained material deposited by water or wind.

**Shall:** "Shall" in a policy means that it is mandatory for the city to carry out the policy, even if a timeframe is not included. "Shall" is imperative and nondiscretionary–-the city must make decisions based on what the policy says to do.

**Shorelands or Shoreland Areas or Shoreline Management Area:** Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; contiguous floodplain areas landward 200 feet; and all wetlands and deltas associated with the streams that are subject to the provisions of this chapter.

**Shoreline Environmental Designation:** Shoreline Environmental Designations are classifications of shoreline areas that reflect local shoreline conditions, including ecological functions and shoreline development. Per WAC 173-26-191(1)(d), environment designations provide "the framework for implementing shoreline policies and regulatory measures specific to the environment designation."

**Shoreline Habitat and Natural Systems Enhancement Projects:** Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing wildlife and fisheries habitat in shorelines. Projects may include shoreline modifications such as revegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

**Shoreline Master Program** or **Master Program:** The comprehensive plan for the use of a described area, and the regulations for use of the area including maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the Shoreline Master Program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

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

**Shorelines:** All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except:

(a) Shorelines of statewide significance; and

(b) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

**Shorelines of Statewide Significance:** Shorelines of the State that meet the criteria for "Shorelines of Statewide Significance" contained in RCW 90.58.030(2)(f). As it applies to the City of Dayton, shorelines of statewide significance include all of the shoreline of the Touchet River that lies within the City limits (>200 cubic feet per second [cfs] flow).

**Shorelines of the State:** This term includes both Shorelines and Shorelines of Statewide Significance.

**Should:** "Should" in a policy means noncompulsory guidance, in which cost, availability of funding, and public benefit associated with the policy's purpose are considered as part of the implementation decision; establishes that the county has discretion in making decisions.

**Significant:** That quality in American history, architecture, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

(a) That are associated with events that have made a significant contribution to the broad patterns of our history; or

(b) That are associated with the lives of significant persons in our past; or

(c) That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) That have yielded or may be likely to yield, information important in history or prehistory.

**Substantial Development:** Any development with a total cost or fair market value of six thousand four hundred and sixteen dollars ($6,416.00 [2012 figure]) or more that requires a substantial development permit. The threshold total cost or fair market value of $6,416.00 is set by the Washington State Office of Financial Management and may be adjusted in the future pursuant to the SMA requirements, as defined in RCW 90.58.030(3)(e), as now or hereafter amended.

**Variance:** A means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

**Water-dependent Use:** A use or portion of a use that cannot exist in a location that is not adjacent to the water, but is dependent on the water because of the intrinsic nature of its operations.

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

**Water-oriented Use:** 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. This may include water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, 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 chapter, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through RCW 90.03.340.

**Water-related Use:** A use or portion of a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

> (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
>
> (b) The use provides a necessary service supportive of the water-dependent uses, and the proximity of the use to its customers makes its services less expensive and/or more convenient.

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

# 15-03 SMP Permit and Review Procedures

## 15-03.010 Permit Requirements – General

A permit, or an exemption declared by the Director, is required for any development within the Shoreline Management Area. Per WAC 173-27-040(1)(b):

> *"an exemption from the substantial development permit process is not an exemption from compliance with the act or the local Master Program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the applicable Master Program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local Master Program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the Master Program, such development or use can only be authorized by approval of a variance."*

A. Based on the provisions of this Shoreline Master Program, the Director shall determine if a written statement of exemption, a substantial development permit, a conditional use permit and/or a variance is required.

B. A permit is required for substantial development, as defined in RCW 90.58.030(3)(e), within the Shoreline Management Area.

C. A substantial development permit is not required for exempt development. Exempt development requires a written statement of exemption pursuant to DMC 15-03.030(A) and may require a variance from Master Program provisions and/or a conditional use permit.

D. All uses and development shall be carried out in a manner consistent with the DMC and the SMP regardless of whether a substantial development permit, written statement of exemption, variance, or conditional use permit is required.

E. When a development is proposed that does not comply with the bulk, dimensional, and/or performance standards of this Master Program, such development may only be authorized by approval of a variance, even if the development or use does not require a substantial development permit.

F. Any uses not specifically addressed in this document may be permitted with a conditional use permit.

G. Issuance of a written statement of exemption, substantial development permit, variance, or conditional use permit does not constitute approval of any other city, state, or federal laws or regulations.

H. All permits or written statements of exemption issued for development or use within the Shoreline Management Area shall include written findings prepared by the Director documenting compliance with bulk and dimensional policies and regulations of the SMP. The Director may attach conditions to the approval as necessary to assure consistency with the Shoreline Master Program and Chapter 90.58 RCW. The conditions may include a requirement to post a performance financial guarantee assuring compliance with permit requirements, terms and conditions.

## 15-03.020 Substantial Development Permit

A. Substantial development as defined by RCW 90.58.030 and the Master Program shall not be undertaken by any person on Shorelines of the State without first obtaining a substantial development permit from the Director, unless the use or development is specifically allowed with a letter of exemption.

B. A substantial development permit shall only be granted by the Director when the development proposed is consistent with the policies and procedures of chapter 90.58 RCW, the provisions of chapter 173-27 WAC, and the Master Program.

C. An exemption from the substantial development permit requirements does not constitute an exemption from the policies and use regulations of the SMA, the provisions of this Master Program or other applicable city, state, or federal requirements. A formal written statement of exemption is required pursuant to WAC 173-27-050.

## 15-03.030 Exemption

The Director is hereby authorized to approve or deny requests for written statements of exemption from the substantial development permit requirement for uses and developments within the Shoreline Management Area that are specifically listed in RCW 90.58.030(3)(e) and WAC 173-27-040. The written statement shall indicate the specific exemption of the Master Program that is being applied to the development and shall provide a summary of the Director's analysis of the consistency of the project with this Master Program and the SMA. The statement shall include any conditions required to assure compliance with the SMA or this Master Program. When filing for a written statement of exemption, only forms provided by the City can be used.

If any part of a proposed development is not eligible for a Letter of Exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the Shoreline Substantial Development Permit.

A. A complete list of exemptions is provided in WAC 173-27-040. A list of exemptions, abbreviated for specificity to the City of Dayton, appears below.

1. Any development of which the total construction cost or fair market value, whichever is higher, does not exceed six thousand four hundred and sixteen ($6,416) dollars, as adjusted by the Washington State Office of Financial Management according to RCW 90.58.030(3)(e) (2012 calculation, will be calculated again in 2017), and 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 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.

2. 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 the shoreline resource or environment.

3. Replacement of a structure or development may be authorized as repair where such replacement is:

    a. The common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development, including, but not limited to, its size, shape, configuration, location, and external appearance; and

    b. The replacement does not cause substantial adverse effects to shoreline resources or environment.

4. Construction of a normal protective bulkhead common to residential parcels.

    a. A normal protective bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing residence and appurtenant structures from loss or damage by erosion.

    b. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill.

    c. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual OHWM.

d. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the WDFW.

5. 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 that requires immediate action within a time too short to allow full compliance with chapter 15-03 DMC.

   a. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Director 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 that would have been required, absent an emergency, pursuant to chapter 90.58 RCW, WAC 173-27, or the SMP, shall be obtained.

   b. All emergency construction shall be consistent with the policies and requirements of chapter 90.58 RCW and the SMP. 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.

   The City manages and maintains a levee in cooperation with the USACE. Maintenance to this levee may also require permitting from the USACE, depending on the level and severity of the project.

6. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence or appurtenance for his/her own use or for the use of his/her family, when the residence does not have a building height that exceeds thirty-five (35) feet above average grade level, and meets all requirements of the DMC and this chapter. Construction authorized under this subsection shall be located landward of the Native Conservation Area.

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 from the irrigation of lands.

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

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. Any project with certification from the State Energy Facility Site Evaluation Council from the Governor, pursuant to chapter 80.50 RCW.

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

    a. The activity does not interfere with the normal public use of surface waters;

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

    c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and

    d. The Applicant first posts a performance surety acceptable to the City to ensure that the site is restored to pre-existing conditions.

12. Watershed restoration projects as defined in WAC 173-27-040(2)(o). The Director shall review the projects for consistency with the Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) 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.

13. A public or private project that is designed to improve fish or wildlife habitat or fish passage as reviewed by the WDFW and all the following apply:

    a. The project has been approved in writing by the WDFW;

    b. The project has received hydraulic project approval by the WDFW pursuant to chapter 77.55 RCW; and

    c. The Director has determined that the project is substantially consistent with the Master Program and shall notify the Applicant of such determination by letter.

B. When a development meets the exemption criteria as listed in this section and WAC 173-27-040 and is subject to a USACE Section 10 or Section 404 permit, a copy of the written exemption shall be sent to the Department.

C. Before issuing an exemption, the Director shall review the Master Program to determine if the proposed development requires a variance and/or a conditional use permit.

## 15-03.040 Variance

The purpose of a variance is to grant relief from specific bulk or dimensional requirements set forth in the Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Master Program would impose unnecessary hardships on the applicant or diminish the policies set forth in RCW 90.58.020.

A. The Hearings Examiner is authorized to approve a variance from the performance standards of this Master Program only when all of the criteria enumerated in WAC 173-27-170 are met.

B. A variance should be granted in circumstances where denial of the permit would prevent accomplishment of the policies enumerated in RCW 90.58.020.

C. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest will not suffer substantial detrimental effect.

D. Prior to approval of any variance, the Hearing Examiner shall consider the cumulative environmental impacts of previous, existing, and possible future requests for like actions in the area. The total effects of approved variances should remain consistent with the policies of RCW 90.58.020 and shall not produce significant adverse effects to the shoreline ecological functions, processes, or other users.

E. Before making a determination to approve a variance, the Hearings Examiner shall consider issues related to the conservation of valuable natural resources and the protection of views from public lands.

## 15-03.050 Conditional Use Permit

The purpose of a shoreline conditional use permit is to allow greater flexibility in the application of the use regulations of the Master Program in a manner consistent with the policies of RCW 90.58.020.

A. The Hearings Examiner is authorized to issue conditional use permits only when all the criteria enumerated in WAC 173-27-160 are met.

1. Uses that are classified or set forth in the master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

    a. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;

    b. That the proposed use will not interfere with the normal public use of public shorelines;

c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

e. That the public interest suffers no substantial detrimental effect.

2. 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.

3. Other uses that 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.

4. Uses that are specifically prohibited by the Master Program may not be authorized pursuant to either subsection 1 or 2 of this section.

## 15-03.060 Unclassified Uses and Activities

All uses and activities proposed in the Shoreline Management Area that are not classified by provisions in this SMP shall require a conditional use permit.

## 15-03.100 General Permit Procedures

A. Permits required under this chapter shall be processed consistent with the provisions of and the criteria in this subchapter.

B. No permit shall be approved unless the proposed development is consistent with the provisions of this Master Program, the SMA, and the rules and regulations adopted by the Washington State Department of Ecology.

## 15-03.110 Application Review

A. A complete application for a substantial development, conditional use, or variance permit shall contain, as a minimum, the following information:

1. The name, address, and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

2. The name, address, and phone number of the applicant's representative if other than the applicant.

3. The name, address, and phone number of the property owner, if other than the applicant.

4. Location of the property. This shall include, at a minimum, the property address and identification of the section, township, and range to the nearest quarter section, or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a latitude and longitude location.

5. Label the associated shoreline (water body) as “Touchet River”.

6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.

7. A general description of the property as it now exists including its physical characteristics, improvements, and structures.

8. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development, and physical characteristics.

9. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information (generally 1 inch = 60 feet), photographs, and text which shall include:

    a. The boundary of the parcel(s) of land upon which the development is proposed.

    b. The OHWM of all water bodies located adjacent to or within the boundary of the project. For any development where a determination of consistency with the applicable regulations requires a precise location of the OHWM, the mark shall be located precisely by a qualified professional. The physical, biological, and hydrological basis for the location shall be included in the development application narrative and shown on the development site plan. Where the proposed development appears to be over ten (10) feet beyond a development setback, the City’s estimate of the OHWM shall suffice for the purpose of application review.

    c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

    d. A delineation of all Critical Areas and associated buffers, including wetlands and wetland buffers within the parcel, as applicable.

e. The location of trees and shrubs and a general indication of the character of herbaceous vegetation found on the site. Where vegetation removal is proposed as part of the development, the species and diameter at breast height of trees to be removed shall be indicated on the plan.

f. The dimensions and locations of all existing and proposed structures and improvements, including, but not limited to, buildings, paved or graveled areas, roads, utilities, septic tanks and drain fields, material stockpiles or surcharge, and stormwater management facilities.

g. Where applicable, per Section 15.16.200, a separate NCA Vegetation Plan for the project.

h. Where applicable, separate plans for the development of mitigation areas on or off the site as compensation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section and the Critical Areas section (15.14.100).

i. Quantity, source, and composition of any fill material that is placed on the site whether temporary or permanent.

j. Quantity, composition, and destination of any excavated or dredged material.

k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments, and uses on adjacent properties.

l. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

m. On all variance applications, the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

B. It is the applicant's responsibility to provide proof that the proposed development is consistent with the permit criteria requirements.

C. The Director may approve, or approve with conditions, substantial development applications and written exemptions from substantial development as long as they comply with criteria imposed by the Master Program and the SMA.

D. The Director may attach to a permit any suitable and reasonable terms or conditions necessary to ensure the purpose and objectives of this Master Program and the SMA.

E. The Director shall deny any application that does not comply with and cannot be conditioned to comply with, the criteria, policies, or requirements of the Master Program or the SMA.

F. The Director may require a financial guarantee to assure full compliance with the terms and conditions of any substantial development permit, variance, or conditional use

permit. The guarantee shall be in an amount to reasonably assure the City that permitted improvements will be completed within the time stipulated.

G. The Director will schedule periodic reviews evaluating the cumulative effects of all shoreline projects.

## 15-03.120 Permit Process Requirements

**A. Application submittal:** Per DMC 10-01.030, complete applications for a substantial development permits are Type II actions. Variances and a conditional use permits are Type III actions. The applications will be processed pursuant to the procedures identified in this section.

**B. Notice:** For all submitted applications, the following notice procedures, per WAC 173-27-110, shall be followed:

1. Notification of the public, the Department, and other agencies with jurisdiction shall be provided for substantial development, conditional use, and variance permits.
2. Notice of application shall be provided within fourteen (14) days after the determination of completeness.
3. An open record pre-decision hearing is required for conditional use permits and variance permits. The notice of application shall be provided at least fifteen (15) days prior to the hearing.
4. Mailed Notice: Per DMC 10-03.010C, Public Notice of Application, notice shall be mailed to the latest recorded real property owners within three hundred (300) feet of the property upon which the development is proposed, plus individuals and organizations that have requested such notification, and agencies with jurisdiction.
5. Posted Notice: Posting of the property for site-specific proposals is required by the applicant and shall consist of one or more notice boards per DMC 10-03.010A, Public Notice of Application.
6. Published Notice. Notice shall be published in the city's official newspaper or in a newspaper of general circulation, and shall contain the project name, location, description, type of permit(s) required, comment period dates, and where the application may be viewed.

**C. Public Hearing:** Pre-decision public hearings shall be held before a Hearings Examiner.

**D. Decision:** For all submitted applications, the Director shall provide a Notice of Final Decision per chapter 10-01 DMC. Pursuant to RCW 90.58.140(6), the Director shall send the final decision, including findings and conclusions to the following State agencies:

1. Washington State Department of Ecology
2. Washington State Attorney General

**E. Department of Ecology Review of Permits:**

1. After the Hearings Examiner has approved a variance or conditional use permit, the Director, per WAC 173-27-200, shall file the permit with the Department for its approval, approval with conditions, or denial.

2. When a shoreline permit is required for a development, the local government's ruling on the permit shall be filed simultaneously with the Department.

3. The Department will issue its decision on a shoreline permit within thirty (30) days of filing.

4. Upon receipt of the Department's decision, the Director shall notify those interested parties having requested notification of such decision. The appeal period for Department decisions shall last twenty-one (21) days from receipt of their filing letter.

## 15-03.130 Appeals to State Shoreline Hearings Board

A. Appeals of the final decision of the City with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.

B. Any person with standing aggrieved by the granting, denying, or rescinding of a permit on Shorelines of the State, pursuant to RCW 90.58.140, may seek review from the Shorelines Hearings Board by filing a petition for review within twenty-one (21) days of the date of filing of the decision.

   Within seven (7) days of the filing of any petition for review with the Board as provided in this section pertaining to a final decision of a local government, the petitioner shall serve copies of the petition on the Department, the office of the Washington State Attorney General, and the local government. The Department and the Washington State Attorney General may intervene to protect the public interest and ensure that the provisions of this chapter are complied with at any time within fifteen (15) days from the date of the receipt by the Department or the Washington State Attorney General of a copy of the petition of review filed pursuant to this section. The Shorelines Hearings Board shall schedule review proceedings on the petition for review without regard as to whether the period for the Department or the Washington State Attorney General to intervene has or has not expired.

C. A decision of the Shorelines Hearings Board on the validity of a rule, regulation, or guideline shall be subject to review in Superior Court, if authorized pursuant to chapter 34.05 RCW. A petition for review of the decision of the Shorelines Hearings Board on a rule, regulation, or guideline shall be filed within thirty (30) days after the date of final decision by the Shoreline Hearings Board.

## 15-03.140 Initiation of Development

A. Development pursuant to a substantial development permit shall not be authorized until twenty-one (21) days after the "date of filing" of the Director's decision with the Department, provided no appeals are filed with the state.

B. Development for which a variance or conditional use permit is required shall not begin and shall not be authorized until twenty-one (21) days after the "date of filing" of the Department's decision with the Director.

C. Development pursuant to a Letter of Shorelines Exemption shall not be authorized until all appeal proceedings with the City have terminated.

D. Development shall not be authorized until all appeal proceedings before the Shoreline Hearings Board have terminated.

## 15-03.150 Expiration of Permits

The City may specify the length of time a shoreline permit will be effective based on the specific requirements of the development proposal. If a permit does not specify an expiration date, the following requirements apply, consistent with WAC 173-14-060:

A. Construction, or substantial progress toward completion, must begin within two (2) years after approval of the permits.

B. The City may, at its discretion, with prior notice to parties of record and the Department, extend the two (2) year time period for the substantial progress for a reasonable time up to one (1) year based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.

C. If construction or construction activities have not been completed within five (5) years of approval by the City, the City will review the permit and, upon showing of good cause, either extend the permit for one (1) year or terminate the permit.

D. Prior to the City authorizing any permit extensions, it shall notify any parties of record and the Department. Only one (1) extension is permitted.

## 15-03.160 Revision to Permits

A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this Master Program, or the SMA. Changes that are not substantive in effect do not require a permit revision.

B. An application for a revision to a shoreline permit shall be submitted to the Director. The application shall include detailed plans and text describing the proposed changes. The City shall review and process the request in accordance with the requirements of WAC 173-27-100.

## 15-03.170 Rescission of Permits

A. A permit may be rescinded or modified upon a finding by the City Council that the permittee has not complied with the conditions of the permit. The City Council may initiate rescission and modification proceedings by serving written notice of noncompliance on the permittee.

B. Before a permit can be rescinded or modified, a public hearing shall be held by the City Council no sooner than ten (10) days following the service of notice upon the permittee. The City Council shall have the power to prescribe rules and regulations for the conduct of such hearings, and may choose to have the hearing examiner to conduct the public hearing on behalf of the City Council.

## 15-03.180 Nonconforming Use and Development

### A. Nonconforming Structures

1. After adoption of this chapter, structures that now exist within the Shoreline Management Area 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. Such normal appurtenances are by definition located landward of the OHWM.

2. 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.

3. A structure that is being or has been utilized 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;

    b. The proposed use will be at least as consistent with the policies and provisions of the Act and Master Program, and as compatible with the uses in the underlying zone as the preexisting use; and

c. 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 Act, and to ensure that the use will not become a nuisance or a hazard.

4. Any structure nonconforming as to height or setback standards that becomes damaged may be repaired or reconstructed, provided that:

   a. The extent of the previously existing nonconformance is not increased; and

   b. The building permit application for repair or reconstruction is submitted within twelve (12) months of the occurrence of damage or destruction.

**B. Nonconforming Uses**

1. Uses that were legally established prior to the adoption of the Master Program and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses after adoption.
2. If the nonconformity is due to encroachment into the Native Conservation Area, such uses shall not be enlarged or expanded waterward. They may be enlarged or expanded landward of the setback line 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 substantial development permit or a written exemption.
3. A use which is listed as a conditional use but existed prior to adoption of the Master Program or any relevant amendment, and for which a conditional use permit has not been obtained, shall be considered a legal nonconforming use.
4. A use which is listed as a conditional use but existed prior to the applicability of the Master Program to the site, and for which a conditional use permit has not been obtained, shall be considered a legal nonconforming use for the duration of such use.
5. A legal nonconforming use that remains unoccupied or unused for a continuous period of one (1) year is considered abandoned and shall not thereafter be occupied or used except by a use that conforms to the regulations of the district in which the use is located.
6. A legal nonconforming use that remains unoccupied or unused for a continuous period of less than one (1) year may be reoccupied only by the same nonconforming use or by a conforming use.

**C. Nonconforming Lots**

An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with chapter 11-09 DMC and State subdivision requirements prior to the effective date of the Act or the applicable Master Program that does not conform to the present lot size standards may be developed if permitted by other land use regulations of the local government, as long as such development conforms to all requirements and processes of the Master Program and the Act.

# 15-05 General Shoreline Policies and Regulations

## 15-05.010 General

The General Policies and Regulations apply to all uses and activities that may occur within the City's Shoreline Management Area regardless of the SMP Environmental Designation. These policies and regulations provide the overall framework for the management of the shoreline. Use these general regulations in conjunction with chapter 15-06 DMC, Specific Use and Modification Policies and Regulations.

**A. Applicability.** The following section applies to local governments preparing master programs that include Shorelines of Statewide Significance as defined in RCW 90.58.030.

> *"Those natural rivers or segments thereof as follows: ...*
>
> *A. Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred (200) cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer."*

The volume of water in the Touchet River, including flows from Mustard Creek and Patit Creek, averages approximately 200 cfs as it passes through Dayton. This classifies the Touchet River as a Shoreline of Statewide Significance.

**B. Principles.** Chapter 90.58 RCW raises the status of shorelines of statewide significance in two ways. First, the Act sets specific preferences for uses of Shorelines of Statewide Significance. RCW 90.58.020 states:

> *"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."*

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Second, the Act calls for a higher level of effort when implementing the Act's objectives on Shorelines of Statewide Significance. RCW 90.58.090(5) states:

> *"The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest."*

Optimum implementation involves special emphasis on statewide objectives and consultation with State agencies. The State's interests may vary, depending upon the geographic region, type of shoreline, and local conditions. Optimum implementation may involve ensuring that other comprehensive planning policies and regulations support Act objectives.

Because shoreline ecological resources are linked to other environments, implementation of ecological objectives requires effective management of whole ecosystems. Optimum implementation places a greater imperative on identifying, understanding, and managing ecosystem-wide processes and ecological functions that sustain resources of statewide importance.

## 15-05.020 Environmental Policies and Regulations

The Act is concerned with the environmental impacts that any development, use, or activity may have on the Shorelines of the State. Development and certain uses or activities within the Shoreline Management Area may degrade the shoreline and its waters, and may damage or inhibit important species and their habitat.

### A. General Environmental Policies and Regulations

**Policies**

1. The adverse impacts of shoreline developments and activities on the natural environment, critical areas, and habitats for proposed, threatened, and endangered species should be avoided and, if necessary, minimized and mitigated during all phases of development (e.g., design, construction, operation, and management).

2. After impacts have been avoided and, if necessary, minimized to the greatest extent possible, remaining adverse impacts should be mitigated with an amount of restoration or other mitigation action sufficient to replace the adversely impacted resources.

3. In cases where on-site mitigation would be unable to compensate for expected impacts, on-site or off-site compensatory actions should be required.

4. Shoreline developments that protect and/or contribute to the long-term restoration of habitat for proposed, threatened, and endangered species are consistent with the fundamental goals of this Master Program. Shoreline developments that propose to enhance critical areas, other natural characteristics, resources of the shoreline, and/or provide public access and recreational opportunities to the shoreline are consistent with the fundamental goals of this Master Program and should be encouraged.

**General Regulations**

5. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that prevents, in so far as practicable, adverse impacts to the environment. The preferred mitigation sequence (avoid, minimize, mitigate, compensate) shall follow that listed in WAC 173-26-201(2)(e). Efforts to avoid and minimize impacts must be documented in a manner acceptable to the City prior to the approval of mitigation and/or compensation actions.

6. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that assures no net loss of ecological function.

7. All shoreline development shall be located, designed, constructed, and managed to protect the functions and values of critical areas consistent with the City of Dayton Critical Area Regulations as described in DMC 15-05.030.

8. All shoreline development shall be located and designed to avoid or minimize the need for shoreline stabilization measures and flood protection works, such as bulkheads, revetments, dikes, levees, or substantial site re-grading and dredging. Where measures and works are demonstrated to be necessary, biostabilization techniques shall be the preferred design option unless demonstrated to be infeasible, or when other alternatives would have less impact on the shoreline environment.

9. All shoreline development and activity shall be located, designed, constructed, operated, and managed to minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel movement, erosion, and accretion to ensure no net loss of shoreline ecological function.

10. In approving shoreline developments, the City shall ensure that the development will maintain, enhance, or restore desirable shoreline features, as well as ensure no net loss of local ecological functions. To this end, the City may adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, screening, and mitigation as deemed appropriate. Mitigation shall be required of developments that would otherwise result in net loss of ecological functions.

11. In approving shoreline developments, the City shall consider short- and long-term adverse environmental impacts. In addition, the City may consider the cumulative adverse impacts of unique development, particularly the precedence effect of allowing one development, which could generate or attract additional development. Identified significant short-term, long-term, and cumulative adverse environmental impacts lacking appropriate mitigation shall be sufficient reason for permit denial.

12. When compensatory mitigation is proposed as part of a development application, mitigation plans shall include at a minimum:

    a. Inventory of the existing shoreline condition within the affected parcels, including the physical and biological conditions and an assessment of associated ecological conditions;

    b. An assessment of the project's impacts and their short- and long-term effects on the ecological functions, generally in terms of fish and wildlife habitat, water quality, and water quantity;

    c. An assessment of any federal, state, or local special management recommendations that have been developed for wetlands, species, or habitats located on the site;

    d. An assessment of habitat recommendations proposed by Resource Agencies and applicable watershed and fish recovery plans, and their applicability to the proposal;

    e. A discussion of measures to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity;

    f. A discussion of proposed measures that mitigate the impacts of the project and an evaluation of the anticipated effectiveness of those measures;

    g. Proposed success criteria for the mitigation measures;

    h. A discussion of proposed management practices that will protect fish and wildlife habitat after the project site has been fully developed, including proposed monitoring and maintenance programs and contingency plans;

    i. A monitoring plan and schedule, including methods that are based upon the proposed success criteria, which will be used to demonstrate success or failure of the project; and

    j. Any additional information necessary to determine the impacts of a proposal and appropriate mitigation.

13. As a condition of approval, the City may require periodic monitoring for up to ten (10) years from the date of completed development to ensure the success of required mitigation. Any costs incurred would be borne by the property owner or applicant, if different.

14. Shoreline development shall not be permitted if it will result in a net loss of the natural character of the shoreline, natural resources, or public recreational use of the shoreline.

15. Where provisions of this Master Program conflict with each other, or with other laws, ordinances, or programs, the most restrictive provisions shall apply.

## B. Water

### Policies

1. Shoreline development and activities should result in no net loss of ecological functions.

2. Development and regulated activities should avoid and minimize impacts to hydrogeologic processes, surface water drainage, and groundwater recharge.

3. Measures should be incorporated into the development, use, or activity to protect water bodies and wetlands from all sources of pollution, including, but not limited to, sediment and silt, petrochemicals, and wastes and dredge spoils.

4. Adequate provisions to prevent water runoff from contaminating surface and groundwater should be included in development design. The Director may specify the method of surface water control and maintenance programs. Surface water control must comply with the adopted stormwater manual.

5. All measures for the treatment of surface water runoff for the purpose of maintaining and/or enhancing water quality should be conducted on-site. Off-site treatment facilities may be considered if on-site treatment is not feasible.

6. Point and non-point source pollution should be managed on a basin-wide basis to protect water quality and support the goals of the water quality implementation plan to maintain shoreline ecological functions.

### General Regulations

7. Pesticides, herbicides, and fertilizers that have been identified by Columbia County, the State of Washington, or federal agencies as harmful to humans, wildlife, or fish shall not be used on City-owned property within the Shoreline Management Area or for development or uses approved under a substantial development permit, conditional use permit, or variance, except as allowed by the Director for the following circumstances:

    a. When use of pesticides, herbicides and fertilizers are consistent with the Best Management Practices (BMPs) for the project or use proposed;

    b. When the Director determines that an emergency situation exists where there is a serious threat to public safety, health, or the environment and that an otherwise prohibited application must be used as a last resort; and/or

    c. Where chemical fertilizer, herbicide, or pesticide use is necessary to protect existing natural vegetation or establish new vegetation as part of an erosion control or mitigation plan, the use of time-release fertilizer and herbicides shall be

preferred over liquid or concentrate application, except as used in targeted hand applications.

8. The release of oil, chemical, or hazardous materials onto or into the water is prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected. During construction, vehicle refueling and vehicle maintenance shall occur outside of regulated shoreline areas.

9. The bulk storage of oil, fuel, chemical, or hazardous materials, on either a temporary or a permanent basis, is prohibited, except for uses allowed by the zoning classification. For the purpose of this section, heating oil, yard maintenance equipment fuel, propane, sewage sumps, and similar items common to single family residential uses are not included in this definition.

## C. Plants and Animals

### Policies

1. In general, this Shoreline Master Program should strive to protect and restore native plant and fish resources along the Touchet River within the City.

2. Shoreline development, uses, and activities shall be:

   a. Located and conducted in a manner that avoids and minimizes impacts to existing ecological values and natural resources of the area, conserves properly functioning conditions, and ensures no net loss of shoreline ecological functions;

   b. Scheduled to protect biological productivity and to minimize interference with fish and wildlife resources including migration, spawning/nesting, and rearing activity;

   c. Designed to avoid the removal of trees in shorelines wherever practicable, and to minimize the removal of other woody vegetation. Where vegetation in the Native Conservation Area is removed, measures to mitigate the loss of vegetation shall be implemented to ensure no net loss; and

   d. Designed to minimize impacts to the natural character of the shoreline as much as possible.

### General Regulations

3. Mitigation shall be required of the applicant for the loss of fish and wildlife resources and natural systems, including riparian vegetation, wetlands, and sensitive areas. The mitigation required shall be commensurate to the value and type of resource or system impacted by development and activity on the shoreline. On-site compensatory mitigation shall be the preferred mitigation option, except where off-site mitigation can be demonstrated to be more beneficial to fish and wildlife resources and natural systems, including riparian vegetation, wetlands, and sensitive areas. If on-site

compensatory mitigation is not feasible or if off-site mitigation is demonstrated to be more beneficial to the shoreline environment, the applicant shall provide funding for a restoration or enhancement program within the Shoreline Management Area elsewhere in the City or upstream of the City in coordination with ongoing salmon recovery or water quality plan implementation efforts.

4. Enhancement, restoration, and/or creation of natural riparian shorelands shall be the preferred mitigation for impacts to riparian vegetation when avoidance is not possible. Preference will be based on site-specific recommendation provided by qualified professionals, including resource agency staff. Alterations to fish and wildlife habitat conservation areas, excepting habitat enhancements, should be avoided. If they cannot be avoided, mitigation is required, and a habitat mitigation plan shall be prepared as required in DMC 15-05.020(A).

5. Habitat mitigation plans may be forwarded by the Director to the appropriate State and/or federal resource agencies for review and comment.

6. Based on the habitat mitigation plan, and comments from other agencies, the Director may require mitigating measures to reduce the impacts of the proposal on the wildlife habitat conservation areas. Mitigating measures may include, but are not limited to:

    a. Native plantings in strategic locations to enhance the vegetation corridor or shade the river;

    b. In-water fish habitat enhancements;

    c. Levee setbacks or perforations to allow fish access to off-channel habitat;

    d. Increased or enhanced buffers elsewhere on the property;

    e. Setbacks for permanent and temporary structures;

    f. Reduced project scope;

    g. Limitations on construction hours;

    h. Limitations on hours of operation; and/or

    i. Relocation of access.

7. Mitigation activities shall be monitored to determine effectiveness of the habitat mitigation plan. Monitoring may be accomplished by a third party, subject to the approval by the Director, and shall have the concurrence of the WDFW, and where applicable, the Department. Monitoring may occur for up to ten (10) years following implementation of the plan. Any costs incurred will be borne by the property owner or applicant, if different.

8. If proposed mitigation is found to be inadequate, or if adequate mitigation is determined to be impossible, the application shall be denied.

9. Timing of in-water construction, development, or activity shall be determined by the WDFW.

**D Noise**

**Policy**

1. Noise levels should not interfere with the quiet enjoyment of the shoreline.

**General Regulations**

2. Any noise emanating from a shoreline use or activity shall be muffled so as to not interfere with the designated use of adjoining properties. This determination shall take into consideration ambient noise levels, intermittent beat, frequency, and shrillness.

3. Ambient noise levels shall be a factor in evaluating a shoreline permit application. Shoreline developments that would increase noise levels to the extent that the designated use of the shoreline would be disrupted shall be prohibited. Specific maximum environment noise levels can be found in WAC 173-60-040.

**E. Public Health**

**Policy**

1. All development within the regulated shoreline should be located, constructed, and operated so as not to be a hazard to public health and safety.

**General Regulations**

2. Development shall be designed to conform to the Public Health codes and ordinances adopted by the City.

**F. Land Use**

**Policy**

1. The size of the shoreline development and the intensity of the use should be compatible with the surrounding environment and uses. The City may prescribe operation intensity, landscaping, and screening standards to ensure compatibility with the character and features of the surrounding area.

2. Shoreline developments should minimize land use conflicts to properties adjacent to, upstream, and downstream of the proposed site.

3. Land uses not allowed by the underlying zoning regulations should be prohibited.

**General Regulations**

4. Development within the designated Shoreline Management Area shall comply with the development and use standards for the underlying zone.

## G. Aesthetics

**Policy**

1. Where practical, development should be designed to minimize the negative aesthetic impact structures have on the shoreline by avoiding placement of service areas, parking lots, and/or view-blocking structures adjacent to the shoreline. Consideration should be given to views both from and towards the water.

**General Regulations**

2. Development shall be designed to comply with the codes and ordinances adopted by the City for the underlying zone.
3. If the zoning and use require landscaping, or if planting is required for mitigation by the Director, the property owner shall provide a landscape plan that provides suitable screening. Native vegetation shall be used for screening within the Shoreline Management Area.
4. Development shall be constructed as far landward as possible to avoid interference with views.
5. Lighting shall be properly directed and shielded to avoid impacts to fish and off-site glare.
6. Structure height shall not exceed the standards found in Title 11 DMC.

## H. Historical/Cultural

Provisions for historic, cultural, and archaeological site preservation, restoration, and education should be incorporated in site development plans whenever compatible and possible. Cooperation among involved private and public parties is encouraged to achieve this Program's Archaeological, Historical, and Cultural Element goals and objectives.

Any proposed site development or associated site demolition work should be planned and carried out to avoid impacts to the protected resource. Impacts to neighboring properties and other shoreline uses should be limited.

Owners of property containing previously identified historic, cultural, or archaeological sites are encouraged to make development plans known well in advance of application, so that appropriate agencies, such as the affected Tribe(s), Washington State Department of Archaeology and Historic Preservation (DAHP), and others may have ample time to assess the site and make arrangements to preserve historical, cultural, and archaeological findings.

**Policy**

1. If development or demolition is proposed adjacent to an identified historical, cultural, or archaeological site, then the proposed development should be designed and operated to be compatible with continued protection of the site.

2. Sites should be protected in collaboration with appropriate tribal, state, federal, and local governments. Cooperation among public and private parties is to be encouraged in the identification, protection, and management of cultural resources.

3. When or where appropriate, access to such sites should be made available to parties of interest. Access to such sites must be designed and managed in a manner that gives maximum protection to the resource.

**General Regulations**

4. All applications for a shoreline development permit, a building permit, a clearing and grading permit, a demolition permit, or a statement of exemption for shoreline development within the Shoreline Management Area shall be reviewed for a determination of whether the site(s) in question:

   a. Is on property within 500 feet of a site known to contain historic, cultural, or archaeological resource(s); or

   b. Is in an area mapped as having the potential for the presence of archaeological, historic, or cultural resources to be present.

   All applications meeting these criteria shall require a cultural resource site survey or assessment, unless this requirement is waived or modified by the DAHP. Any required site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of historic or significant archaeological resources. Buildings or structures over 50 years in age shall be inventoried in a DAHP Historic Property Inventory Database entry and archaeological sites shall be recorded on DAHP Archaeological Site Inventory Forms. The fee for the services of the professional archaeologist or historic preservationist shall be paid by the applicant.

5. If the cultural resource site assessment identifies the presence of archaeological, historic, or cultural resources, appropriate recommendations shall be prepared by a professional archaeologist or historic preservation professional, as part of the survey or assessment. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the applicant. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the DAHP and the affected Tribe(s). Comments received from these reviewers shall be incorporated into the conclusions and recommended conditions of the survey or assessment to the maximum extent practicable.

6. The cultural resources survey or site assessment shall be prepared in accordance with guidance for such studies approved or promulgated by the DAHP. DAHP shall determine whether the research design or study is adequate.

7. The Director shall consult with the DAHP and affected Tribe(s) prior to approval and acceptance of the survey or assessment.

8. Based upon consultation with DAHP and affected Tribe(s), the Director may reject or request revision of the conclusions reached in a survey or assessment when the administrator can demonstrate that the assessment is inaccurate or does not fully address the historic or archaeological resource management concerns involved.

9. In the event a Cultural Resources survey or site assessment is submitted directly to the City of Dayton, the professional archaeologist or historic preservation professional will be advised to submit the materials directly to the DAHP.

10. In granting shoreline permits or statements of exemption for such development, the City of Dayton may attach conditions of approval to require consultation with the DAHP, affected Tribe(s), and any local historic preservation authority, to assure that historic or archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provisions for the protection and preservation of historic or archaeological sites, structures, buildings, districts, objects, or areas shall be incorporated to the maximum extent practicable.

11. Inadvertent Discovery:

    a. Whenever historic, cultural, or archaeological sites or artifacts are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the Director.

    b. The Director shall then notify the DAHP, affected Tribe(s), any local historic preservation authority, and any other appropriate agencies and upon consultation with DAHP, shall require that an immediate site assessment be conducted by a professional archaeologist or historic preservation professional, as applicable. The site assessment shall be distributed to the DAHP, the affected Tribe(s), and local historic preservation authority for a 15-day review period. If the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.

    c. If human remains are encountered, all activity must cease and the area must be protected and the find reported to local law enforcement and the County coroner or medical examiner.

## 15-05.030 Environmentally Sensitive Areas within the SMA

**A**. Development should strive to:

1. Preserve and protect unique, rare, and fragile natural and man-made features and wildlife habitats.

2. Enhance the diversity of aquatic life, wildlife, and habitat within the Shoreline Management Area.

3. Conserve and maintain designated open spaces for ecological, educational, and recreational purposes.

4. Recognize that the interest and concern of the public is essential to the improvement of the environment, and sponsor and support public information programs.

5. Discourage intensive development of shoreline areas that are identified as hazardous or environmentally sensitive.

The level of public access should be appropriate to the degree of uniqueness or fragility of the geological and biological characteristics of the shoreline (e.g., wetlands, steep slopes, spawning areas).

**B. Native Conservation Areas**

The Shoreline Master Plan establishes Native Conservation Areas (NCAs) to preserve the ecological functions within the highest functioning portions of the shoreline jurisdiction. The NCAs are intended to restrict land alteration and disruptive uses within sensitive shoreline habitat areas that provide key ecological functions, as identified in the City of Dayton Shoreline Inventory and Characterization Report. The NCAs are located between the OHWM and the developable area upland beyond the NCAs. The widths of NCAs are based upon the underlying environmental designations, which are based upon existing conditions and the goals and policies of this SMP. The establishment of NCAs will not affect existing development. New modifications to existing development in the shorelines jurisdiction may be affected, depending on the proposed activity and distance from the OHWM.

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## C. Critical Areas

1. The Critical Areas Code (DMC Title 17) will continue to apply to the shorelines jurisdiction with few exceptions. Once the Master Plan update has been approved by the Department and adopted by the City Council, the following provisions of DMC Title 17 shall apply to any use, alteration, or development both inside and outside the SMA:

   Chapter 17-01, Administration

   Chapter 17-02, Frequently Flooded Areas

   Chapter 17-03, Aquifer Protection Areas

   Chapter 17-04, Geologically Hazardous Areas

   Chapter 17-05, Wetland Protection Areas

   Chapter 17-06, Fish and Wildlife Habitat Conservation Areas

**General Regulations**

2. Critical Areas Code, Title 17 DMC, effective November 26, 2013, and as amended by Ordinance 1873A, effective February 24, 2015, is hereby integrated into this SMP and will be used to regulate Fish and Wildlife Habitat Conservation Areas, Critical Aquifer Recharge Areas, Frequently Flooded Areas, Wetlands, and Geologically Hazardous Areas as they exist within shoreline jurisdiction, except as noted below. Title 17 DMC is attached to this plan as Appendix A.

3. Administrative sections of Title 17 DMC related to penalties (17-01.020); reasonable use exceptions (17-1.094); variances (17-01.090 and 092); public agency and utility exception (17-01.096), determination of consistency (17-01.200); enforcement (17-01.600); and wetland exemptions (17-05.040) are not applicable and are replaced by the relevant sections of this Title 15.

4. All shoreline uses and activities shall be located, designed, constructed, and managed to protect or at least not adversely affect those natural features that are valuable, fragile, or unique in the region. They shall also facilitate the appropriate intensity of human use of such features, including, but not limited to:

   a. Wetlands, including, but not limited to, marshes, bogs, and swamps;

   b. Fish and wildlife habitats, including streams and wetlands, nesting areas and migratory routes, spawning areas, and the presence of proposed or listed species;

   c. Natural or man-made vistas or features;

   d. Flood hazard areas; and/or

   e. Geologically hazardous areas, including erosion, landslide, and seismic hazard areas.

5. If there are any conflicts or unclear distinctions between the SMP and the City's Critical Areas Regulations, the most restrictive requirements apply for maintaining no net loss of shoreline ecological functionality.

## 15-05.040 Public Access

Public access to the shoreline is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. There are a variety of types of and components to public access, such as picnic areas, pathways and trails, promenades, street ends, ingress, and egress.

The Act requires, in RCW 90.58.100(2)(b), that shoreline master programs shall include, when appropriate, the following: "A public access element making provisions for public access to publicly owned areas." The City encourages private landowners to provide public access opportunities when appropriate.

**A. Public Access Policies**

1. Development uses and activities on or near the shoreline should not impair or detract from the public's visual or physical access to the water.
2. Public access to the shoreline should be sensitive to the unique characteristics of the shoreline, should preserve the natural character and quality of the environment, and should assure no net loss of ecological functions.
3. Where appropriate, water-oriented public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment.
4. Except for access to the water, the preferred location for placement of public access trails is outside the Native Conservation Area. If that is not possible, the trails should be as close to the furthest landward edge of the Native Conservation Area as practical, and mitigation is required to replace any vegetation. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and shall be designed for accessibility by people with disabilities. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected open space.
5. Public access afforded by public right-of-way street and alley ends adjacent to the shoreline should be preserved, maintained, and enhanced.
6. Public access on private property, when provided, should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy, which may include consideration by the City of legal and reasonable mitigating circumstances or variances from otherwise applicable land use or development standards, such as providing a physical separation to reinforce the distinction between public and private space, providing adequate space, through screening with landscape planting or fences, or other means.

7. Public views from the shoreline upland areas should be enhanced and preserved.

8. Public access facilities should be constructed of environmentally friendly materials and support healthy natural processes, whenever financially feasible and possible.

9. Public access facilities should be maintained to provide clean, safe access, and to protect the environment.

10. Public access to publicly owned shoreline areas should be increased through acquisition of rights or interests in real property located in shoreline areas where topography, natural, cultural, and aesthetic features warrant. Commercially reasonable means should be used when acquiring such rights or interests.

11. Development should be constructed as far landward as possible.

**B. Public Access Regulations**

12. Public access shall be required for all public shoreline development and uses, except where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable. In addition to any other requirements regarding a written determination by the Director under this chapter, any determination by the Director regarding public access shall specifically include written findings and conclusions regarding his/her determination of infeasibility and/or the constitutional or other legal limitations.

13. With respect to private shoreline development and uses, the physical access requirements of this chapter are not intended to require property owners to increase the public's physical access to shorelines beyond the additional demand generated by any development for water-enjoyment, water-related, and non-water-dependent uses and for the subdivision of land into more than four (4) parcels. With respect to future development on private property, the fundamental principle underlying this chapter's public access provisions is that development on private property should not result in a net loss of the public's existing rights to visual and physical access to the shorelines.

14. Requirement of public access to shorelines does not confer the right to enter upon or cross private property, except for dedicated and marked public easements.

15. Subject to the limitations set forth above in 15-05.040(B)(13), new private shoreline development should provide public access except for in the following conditions;

    a. A single family residence;

    b. Multi-family development containing four (4) dwelling units or fewer;

    c. Residential subdivisions of four (4) parcels or fewer; or

d. Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

e. If not excepted in subparagraphs A through C above, a private shoreline development or use that does not provide public access may be authorized provided the applicant demonstrates, and the Director determines, that all reasonable means to providing public access have been exhausted, including, but not limited to:

i. Regulating access by such means as limiting use to daylight hours;

ii. Designing separation of uses and activities with such means as fences, terracing, hedges, or landscaping; or

iii. Providing access that is physically separated from the proposal.

iv. In addition, the applicant must demonstrate, and the Director must determine, that one or more of the following apply;

(1) Unavoidable health or safety hazards to the public exist which cannot be prevented by any feasible means;

(2) Security requirements cannot be satisfied through the application of alternative design features or other solutions;

(3) The feasibility of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the benefit derived from the public access being provided; or

(4) Unacceptable environmental harm, such as damage to fish spawning areas will result from the public access that cannot be mitigated.

16. New public facilities shall be designed in such manner that the facility, or part of the facility, is readily accessible to and usable by individuals with disabilities; however, full compliance with this regulation is not required where it is structurally impracticable to meet the requirements due to the unique characteristics of terrain.

17. Public access sites shall be connected directly to the nearest public street.

18. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.

19. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running with the land. Said recording with the Columbia County Recorder's office shall occur at the time of permit approval, prior to permit issuance, or with recording of the land division.

20. Physical public access shall be designed to prevent significant impacts to natural systems by employing Low-Impact Development techniques and best management practices.

21. Public access requirements on privately owned lands should be proportional with the scale and character of the development.

## 15-05.050 Shoreline Environmental Designations

The Shoreline Management Area for the City of Dayton includes:

1. The area between the OHWM and two hundred (200) feet landward;
2. Areas extended beyond 200 feet due to the critical areas on the land; and
3. The river between the banks OHWMs.

These areas as separated into six environmental designations. These designations, listed below in alphabetical order, contain unique development and use standards tailored to the underlying shoreline conditions.

### A. Aquatic Environment (AE)

1. **Purpose:** The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

2. **Designation Criteria:** Assign an “aquatic” environment designation to lands waterward of the OHWM. Additionally, local governments may assign an "aquatic" environment designation to wetlands.

3. **Management Policies:**

   a. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

   b. The size of new over-water structures should be limited to the minimum necessary to support the structure’s intended use.

   c. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

   d. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020 and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201.

   e. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrological conditions.

f. Local governments should reserve shoreline space for shoreline-preferred uses. Such planning should consider upland and in-water uses, water quality, and presence of aquatic vegetation, critical habitats, aesthetics, public access, and views.

## B. High Intensity Environment (HIE)

1. **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.

2. **Designation Criteria:** Assign a “high-intensity” environment designation to shoreline areas within incorporated municipalities, urban growth areas, and commercial “limited areas of more intensive rural development” as described by RCW 36.70A.070, if they currently support high-intensity uses related to commerce, transportation, or are suitable and panned for high-intensity water-oriented uses.

3. **Management Policies:**

a. 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. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.

b. Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated “high-intensity.” However, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.

c. Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with relevant state and federal law.

d. Where feasible, visual and physical public access should be required.

e. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetation buffers.

## C. Natural Environment (NE)

1. **Purpose:** The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, local government should include planning for restoration or degraded shorelines within this environment.

2. **Designation Criteria:** A "natural" environment designation should be assigned to shoreline areas if any of the following characteristics apply:

   a. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

   b. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

   c. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

   Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

   Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments that could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

   The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

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Areas with significant existing agriculture lands should not be included in the "natural" designation, except where the existing agricultural operations involve very low intensity uses where there is no significant impact on natural ecological functions, and where the intensity or impacts associated with such agriculture activities is unlikely to expand in a manner inconsistent with the "natural" designation.

3. **Management Policies:**

a. Any use that would substantially degrade the ecological function or natural character of the shoreline area should not be allowed.

b. The following new uses should not be allowed in the “natural” environment:

i. Commercial uses

ii. Industrial uses

iii. Nonwater-oriented uses

iv. Roads, utility corridors, and parking areas that can be located outside of “natural” designated shorelines

c. Single-family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

d. Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.

e. Agricultural uses of a very low intensity nature may be consistent with the natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.

f. Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

g. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

h. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020 and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201.

i. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrological conditions.

j. Local governments should reserve shoreline space for shoreline preferred uses. Such planning should consider upland and in-water uses, water quality, and presence of aquatic vegetation, critical habitats, aesthetics, public access and views.

**D. Shoreline Commercial Environment (SCE)**

1. **Purpose:** The "shoreline commercial" environment (SCE) is designed to accommodate existing and future commercial development and accessory structures. Commercial parcels west of Main Street, extending to Commerce Street on the north bank of the Touchet River and from Commerce Street to Willow Street on the south bank, are placed within the SCE environment.

2. **Designation Criteria:** Assign a SCE designation to shoreline areas if they are inside existing commercial areas and to land zoned for commercial growth. Include multilot and single lot commercial development.

3. **Management Policies:**

a. Regulatory standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

b. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

c. Standards should be established for detailing the range of shoreline modifications allowed within the "shoreline commercial" environment. These standards should ensure that development, or use patterns, do not result in a reduction of shoreline ecological functions or further degrade other shoreline values.

d. The shoreline should be monitored for erosion, either from activities occurring on land or on the water. Action should be taken when such erosion occurs to reduce negative effects.

e. Preference shall be given first to water-dependent commercial uses over nonwater-dependent commercial uses, and second to water-related commercial uses over nonwater-dependent commercial uses.

## E. Shoreline Residential Environment (SRE)

1. **Purpose:** The "shoreline residential" environment (SRE) is designed to accommodate existing, small-lot residential development and accessory structures. Residential development north of the Touchet River and west of Commerce Street to the western City limit, plus a portion of development south of the Touchet River immediately west of the Commercial district, is placed within the SRE environment. The confluence of Patit Creek and the Touchet River is included within the SRE environment.

2. **Designation Criteria:** Assign a SRE designation to shoreline areas if they are inside urban growth areas, predominantly small-lot single-family or multi-family residential development or are planned and platted for such residential development.

3. **Management Policies:**

   a. Regulatory standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

   b. Multifamily and multi lot residential and recreational developments are not preferred uses in the SRE.

   c. Standards should be established for detailing the range of shoreline modifications allowed within the SRE. These standards should ensure that development, or use patterns, do not result in a reduction of shoreline ecological functions or further degrade other shoreline values.

   d. The shoreline should be monitored for erosion, either from activities occurring on land or on the water. Action should be taken when such erosion occurs to reduce negative effects.

## F. Urban Conservancy Environment (UCE)

1. **Purpose:** The Urban Conservancy Environment (UCE) is designed to provide for public access, either physical or view, while maintaining or improving the ecological functions of the shoreline. The purpose of the UCE is to protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

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

   a. They are suitable for water-related or water-enjoyment uses;

   b. They are open space, floodplain or other sensitive areas that should not be more intensively developed;

   c. They have potential for ecological restoration;

   d. They retain important ecological functions, even though partially developed; or

   e. They have the potential for development that is compatible with ecological restoration.

   f. Undesignated shoreline areas are automatically placed in the urban conservancy environment until a determination is made for permanent assignment.

3. **Management Policies:**

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

   b. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the urban conservancy designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

   c. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

   d. Water-oriented uses should be given priority over nonwater-oriented uses.

See 15-06.080 for a map of the City's Environmental Designations.

# 15-06 Specific Shoreline Use Policies and Regulations

## 15-06.010 General

Specific shoreline use provisions are more detailed than those listed in General Policies and Regulations (DMC 15-05.030 – 15-05.040). These policies establish the shoreline management principles that apply to each type of use and serve as a bridge between the various elements listed in DMC 15-01.040 and the use regulations that follow.

This subchapter provides regulations for specific activities that modify the configuration or qualities of the shoreline area. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. Typically, shoreline modification activities relate to construction of a physical element such as a bulkhead or landfilling, etc., but they can include other actions such as clearing, grading, application of chemicals, etc.

Shoreline modification policies and regulations are intended to prevent, reduce, and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

The following policies and regulations apply to specific types of development that may be proposed in the Shoreline Management Area of the City. A proposal can consist of more than one type of development. In addition, all specific shoreline development must be consistent with the following Shoreline Environmental Designations, the goals and objectives of chapter 15-01 DMC, and the general policies and regulations contained in chapter 15-05 DMC.

## 15-06.020 Existing Structures

New SMP regulations are not retroactive, so legally established residential and industrial structures can remain in place. Local zoning regulations and the SMP will regulate whether an addition to an existing and legally established residential or industrial structure located in the Shoreline Management Area may be built, where it can be built, and what mitigation measures may be required. Mitigation measures will be required for any development within the Shoreline Management Area in order to offset impacts of new development and achieve the no net loss standard.

If, at the time of enactment of the SMP, existing and legally established residential structures in the Shoreline Residential Environmental (SRE) designation or Urban Conservancy Environment (UCE) designation encroach into the Native Conservation Area, the setback will wrap around the existing structure to its full depth to protect shoreline vegetation and to retain the maximum amount of ecological function. A ten (10) foot buffer will surround the structure within the Native Conservation Area for the purpose of structure maintenance. The residence itself will be considered a conforming structure. Any residence that encroaches into the Native Conservation Area cannot be expanded further into the Native Conservation Area without a conditional use permit.

If, at the time of enactment of the SMP, existing and legally established commercial structures in the Shoreline Commercial Environmental (SCE) designation encroach into the Native Conservation Area, the setback will wrap around the existing structure to its full depth to protect shoreline vegetation and to retain the maximum amount of ecological function. A ten (10) foot buffer will surround the structure within the Native Conservation Area for the purpose of structure maintenance. The commercial structure itself will be considered a conforming structure. Any commercial structure that encroaches into the Native Conservation Area cannot be expanded further into the Native Conservation Area without a conditional use permit.

## 15-06.030 Existing Uses

Uses that are not allowed under the new SMP but exist in relation to legally established residential or industrial structures become nonconforming uses at the time of enactment of the SMP.

## 15-06.040 Management of NCA's within Environmental Designations

Management of the State's shorelines is described in the following policy statements in the Act, RCW 90.58.020, "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." To further clarify this policy, WAC 173-28-186(8) states, "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 Shoreline Substantial Development Permit requirement of the act but also by past actions, unregulated activities, and development that is exempt from the act's requirements."

To provide for a higher level of protection of the ecological functions of the shoreline within the City, buffers of the Touchet River, herein called Native Conservation Areas (NCAs), have been established for each environmental designation. These NCAs are based upon an analysis of the impacts of development on shorelines and the available science. For a deeper understanding of the impacts that development has on shorelines and how it is expected to affect the City of Dayton's shorelines, please consult the Cumulative Impacts Analysis report prepared for this SMP update.

Multiple factors are considered when determining the proper width for the NCA, which are described in the Shoreline Inventory and Characterization Report (URS 2014).

Based upon a review of these factors, the City has determined that different NCA widths are appropriate for each individual Shoreline Environmental Designation in order to preserve the ecological condition the Touchet River and its shorelines:

## 15-06.050 Permitting Standards within Shoreline Environmental Designations

| Permitting Standards Within Shoreline Environmental Designations | | | | | | |
|---|---|---|---|---|---|---|
| **Permit Required**<br><br>**SD:** Substantial Development permit required.<br>**CU:** Conditional Use permit required.<br>**X:** Prohibited and not eligible for Variance or Conditional Use permit.<br>**N/A: Not Applicable**<br>**E:** Written Statement of Exemption required.<br>*Need for Variances are determined by type and extent of non-compliance with SMP* | **Aquatic** | **High Intensity** | **Natural** | **Shoreline Commercial** | **Shoreline Residential** | **Urban Conservancy** |
| **Shoreline Stabilization (Armoring)** | | | | | | |
| New structure for new development or for land subdivision | X | SD or E | X | SD | SD or E | SD or E |
| Enlarged structure for new development or for land subdivision | CU | SD or E | CU | SD | SD | SD |
| New or enlarged structure to protect existing structures, projects for the restoration of ecological functions or hazardous substance remediation projects | CU | SD | CU | SD | SD | SD |
| Replace existing shoreline stabilization structures | SD | SD or E | SD | SD or E | SD or E | SD or E |
| **Docks** | | | | | | |
| Single family residential dock | X | X | X | X | X | X |
| New dock essential to the successful operation of a permitted water-dependent use | X | X | X | X | X | X |
| New dock for public access | X | X | X | X | X | X |
| **Fill** | | | | | | |
| Waterward of the OHWM for new development | CU | N/A | N/A | N/A | N/A | N/A |
| Waterward of the OHWM for ecological restoration | CU | N/A | N/A | N/A | N/A | N/A |
| Landward of the OHWM for new development | N/A | SD(1) | X | SD(1) | SD(1) | SD(1) |
| As part of Shoreline Habitat and Natural Systems Enhancement Projects | CU | SD(1) | CU | SD(1) | SD(1) | SD(1) |
| Disposal of dredge material | X | X | X | X | X | X |
| **Dredging** | | | | | | |
| For the primary purpose of obtaining fill material | X | N/A | N/A | N/A | N/A | N/A |
| For activities associated with shoreline or aquatic restoration or remediation | SD | N/A | N/A | N/A | N/A | N/A |
| For flood prevention or to protect existing infrastructure | SD | N/A | N/A | N/A | N/A | N/A |

| Permitting Standards Within Shoreline Environmental Designations | | | | | | |
|---|---|---|---|---|---|---|
| **Permit Required**<br><br>**SD:** Substantial Development permit required.<br>**CU:** Conditional Use permit required.<br>**X:** Prohibited and not eligible for Variance or Conditional Use permit.<br>**N/A: Not Applicable**<br>**E:** Written Statement of Exemption required.<br>*Need for Variances are determined by type and extent of non-compliance with SMP* | **Aquatic** | **High Intensity** | **Natural** | **Shoreline Commercial** | **Shoreline Residential** | **Urban Conservancy** |
| Disposal of dredge material | See "Fill" Above | | | | | |
| **Shoreline Habitat and Natural Systems Enhancement Projects** | | | | | | |
| Shoreline Habitat and Natural Systems Enhancement Projects | SD or E | SD or E | SD or E | SD or E | SD or E | SD or E |
| Removal of vegetation within Native Conservation Area | SD | SD | SD | SD | SD | SD |
| **Boating Facilities** | | | | | | |
| Marinas | X | X | X | X | X | X |
| Launch ramps for small non-motorized watercraft | X | SD | X | X | X | X |
| Launch ramps for motorized watercraft | X | X | X | X | X | X |
| **Forest Practices & Agricultural Uses** | | | | | | |
| Forest Practices | N/A | X | X | X | X | X |
| Low intensity agricultural uses | N/A | CU | CU | CU | X | CU |
| **Industrial Development** | | | | | | |
| Water-dependent industrial uses | CU | CU | X | X | X | X |
| Water-related industrial uses | CU | CU | X | X | X | X |
| Non-water oriented industrial uses | X | X | X | X | X | X |
| **Institutional** | | | | | | |
| Water-dependent institutional uses | SD | X | X | SD | SD | SD |
| Water-related institutional uses | SD | X | X | SD | SD | SD |
| Non-water oriented institutional uses | N/A | X | X | SD | SD | SD |
| **Mining** | | | | | | |
| Mining | X | X | X | X | X | X |
| **Recreational Development** | | | | | | |
| Water-dependent recreation | SD | SD | SD | SD | SD | SD |
| Water-related recreation | CU | SD | SD | SD | SD | SD |
| Water-enjoyment recreation | CU | SD | SD | SD | SD | SD |
| Non-water oriented recreation | X | CU | CU | CU | CU | CU |
| **Residential Development** | | | | | | |
| Single-family or Group Home residences | N/A | CU(2) | CU(2) | SD or E(2) | SD or E(2) | SD or E(2) |
| Two-family residences | N/A | CU(2) | X | CU(2) | CU(2) | CU(2) |
| Multi-family residences (3 or more dwelling units) | N/A | N/A | X | CU(2) | CU(2) | CU(2) |
| Accessory dwelling units | N/A | X | X | X | SD | SD |
| Detached accessory structures | N/A | X | X | SD(2) | SD(2) | SD(2) |
| **Subdivisions** | | | | | | |

| Permitting Standards Within Shoreline Environmental Designations | | | | | | |
|---|---|---|---|---|---|---|
| **Permit Required**<br><br>**SD:** Substantial Development permit required.<br>**CU:** Conditional Use permit required.<br>**X:** Prohibited and not eligible for Variance or Conditional Use permit.<br>**N/A: Not Applicable**<br>**E:** Written Statement of Exemption required.<br>*Need for Variances are determined by type and extent of non-compliance with SMP* | **Aquatic** | **High Intensity** | **Natural** | **Shoreline Commercial** | **Shoreline Residential** | **Urban Conservancy** |
| All subdivisions including binding site plans | N/A | SD or E | X | SD or E | SD or E | SD or E |
| **Signs** | | | | | | |
| On premise business signs | N/A | E(3) | X | E(3) | E(3) | E(3) |
| On and off premise public information signs serving parks, community, public access identification, temporary events, directional purposes and warning signs. | SD(3)(4) or E(3)(4) | SD(3)(4) or E(3)(4) | SD(3)(4) or E(3)(4) | SD(3)(4) or E(3)(4) | SD(3)(4) or E(3)(4) | SD(3)(4) or E(3)(4) |
| **Parking** | | | | | | |
| Commercial parking or parking facility as primary use | N/A | X | X | CU(2) | X | X |
| Parking, accessory to a permitted use | N/A | SD(2) | X | SD(2) | SD(2) | SD(2) |
| **Transportation** | | | | | | |
| New arterial streets | N/A | X | X | X | X | X |
| New public streets or public street expansions. | CU | SD | CU | SD | SD | SD |
| Pedestrian and bicycle linkages to existing or planned transportation networks, includes pedestrian bridges | CU | SD | CU | SD | SD | SD |
| Temporary access roads accessory to a permitted shoreline use | N/A | SD | SD | SD | SD | SD |
| New rail lines | N/A | CU | X | CU | X | X |
| Expansion of existing rail lines | N/A | X | X | CU | X | X |
| | | | | | | |

(1) Must be outside of the Native Conservation Area
(2) Structures shall not encroach into the Native Conservation Area
(3) Size and location conforms to other local development regulations
(4) Allowed in the NCA

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## 15-06.060 Native Conservation Area Minimum Widths

| Environmental Designation | Native Conservation Area Width |
|---|---|
| Aquatic | N/A |
| High Intensity | 50 ft Shoreward from OHWM |
| Natural | 200 ft Shoreward from OHWM |
| Shoreline Commercial | 75 ft shoreward from OHWM [(1)] |
| Shoreline Residential | 100 ft shoreward from OHWM [(1)] |
| Urban Conservancy | 150 ft shoreward from OHWM [(1)] |

[(1)] Mitigation required for any development within the Native Conservation Area

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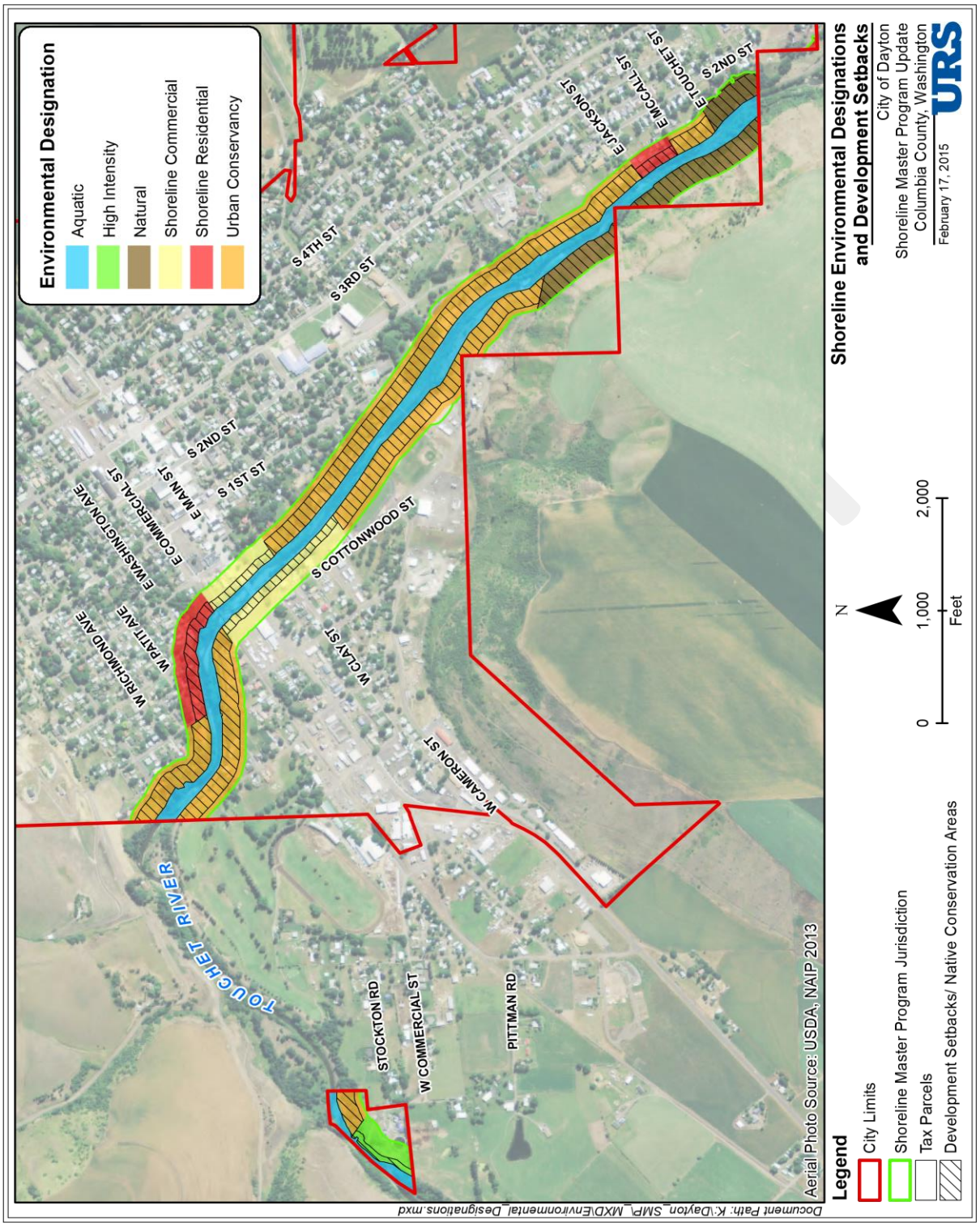
## 15.06.070 City of Dayton Environmental Designations Map



## 15-06.080 Shoreline Stabilization (Armoring)

**A.** Shoreline modification involves developments that provide bank stabilization or flood control. The purpose of the modification is to reduce adverse impacts caused by natural processes, such as current, flood, tides, wind, or wave action. Shoreline stabilization includes all structural and nonstructural means to reduce flooding and/or erosion of banks.

Nonstructural methods include setbacks of permanent and temporary structures; relocation of the structure to be protected; groundwater management; planning; bioengineering, or “soft” engineered solutions; and regulatory measures to avoid the need for structural stabilization. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on natural materials such as biotechnical vegetation or shore enhancement. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. New structural shoreline stabilization also often results in vegetation removal, as well as damage to near shore habitat and shoreline corridors. There are a range of measures varying from soft to hard that include:

- Vegetation enhancement
- Upland drainage control
- Bio-technical measures
- Beach enhancement
- Anchor trees
- Gravel placement
- Rock revetments
- Retaining walls and bluff walls
- Bulkheads

Note: As applied to shoreline stabilization measures, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of existing structures; the replenishment of sand or other material that has been washed away; or replacement of less than twenty percent (20%) of the structure. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis.

Construction that causes significant ecological impacts is not considered normal maintenance and repair. “Replacement" means the construction of a new structure to perform a shoreline stabilization function that an existing structure can no longer adequately perform. Additions to existing shoreline stabilization measures shall be considered new structures, with the exception that levee length and height may be increased in the SCE, SRE, and UCE designation if a geotechnical report concludes that it is necessary or promotes better design.

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The following policies and regulations apply to activities that modify the shoreline for the purposes of preventing erosion or flooding. Following these general requirements, specific policies and regulations are provided for:

- Bulkheads;
- Revetments;
- Land Disturbing Activities;
- Docks;
- Landfilling; and
- Dredging and Dredge Material Disposal.

***B. Shoreline Modification Policies – General***

1. *Biostabilization and other bank stabilization measures should be located, designed, and constructed primarily to prevent damage to the existing primary structure.*

2. *All new development should be located and designed to prevent or minimize the need for shoreline stabilization measures and flood protection works. New development requiring shoreline stabilization shall be discouraged in areas where no preexisting shoreline stabilization is present.*

3. *Shoreline modifications are only allowed for mitigation or enhancement purposes, or when and where there is a demonstrated necessity to support or protect an existing primary structure or legally existing shoreline use that is otherwise in danger of loss or substantial damage.*

4. *Proposals for shoreline modifications should be designed to protect life and property without impacting shoreline resources.*

5. *Shoreline modifications that are natural in appearance, compatible with ongoing shoreline processes, and that provide flexibility for long-term management, such as protective berms or vegetative stabilization, should be encouraged over structural means such as concrete bulkheads or extensive revetments, where feasible.*

6. *Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that nonstructural solutions would not be able to withstand the erosive forces of the current and waves.*

7. *The design of bank stabilization or protection works should provide for the long-term use of shoreline resources and public access to public shorelines.*

8. *In the design of publicly financed or subsidized works, consideration should be given to providing pedestrian access to shorelines for low-impact outdoor recreation.*

9. *New flood protection measures should be placed landward of the natural flood boundary and landward of any wetlands, which are directly interrelated and inter-dependent with water bodies.*

10. *If through construction and/or maintenance of shoreline modification developments, the loss of vegetation and wildlife habitat will occur, mitigation should be required.*

**C. Shoreline Modification Regulations – General**

Permit requirements for bulkheads and revetments are specified under the headings below.

1. All new development, uses, or activities within the Native Conservation Area shall be located and designed to prevent or minimize the need for bank stabilization and flood protection works.

2. Unless proponents are using biotechnical techniques, shoreline stabilization proposals shall require a geotechnical analysis to demonstrate the necessity of the project.

3. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that mitigates impacts to the environment. The preferred mitigation sequence (avoid, minimize, mitigate, compensate) shall follow that listed in WAC 173-26-201(2)(e).

4. New nonwater-dependent development, including single-family residences, that includes structural shoreline stabilization shall not be allowed unless all of the conditions below apply, otherwise new stabilization measures are limited to protecting only existing developments:

   a. The need to protect the development from destruction due to erosion caused by natural processes, such as currents and waves, is demonstrated through a geotechnical/hydrogeological report prepared by a qualified professional.

   b. The erosion is not caused by upland conditions, such as the loss of vegetation and/or drainage issues.

   c. There will be no net loss of shoreline ecological functions or impacts to adjacent or down-current properties.

   d. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements and soft structural solutions such as bioengineering, are not feasible or not sufficient.

   e. The structure will not cause impacts to the functions and values of critical areas or properly functioning conditions for proposed, threatened, and endangered species.

   f. Other mitigation/restoration measures are included in the proposal.

5. Upon project completion, all disturbed shoreline areas shall be restored to as near pre-project configuration as possible and replanted with appropriate vegetation. All losses in vegetation or wildlife habitat shall be mitigated at a ratio of one square foot of habitat lost to one square foot of habitat replaced.

6. Shoreline stabilization and flood protection works are prohibited in wetlands.

7. Developments shall not reduce the volume and storage capacity of streams and adjacent wetlands or floodplains.

8. Use of refuse for the stabilization of shorelines is prohibited.

9. Treated wood shall not be used for landscaping within the Native Conservation Area.

## D. Bulkheads

Bulkheads are walls usually constructed parallel to the shore, whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are typically constructed of poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

The Act only exempts the construction of a normal protective bulkhead associated with an existing single-family residence from the substantial development permit requirement. However, these structures are required to comply with all the policies and development standards of this Shoreline Master Program.

### *1. Bulkhead Policies*

*a. Bulkheads constructed from natural materials, such as protective berms, beach enhancement, or vegetative stabilization are strongly preferred over structural bulkheads constructed from materials such as steel, wood, or concrete. Proposals for bulkheads should demonstrate that natural methods are unworkable.*

*b. Bulkheads should be located, designed, and constructed primarily to prevent damage to the existing primary structure. New development that requires bulkheads is not permitted except as specifically provided under this Shoreline Master Program.*

*c. Shoreline uses should be located in a manner so that a bulkhead is not likely to become necessary in the future.*

*d. Bulkheads should not be approved as a solution to geo-physical problems such as mass slope failure, sloughing, or landslides. Bulkheads should only be approved for the purposes of preventing bank erosion.*

## 2. Bulkhead Regulations

a. New bulkheads may be allowed only when evidence is presented that demonstrates that one of the following conditions exists:

i. Serious erosion threatens an established use or existing primary structure on upland property.

ii. Bulkheads are necessary to the operation and location of water-dependent, water-related, or water-enjoyment activities consistent with this SMP, provided that all other alternative methods of shore protection have proven infeasible.

iii. A bulkhead is necessary to retain landfilling that has been approved consistent with the provisions of this SMP.

b. Proposals for bulkheads must first demonstrate through a geotechnical analysis that use of natural materials and processes and non-structural or soft structural solutions to bank stabilization are not feasible.

c. The construction of a bulkhead for the primary purpose of retaining landfilling shall be allowed only in conjunction with:

i. A water-dependent use;

ii. A bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or

iii. A wildlife or fish enhancement project.

d. Bulkheads shall not be located on shorelines where valuable geo-hydraulic or biological processes are sensitive to interference. Examples of such areas include wetlands and accretion landforms.

e. Bulkheads are to be permitted only where local physical conditions, such as foundation bearing materials, and surface and subsurface drainage, are suitable for such alterations.

f. If possible, bulkheads shall be located landward of the OHWM and generally parallel to the natural shoreline. In addition:

i. Where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the eroding bank as possible and in no case shall it be more than three (3) feet from the toe of the bank.

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ii. A bulkhead for permitted landfilling shall be located at the toe of the fill.

iii. Where permitted a bulkhead must tie in flush with existing bulkheads on adjoining properties, except where the adjoining bulkheads extend waterward of the base flood elevation, the requirements set forth in this section shall apply.

g. Replacement bulkheads may be located immediately waterward of the bulkhead to be replaced such that the two (2) bulkheads will share a common surface, except where the existing bulkhead has not been backfilled or has been abandoned and is in serious disrepair. In such cases, the replacement bulkhead shall not reach waterward of the OHWM or existing structure unless there is an overriding safety or environmental concern.

h. All bulkhead proposals require a geotechnical report prepared by a qualified professional. Bulkheads shall be sited and designed as recommended in approved geotechnical reports.

i. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into the bulkhead design.

j. Bulkheads shall be designed for the minimum dimensions necessary to adequately protect the development.

k. Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of the bulkhead, unless they are retractable or removable.

l. Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.

m. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.

n. Materials used in bulkhead construction shall meet the following standards:

i. Bulkheads shall utilize stable, non-erodible, homogeneous materials such as concrete, wood, and rock that are consistent with the preservation and protection of the ecological habitat.

ii. Dredge spoils shall not be used for fill behind bulkheads, except clean dredge spoil from a permitted off-site dredge and fill operation.

iii. Backfill to stabilize bulkheads is permitted.

o. Removal of a bulkhead is encouraged and requires a substantial development permit, unless exempted under WAC 173-27-040.

## E. Revetment

A revetment is a sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against currents. Revetments are most commonly built of randomly placed boulders (riprap) but may also be built of sand bags, paving or building blocks, or other systems and materials. The principal features of a revetment, regardless of type, is a heavy armor layer, a filter layer, and toe protection. The extensive levee system along the Touchet River is a revetment.

### *1. Revetment Policies*

*a. The use of armored structural revetments should be limited to situations where it is determined that nonstructural solutions such as bioengineering, setbacks, buffers or any combination thereof, will not provide sufficient shoreline stabilization.*

*b. Revetments should be designed, improved, and maintained to provide public access whenever possible.*

### 2. Revetment Regulation

a. The proposed revetment shall be designed by a qualified professional engineer.

b. Design of revetments shall include and provide improved access to public shorelines whenever possible.

c. When permitted, the location and design of revetments shall be determined using engineering principles, including guidelines of the United States Soil Conservation Service and the USACE.

d. Armored revetment design shall meet the following design criteria:

i. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system.

ii. Filter fabric must be used to aid drainage and help prevent settling.

iii. The toe reinforcement or protection must be adequate to prevent a collapse of the system from scouring or wave action.

iv. Fish habitat components, such as large boulders, logs, and stumps shall be considered in the design subject to a hydraulic project approval by the WDFW.

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### F. Land Disturbing Activity

#### *1. Land Disturbing Activity Policies*

*a. Land disturbing activities should only be allowed in association with a permitted shoreline development.*

*b. Land disturbing activities should be limited to the minimum necessary to accommodate the shoreline development or a landscape plan developed in conjunction with permitted shoreline development.*

*c. Erosion should be prevented and sediment should not enter waters of the state.*

#### 2. Land Disturbing Activity Regulations

a. All land disturbing activities shall only be allowed in association with a permitted shoreline development.

b. All land disturbing activities shall be limited to the minimum necessary for the intended development, including any clearing and grading approved as part of a landscape plan. Clearing invasive, non-native, shoreline vegetation listed on the Columbia County/WSU Extension Office Noxious Weed List is permitted in the NCA, with an approved permit, provided BMPs are used as recommended by a qualified professional, and native vegetation is promptly reestablished in the disturbed area.

c. Tree and vegetation removal shall be discouraged in the NCA, except as necessary to restore, mitigate, or enhance the native vegetation by approved permit as required in these areas or as part of normal utility corridor maintenance or levee maintenance.

d. Stabilization of exposed surfaces subject to erosion along shorelines shall, whenever feasible, utilize soil bioengineering techniques.

e. For extensive land disturbing activities that require a permit, a plan addressing species removal, revegetation, irrigation, erosion and sedimentation control, and other methods of shoreline protection shall be required.

## 15-06.090 Fill

### A. Landfilling

Landfilling is the placement of soil, rock, existing sediment or other material (excluding solid waste) in order to raise the elevation of upland areas or to create new land area along the shoreline below the OHWM. This section includes policies and regulations that apply to all areas within the shoreline jurisdiction.

### *1. Landfilling Policies*

*a. The perimeter of landfilling should be designed to avoid or eliminate erosion and sedimentation impacts, during both initial landfilling activities and over time.*

*b. Where permitted, landfilling should be the minimum necessary to provide for the proposed use and should be permitted only when conducted in conjunction with a specific development proposal that is permitted by the Shoreline Master Program. Speculative landfilling activity should be prohibited.*

### 2. Landfilling Regulations

a. Landfilling activities shall only be permitted in conjunction with a specific development.

b. Landfilling may be permitted as a Conditional Use for any of the following:

i. In conjunction with a water-dependent use permitted under this SMP.

ii. In conjunction with a bridge, utility, or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist.

iii. Where it will not result in significant damage to water quality, fish, and/or wildlife habitat.

iv. Where it will not adversely alter natural drainage and current patterns or significantly reduce floodwater capacities.

v. As part of a shoreline enhancement project in the AE.

c. Landfilling may be permitted with a substantial development permit for any of the following:

i. As part of an approved shoreline restoration project in the HIE, SCE, SRE and UCE.

ii. For fisheries, aquaculture, or wildlife habitat enhancement projects.

e. Where landfilling activities are permitted, the landfilling shall be the minimum necessary to accommodate the proposed use and all fill shall be placed landward of the OWHM.

f. Landfilling, as a result of dredging and dredge material disposal, shall be done in a manner which avoids or minimizes significant ecological impacts. Impacts

that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions. Dredge spoil shall not be deposited within the Shoreline Management Area.

g. Landfilling shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Landfilling perimeters shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms to prevent material movement. In addition, the sides of the landfilling shall be appropriately sloped to prevent erosion and sedimentation, during both the landfilling activities and afterwards.

h. Fill materials shall be clean sand, gravel, soil, rock, or similar material. Use of polluted dredge spoils and sanitary landfilling materials are prohibited. The property owner shall provide evidence that the material has been obtained from a clean source prior to fill placement.

i. Landfilling shall be designed to allow surface water penetration into aquifers.

## 15-06.100 Dredging and Dredge Material Disposal

***A. Dredging and Dredge Spoil Policies***

1. *Dredging waterward of the OHWM for the primary purpose of obtaining fill material is prohibited.*

2. *Dredging waterward of the OHWM for the primary purpose of shoreline enhancement requires a substantial development permit.*

3. *Dredging waterward of the OHWM for the primary purpose of removal of flood hazard debris requires a substantial development permit.*

4. *Dredging operations should be planned and conducted to minimize interference with navigation, avoid creating adverse impacts on other shoreline uses, properties, and ecological shoreline functions and values, and avoid adverse impacts to habitat areas and fish species.*

5. *Dredge spoil disposal in water bodies shall be prohibited except for shoreline enhancement or habitat improvement projects.*

6. *Dredge spoil disposal on land should occur outside the Shoreline Management Area.*

**B. Dredging and Dredge Spoil Regulations**

1. Dredging and dredge spoil disposal shall be permitted only where it is demonstrated that the proposed actions will not:

    a. Result in significant damage to water quality, fish, and other essential biological elements;

    b. Adversely alter natural drainage and circulation patterns, currents, or reduce floodwater capacities;

    c. Adversely impact properly functioning conditions for proposed, threatened, or endangered species; or

    d. Adversely alter functions and values of the shoreline and associated critical areas.

2. Proposals for dredging and dredge spoil disposal shall include all feasible mitigating measures to protect habitats and to minimize adverse impacts such as turbidity; release of nutrients, heavy metals, sulfides, organic materials, or toxic substances; depletion of oxygen; disruption of food chains; and disturbance of fish habitat and/or important localized biological communities.

3. Dredging and dredge spoil disposal shall not occur in wetlands unless for approved maintenance or enhancement.

4. Dredging within the Shoreline Management Area shall require a substantial development permit.

5. Dredging within the Shoreline Management Area shall be permitted only:

    a. Within the AE;

    b. For activities associated with shoreline or aquatic restoration or remediation; and

    c. For activities associated with removal of runoff debris.

6. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.

7. Dredging shall utilize techniques that cause minimum dispersal and broadcast of bottom material; hydraulic dredging shall be used wherever feasible in preference to agitation dredging.

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8. Dredge material disposal shall be permitted in the Shoreline Management Area only as part of an approved shoreline habitat and natural systems enhancement or fish habitat enhancement or watershed restoration project.

9. Dredged spoil material may be disposed at approved upland sites.

10. Dredge spoil shall not be deposited within the Shoreline Management Area.

11. Disposal of dredge material shall be done in accordance with the Washington State Department of Natural Resources Dredge Material Management Program. The Washington State Department of Natural Resources manages disposal sites through a Site Use Authorization (SUA); all other required permits must be provided to the Washington State Department of Natural Resources prior to them issuing a SUA for dredge disposal.

12. The City may impose reasonable limitations on dredge spoil disposal operating periods and hours, and may require buffer strips at land disposal sites.

13. Dredging waterward of the OHWM for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of shoreline ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the OHWM.

14. Dredging waterward of the OHWM for the purpose of removing runoff debris from bridge abutments is allowed. Material removed shall not be deposited within the NCA except when the material is necessary for the restoration of shoreline ecological functions.

## 15-06.110 Vegetation Management

Native plants help to reduce erosion by protecting soils from the erosive forces of the wind, rain, and waves. The roots of plants help to hold soils in place, reduce frost penetration, reduce the force and quantity of precipitation falling on and eroding the soil, reduce surface/storm water volumes by evapo-transpiration, and increase the absorptive capacity of the soil. Native vegetation also shades the river to keep water cool for native fish and serves as habitat and food for a variety of terrestrial species.

As detailed in WAC 173-26-221(5)(b), the SMP shall include planning provisions that address vegetation conservation and restoration and regulatory provisions that address conservation of vegetation as necessary to assure no net loss of shoreline ecological functions and ecosystem-wide processes, to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

***A. Vegetation Management Policies***

1. *Conservation of native vegetation within the Native Conservation Area is necessary to protect the local soils as well as provide habitat and food for resident plant and animal species.*

2. *Care should always be taken when developing within the Native Conservation Area to not disturb the root systems of native plants, shrubs, and trees.*

3. *Development within the Native Conservation Area may be allowed depending on the nature of the work.*

4. *For every tree cut down within the Native Conservation Area, it is preferred that the trunk shall remain on the ground to serve as nurse log habitat. Dead trees and stumps should be allowed to remain since they are desirable elements in the shoreland environment.*

5. *Vegetation removal along existing utility corridors and levees should be allowed under ongoing maintenance activities. However; the City should continue to participate in the regional levee roundtables and seek updates from the USACE on alternate levee maintenance strategies that would decrease the amount of vegetation that needs to be removed around the levees for continued flood certification.*

**B. Vegetation Management Regulations**

1. The following activity is allowed without a permit, a written Statement of Exemption, and/or Vegetation Management Plan:

   Existing Landscaping. Maintenance of existing landscaping (including paths and trails) or gardens within the Shoreline Management Area, including a regulated critical area or its buffer. Examples include mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of noninvasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas.

2. The following activity is allowed with a written Statement of Exemption and approved Vegetation Management Plan.

. View Corridors. The development or maintenance of view corridors can provide the general public and property owners of single-family residences opportunities for visual access to water bodies associated with shoreline parcels. One view corridor maybe permitted per parcel within the SRE when consistent with the provisions of this Chapter. A mitigation and management plan must be submitted for review and approval; either with a complete building permit application for a new single-family residence or associated with an existing single family residence.

3. The following activities are allowed with a written Statement of Exemption or permit; and approved Vegetation Management Plan.

    a. View Corridor requests based on the applicant's/proponent's desire to enhance the view from the subject development may be granted where there are no likely detrimental effects to existing or future users, views from public lands, critical areas, other features or shoreline ecological functions and/or processes, and where reasonable alternatives of equal or greater consistency with this Program are not available. Conditions may be attached to the permit or Letter of Exemption by the Hearings Examiner or by the Department to minimize the effects of the proposed use.

    b. Removal of trees and shrubs within a buffer is subject to provisions of DMC 15-06.110(E).

    c. Excavation, filling, and construction of new landscaping features subject to the provisions of DMC Title 15.

**C. Vegetation Management Application and Plans:**

1. An applicant must submit the following materials:

    a. Application. A signed application form by the property owner of the shoreline proposed for vegetation alterations.

    b. Plan Map. A scaled mitigation and management plan map that demonstrates a side, top, and bottom parameter for the proposal with existing vegetation and proposed alterations.

    c. A graphic and/or site photos for the entire shoreline frontage that demonstrates that the parcel and proposed or existing home does or will not when constructed have a view corridor of the water body, taking into account site topography and the location of shoreline vegetation on the parcel.

    d. Mitigation actions that will be taken to balance the required activity.

    e. Monitoring actions that will measure whether the mitigation actions are successful over time.

    f. Monitoring and reporting schedule.

    f. Responsible party for the monitoring and reporting.

2. Applications for view corridors must also be consistent with the following standards:

a. Removal of native vegetation shall be prohibited unless similar native vegetation is planted elsewhere on the property

b. Pruning of native vegetation shall not exceed thirty percent (30%) of a tree's limbs. No tree topping shall occur. Pruning of vegetation waterward of the OHWM is prohibited. The view corridor shall be limited to twenty-five percent (25%) of the width of the lot, or twenty-five (25) feet, whichever distance is less.

c. Non-native vegetation within a view corridor may be removed when the mitigation and management plan can demonstrate a net gain in site functions, and where impacts are mitigated at a ratio of one (1) square foot of vegetation removed to vegetation replaced.

d. Whenever possible, view corridors shall be located in areas dominated with non-native vegetation and invasive species.

e. Pruning shall be done in a manner that shall ensure the continued survival of vegetation.

f. The applicant shall clearly establish that fragmentation of fish and wildlife habitat will not occur and that there is not a net loss of site ecological functions.

g. A view corridor may be issued once for a property. No additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from the re-growth of pruned limbs. Limitations and guidelines for this maintenance shall be established in the mitigation and management plan by the applicant, to be reviewed and approved by the Director.

h. A hardened path within the view corridor, no wider than four (4) feet, consisting of materials like pavers, rocks, untreated wood, etc. is allowed for each parcel as a path to the shoreline. Pervious materials are preferred over impervious materials.

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**D. Tree Retention:**

To maintain the ecological functions that trees provide to the shoreline environment, trees with trunk diameters greater than six (6) inches shall be managed as follows:

1. Within the Native Conservation Area, trees with trunk diameters greater than six (6) inches shall not be removed or topped for the purpose of creating views. Prohibited tree removal activities include direct or indirect actions, including, but not limited to:

    a. Clearing, damaging, or poisoning resulting in an unhealthy or dead tree;

    b. Pruning to half or more of the live crown; or

    c. Damage to roots or trunk that is likely to destroy the tree's structural integrity.

2. Within the NCA, native trees and shrubs shall be retained to the maximum extent possible, except where said tree or shrub is diseased, or hazardous as determined by a qualified professional, or where required by the USACE for levee maintenance.

3. If removal of a non-hazard tree or shrub not associated with levee maintenance is approved in the NCA, it must be replaced at a two to one (2:1) replacement ratio. The required minimum size of the replacement of tree(s) with a trunk diameter greater than six (6) inches in diameter shall be five (5) feet tall for a conifer and one and three-quarters (1 ¾) inch caliper for deciduous or broad-leaf evergreen tree.

4. For required replacement trees, a planting plan showing location, size, and species of the new trees is required. All replacement trees in the shoreline buffer must be native species. Replacement trees may be planted off-site in approved restoration areas if replacement at or near the tree removal area is impractical.

**E. Tree Pruning and Removal within the Native Conservation Area:**

1. Selective pruning of trees for safety is allowed if the trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional. They may be removed if the hazard cannot be removed by topping or other techniques that maintain some habitat function. Stumps should be retained in the ground to provide soil stabilization unless another soil stabilization technique is utilized immediately after stump removal.

2. All other tree removal in the Shoreline Management Area landward of the NCA proposed as part of an approved use or development, shall be minimized through site design and mitigated.

3. Tree replacement shall occur at a two to one (2:1) ratio, with native or non-native trees replaced with a native tree.

**F. Vegetation Maintenance within existing right-of-way corridors:**

Vegetation management is allowed where it is part of a regular, ongoing maintenance program, that:

1. Does not expand further into the Shoreline Management Area or critical area;

2. Does not result in an expansion of the utility corridor; and

3. Does not directly impact endangered species;

4. Maintenance activities must use BMPs and shall, whenever possible, be confined to late summer and fall to minimize erosion concerns and disruption of native nesting birds.

5. Hand removal of noxious and invasive weeds is allowed without a permit. If uncertain, consult an expert for proper identification of noxious and invasive species before removing any vegetation.

## 15-06.120 Boating Facilities

Facilities in support of motorized boats, including boat launch ramps, wet and dry boat storage, and related sales and service for pleasure and commercial watercraft are not allowed.

***A. Boating Facilities Policies***

1. *Facilities supporting motorized boats can have a significant impact on habitat and are not allowed.*

2. *Non-motorized watercraft impacts must be reviewed thoroughly before they may be permitted in the shoreline jurisdiction.*

3. *Existing occasional use trails that are used for the launching of portable, non-motorized watercraft may be maintained as is as long as such trails are not expanded without a Shorelines Substantial Development Permit.*

**B. Boating Facilities Regulations**

1. Facilities in support of motorized boats are not permitted. This includes Boat Launch Ramps, Dry Boat Storage, and Marinas.

2. Facilities supporting limited trails access points for launching and take-out of non-motorized watercraft are allowed, provided that both the launch and take-out location(s) are accessible to the public. Take-out locations must be clearly identified from the water.

## 15-06.130 Forest Practices

Forest practice refers to the business of growing and logging trees for sale.

Forest practices are prohibited in all shoreline environments.

## 15-06.140 Industrial Development

***A. Industrial Development Policies***

1. *Priority of any industrial development should be given to water-dependent uses.*
2. *Over-the-water industrial development should be prohibited.*
3. *Industrial development in the Shoreline Management Area should include landscaping to enhance the shoreline area.*
4. *Preference shall be given first to water-dependent industrial uses over nonwater-dependent industrial uses and second to water-related industrial uses over nonwater-oriented industrial uses.*

**B. Industrial Development Regulations**

1. Over-water construction of industrial uses is prohibited, with the exception of those existing facilities necessary for the operation of an associated industrial use. For example, an allowed facility may include pump houses for fire protection.
2. All industrial loading and service areas shall be located on the upland side of the industrial activity. Where necessary, paved access roads, constructed to collect stormwater and not within the Native Conservation Area, may be used shoreward of industrial activity.
3. All industrial development within the Shoreline Management Area shall assure no net loss of shoreline ecological functions.
4. A shoreline setback is not required to be maintained for water-dependent industrial development.
5. Water-related, industrial development shall maintain a shoreline setback equal to the Native Conservation Area. If public access is provided to the shoreline, the setback may be reduced to twenty-five (25) feet from the OHWM. Where on-site public access is provided, industrial development shall dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public. Public access easements shall be a minimum of twenty-five (25) feet in width and shall comply with the public access standards contained in the Public Access section of this Shoreline Master Program.
6. Nonwater-related industrial development shall maintain a minimum setback from the OHWM consistent with the area set forth in DMC 15-06.060.

## 15-06.150 Institutional Development

See 15-06.330 – Non-Residential Development

## 15-06.160 Mining

1. Mining is prohibited in all shoreline environments

## 15-06.170 Recreational Development

Recreational development provides for low-impact activities, such as hiking, photography, viewing, and fishing; or more intensive uses such as parks. This section applies to both publicly and privately owned shoreline facilities.

***A. Recreational Development Policies***

1. *The coordination of local, state, and federal recreation planning should be encouraged so as to mutually satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted parks, recreation, and open space plans.*

2. *Parks, recreation areas, and public access points, such as hiking paths, bicycle paths, and scenic drives should be linked.*

3. *Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas.*

4. *All recreational developments should make adequate provisions for:*

    *a. Vehicular and pedestrian access, both on-site and off-site;*

    *b. Proper water, solid waste, and sewage disposal methods;*

    *c. Security and fire protection for the use itself and for any use-related impacts to adjacent private property;*

    *d. The prevention of overflow and trespass onto adjacent properties; and*

    *e. Buffering of such development from adjacent private property or natural areas.*

**B. Recreational Development Regulations**

1. Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shore forms, shall be used only for low impact and nonstructural recreation activities.

2. For recreation developments that require the use of fertilizers, pesticides, or other chemicals, the property owner shall submit plans demonstrating the methods to be used that prevent these chemical applications and resultant leachate from entering adjacent water bodies. The property owner shall be required to maintain a chemical-free swath equal to the NCA for their Shoreline Environmental Designation, adjacent to water bodies.

3. No recreational buildings or structures shall be built waterward of the OHWM, except water-dependent and/or water-enjoyment structures such as bridges and viewing platforms. Such uses may be permitted as a conditional use.

4. Proposals for recreational development shall include adequate facilities for water supply, sewage, and garbage disposal.

## 15-06.180 Residential Development

### A. General

1. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

2. A substantial development permit is not required for construction of a single-family residence, if the home is being built by an owner, lessee, or contract purchaser for their own use or the use of their family. Single-family residential construction and accessory structures must otherwise conform to this Shoreline Master Program.

3. A variance or conditional use permit may be required for residential development for situations specified in the SMP.

4. Uses and facilities associated with residential development, which are identified as separate use activities in this SMP, are subject to the regulations established for those uses in this section. Land disturbing activities may be exempted from the substantial development permit requirement, provided activities are associated with an exempted single family residence are confined to the construction site and excavation does not exceed the currently resolved State Environmental Policy Act categorical exemption amounts as determined by the City.

5. Minor maintenance and/or repair of lawfully established structures that does not involve additional construction, earthwork, or clearing are allowed without a shoreline permit or letter of exemption: examples include painting, trim or facing replacement, re-roofing, etc. Construction or replacement of structural elements is not covered in this provision, but may be covered under an exemption in DMC 15-03.030.

***B. Residential Development Policies***

1. *In accordance with the Public Access requirements in DMC 15-05.040, residential developments of more than four (4) dwelling units should provide dedicated and improved public access to the shoreline.*

2. *Residential development and accessory uses should be prohibited over the water.*

3. *New subdivisions should be encouraged to cluster dwelling units in order to preserve natural features, minimize physical impacts, and provide for public access to the shoreline.*

4. *In all new subdivisions and detached single-family development, multi-family development, and recreational development with five (5) or more dwelling units, public access to joint-use shoreline facilities should be required.*

5. *Accessory uses and structures should be designed and located to blend into the site as much as possible. Accessory uses and structures should be located landward of the principal residence when feasible.*

**C. Residential Development Regulations**

1. Residential development is prohibited waterward of the OHWM and within NCAs.

2. Residential development shall assure no net loss of shoreline ecological functions.

3. Residential development shall not be approved if geotechnical analysis demonstrates that additional flood control or shoreline protection measures are necessary to create a residential lot or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works.

4. If wetlands or other critical areas are located on the development site, clustering of residential units shall be required in order to avoid impacts to these areas.

5. Storm drainage facilities shall include provisions to prevent the direct entry of uncontrolled and untreated surface water runoff.

6. Subdivisions and planned unit developments of five (5) or more than four (4) waterfront lots/units shall dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access, sufficient utilities and public services to serve existing and planned future needs along the shoreline.

7. When required, public access easements shall be a minimum of twenty (20) feet in width and shall comply with the Public Access standards in DMC 15-05.040.

## 15-06.190 Signs

### 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 directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

### *B. Sign Policies*

1. *Signs should be designed and placed so that they are compatible with the natural quality of the shoreline environment and adjacent land and water uses.*

2. *Signs should not block or otherwise interfere with visual access to the water or shorelands.*

### C. Sign Regulations

Signs within the Shoreline Management Area are subject to the requirements and standards specified in DMC 15.06.050 in addition to the following sign requirements:

1. Signs shall only be allowed in or over water for navigation purposes and at road or railroad crossings as necessary for operation, safety, and direction.

2. Business signs shall only be allowed outside of the NCA unless related and necessary to a water-dependent use on which it is placed.

3. Off-site commercial signs for products, services, or facilities are prohibited.

4. Signs are subject to the Zoning Code regulations of DMC Title 11 and regulations specified in the Sign Code, DMC Title 12.

5. Signs placed on trees or other natural features are prohibited, unless the Director finds that these signs are necessary for public safety reasons.

## 15-06.200 Parking

### *A. Parking Area Policies*

1. *Parking within the Shoreline Management Area should be minimized.*

2. *Parking within the Shoreline Management Area should directly serve an adjacent permitted use on the same or adjacent property.*

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3. *Parking in the Shoreline Management Area should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, private property, vegetation and habitat maintenance.*

4. *Landscaping should consist of native vegetation in order to enhance the habitat opportunities within the shoreline area and contribute to the total no net loss provisions of the Shoreline Environment Designation.*

**B. Parking Regulations**

Parking for specific land use activities within the City is subject to the requirements and standards set forth in DMC Chapter 11. In addition, the following parking requirements shall apply to all developments within Shoreline Management Areas.

1. The location of parking areas and lots shall be located outside of the NCA.

2. Parking in the Shoreline Management Area must directly serve an approved shoreline use.

3. Parking shall be located on the landward side of the development unless parking is contained within a permitted structure. Where there is no available land area on the landward side of the development, parking shall extend no closer to the shoreline than a permitted structure.

4. Landscape screening is required between the parking area and all adjacent shorelines and properties.

5. The landscape screening for parking lots located within the Shoreline Management Area shall consist of vegetation that provides adequate screening within three (3) years after planting. Adequate screening or landscaping for parking lots shall consist of one or more of the following:

    a. A strip five (5) feet wide landscaped with trees, shrubs, and/or groundcover creating a filtered screen from the ground to a minimum of 6 feet in height.

    b. A building or enclosed structure; and/or

    c. A strip of land not less than two (2) feet in width that is occupied by a continuous wall or fence creating a filtered screen from the ground to a minimum of 6 feet in height.

6. The requirement for screening may be waived by the Director, where screening would obstruct a significant view from public property or creates a sight distance obstruction for vehicles on a street.

7. Parking areas shall not be permitted over the water.

8. Parking as a primary use shall be prohibited within all Shoreline Management Areas.

9. Parking or storage of recreational vehicles or travel trailers as a primary use shall be prohibited in all Shoreline Management Areas.

## 15-06.210 Transportation

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

***A. Transportation Policies***

1. *New roads within the Shoreline Management Area should be minimized and located as close to the landward edge of the area within jurisdiction as feasible. New roads within the NCA are prohibited.*

2. *Roads and railroad locations should be planned to fit the topographical characteristics of the shoreline such that alteration of natural conditions is minimized.*

3. *Pedestrian and bicycle trails should be encouraged.*

4. *When existing transportation corridors are abandoned, they should be reused for water-dependent use or public access.*

5. *Alternatives that minimize new roads or road expansion in the Shoreline Management Area should be considered as a first option.*

6. *Joint use of transportation corridors within the Shoreline Management Area for roads, utilities, and motorized forms of transportation should be encouraged.*

7. *New roads should be designed to accommodate bicyclists, pedestrians, and transit, where feasible.*

**B. Transportation Regulations**

1. Transportation facilities and services shall utilize existing transportation corridors wherever possible, provided the shoreline is not adversely impacted and the development is otherwise consistent with this SMP.

2. Transportation and primary utilities shall jointly use rights-of-way.

3. Landfilling activities for transportation facility development are prohibited in water bodies, wetlands, and on accretion beaches, except when all structural and upland alternatives have proven infeasible, and the transportation facilities are necessary to support uses consistent with this SMP.

4. Major new roads and railways shall avoid being located in the Shoreline Management Area to the extent practical. These roads shall cross shoreline areas by the shortest, most direct route, unless this route would cause more damage to the environment.

5. New transportation facilities shall be located and designed to minimize or prevent the need for shoreline modification.

6. All bridges must be built high enough to allow the passage of debris and provide a minimum of three (3) feet of clearance above the base flood elevation.

7. Shoreline transportation facilities shall be located and designed to avoid steep or unstable areas and fit the existing topography in order to minimize cuts and fills.

8. Bridge abutments and necessary approach fills shall be located landward of the OHWM. Bridge piers in a water body should be avoided where possible, and may be permitted only as a conditional use.

## 15-06.220 Railroads and Rail Corridors

See DMC 15-06.210 Transportation.

## 15-06.230 Nonresidential Development

Nonresidential development includes a variety of development types, some of which may be located in one or more of the environmental designations. Industrial Development is a type of non-residential development and is further regulated in 15-06.240.

***A. Nonresidential Development Policies***

1. *Priority of any nonresidential development should be given to water-dependent and water-enjoyment uses. Examples of allowed uses may include restaurants that provide a water view to customers, motels and hotels that provide walking areas for the public along the shoreline, and office buildings and retail sales buildings that have a waterfront theme with public access to the shore or water views.*

2. *Over-the-water nonresidential development should be prohibited.*

3. *Nonresidential development should be required to provide on-site physical or visual access to the shoreline, or offer other opportunities for the public to enjoy Shorelines of Statewide Significance. If on-site access cannot be provided, off-site access should be required. Off-site access could be procured through the purchase of land or an easement at a location appropriate to provide the access deemed necessary. Nonresidential developments should include multiple use concepts such as open space and recreation.*

4. *Nonresidential development in the Shoreline Management Area should include landscaping to enhance the shoreline area.*

**B. Nonresidential Development Regulations**

1. Over-water construction of nonresidential uses is prohibited in all environmental designations except HIE.

2. All nonresidential development within the Shoreline Management Area shall provide for visual and/or physical access to the shoreline by the public. Where on-site public access is feasible, nonresidential development shall dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public. Public access easements shall be a minimum of twenty (20) feet in width and shall comply with the public access standards contained in the Public Access section of this SMP.

3. All nonresidential loading and service areas shall be located on the upland side of the nonresidential activity or provisions shall screen the loading and service areas from the shoreline.

4. All nonresidential development within the Shoreline Management Area shall assure no net loss of shoreline ecological functions.

5. A shoreline setback is not required for water-dependent nonresidential development.

6. Nonwater-related nonresidential development shall maintain a minimum setback from the OHWM consistent with the area set forth in DMC 15-06.060.

## 15-06.240 Utilities

Primary utilities include substations, pump stations, treatment plants, sanitary sewer outfalls and lift stations, electrical transmission lines greater than fifty-five thousand (55,000) volts, water, sewer or storm drainage mains greater than eight (8) inches in diameter, gas and petroleum transmission lines, and submarine telecommunications cables.

Accessory utilities include local public water, electric, natural gas distribution, public sewer collection, cable and telephone service, and appurtenances.

***A. Utility Policies***

1. *Utilities should utilize existing transportation and utility sites, rights-of-way, and corridors whenever possible. Joint use of rights-of-way and corridors should be encouraged.*

2. *Unless no other feasible alternative exists, utilities should be prohibited in the Shoreline Management Area, wetlands, and other critical areas.*

3. *New utility facilities should be located so as not to require extensive shoreline modifications.*

4. *Whenever possible, utilities should be placed underground or alongside or under bridges. Above ground placement of electrical transmission lines with a capacity of fifty-five thousand (55,000) volts or more is allowed if no other feasible alternative exists.*

5. *Solid waste disposal activities and facilities should be prohibited in the Shoreline Management Area.*

**B. Utility Regulations**

1. Utility development shall provide for compatible, multiple uses of sites and rights-of-way when practical.

2. Utility development within the NE designation shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.

3. The following primary utilities, which are not essentially water-dependent, may be permitted as a conditional use if it can be shown that no reasonable alternative exists:

    a. Water system treatment plants;

    b. Sewage system lines, interceptors, pump stations, and treatment plants; or

    c. Electrical energy generating plants, substations, lines, and cables.

4. New solid waste disposal sites and facilities are prohibited.

5. For new utility distribution lines of less than fifty-five thousand (55,000) volts, communications, and fuel lines, in areas where no current utility corridors exist, or the substantial expansion of existing utility corridor rights of way, undergrounding is preferred. Existing utility corridors within the Shoreline Management Area can be used for upgrades to facilities, if the right-of-way corridors are not altered. Utility providers shall consider all factors when proposing to install underground or overhead utilities.

6. Transmission and distribution facilities shall cross the Shoreline Management Area by the shortest most direct route feasible, unless such route would cause increased environmental damage.

7. Utilities shall be located and designated so as to avoid the use of any structural or artificial shoreline modification.

8. All underwater pipelines are discouraged. If no other alternative exists, a conditional use permit is required.

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Appendix A:  Chapter 17 DMC, Critical Areas Ordinance

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